

QUESTION 6: BASED ON AEMO'S PROPOSED HIGH LEVEL DESIGN AND CHANGES TO THE EXISTING PROCEDURES, ARE CLARIFICATIONS REQUIRED TO CLAUSE 21(1) OF THE NERR TO REMOVE AMBIGUITY ABOUT ISSUING FINAL BILLS ON ESTIMATE METERING DATA?

AEMO also propose that:

- Clause 21(4), clause 30 and 31 is amended to accommodate over charging as a result of an estimate read. AEMO propose that the losing retailer should be required to adjust a customer's bill when a material inaccuracy in estimate has resulted in a materially higher final bill to the customer. AEMO propose that the losing retailer would not be entitled to re-bill a customer following a transfer if it is subsequently identified by the losing retailer that the customer was under-charged.

Clause 21(4) of the NERR requires retailers to provide for an adjustment on customer bills for overcharging where the small customer was issued a bill based on an estimate, and the retailer subsequently issues a bill based on an actual meter reading or on metering data. The NERR also provides general overarching and undercharging provisions.³⁷ In relation to overcharging, the retailer must inform the customer that they have been overcharged equal to or above the allowed threshold³⁸ within 10 business days after the retailer becomes aware of the overcharging. If the amount overcharged is equal to or above the overcharge threshold, a retailer must repay that amount as reasonably directed by the small customer or if there is no direction, credit the next bill. Where the customer has ceased to obtain services from the retailer, the retailer must use its best endeavours to refund that amount within 10 business days.

- Clause 4.2(b) of model terms and conditions of standard retail contracts and market retail contracts is clarified where a customer may be prohibited from transferring if the meter read is not an actual. AEMO are proposing that some amendments could be made to the existing terms of conditions of standard retail contracts and market contracts where they may restrict a customer transferring retailers where an actual meter read is not obtained. Clause 4.2(b) of the model terms and conditions of standard retail contract states that if a retailer gives a termination notice³⁹ but safe and unhindered access to a customer premises to conduct a final meter reading (where relevant) is not provided, the contract may not end until a final meter reading is carried out. We will consider the extent to which this provision may restrict customer switching retailers where customers are not transferring on an actual meter read.

³⁷ Clause 30 and 31 of the NERR

³⁸ Clause 31 (60) of the NER states that the overcharge threshold is \$50 or such other amount as the AER determines.

³⁹ Customers can also provide notices to end of contract early.

QUESTION 7: ARE ADDITIONAL PROVISIONS REQUIRED IN THE NERR TO ADDRESS OVERCHARGING AND DISPUTE RESOLUTION ARRANGEMENTS IN SITUATIONS WHEN A RETAIL ELECTRICITY CUSTOMER HAS TRANSFERRED USING ESTIMATE METER READ?

QUESTION 8: IS THERE ANY ADDITIONAL INFORMATION REQUIREMENTS NEEDED FOR A CUSTOMER TO TRANSFER RETAILERS USING DIFFERENT FORMS OF METER READS, INCLUDING SELF, LAST BILLABLE OR ESTIMATE METER READ?

4 ASSESSMENT FRAMEWORK

4.1 Rule making tests - Achieving the NEO and NERO

Under the NEL the Commission may only make a rule if it is satisfied that the rule will, or is likely to, contribute to the achievement of the national electricity objective (NEO).⁴⁰ This is the decision making framework that the Commission must apply.

The NEO is:⁴¹

To promote efficient investment in, and efficient operation and use of, electricity services for the long term interests of consumers of electricity with respect to -

- (a) price, quality, safety, reliability and security of supply of electricity; and
- (b) the reliability, safety and security of the national electricity system.

The Commission may only make a rule if it is satisfied that the rule will, or is likely to, contribute to the achievement of the national energy retail objective (NERO).⁴² This is the decision making framework that the Commission must apply.

The NERO is:⁴³

to promote efficient investment in, and efficient operation and use of, energy services for the long term interests of consumers of energy with respect to price, quality, safety, reliability and security of supply of energy.

The Commission must also, where relevant, satisfy itself that the rule is "compatible with the development and application of consumer protections for small customers, including (but not limited to) protections relating to hardship customers" (the "consumer protections test").⁴⁴

Where the consumer protections test is relevant in the making of a rule, the Commission must be satisfied that both the NERO test and the consumer protections test have been met.⁴⁵ If the Commission is satisfied that one test, but not the other, has been met, the rule cannot be made.

There may be some overlap in the application of the two tests. For example, a rule that provides a new protection for small customers may also, but will not necessarily, promote the NERO.

4.2 Proposed assessment framework

For this rule change, we propose to use the following criteria to assess whether clarifications or amendments are required to the NER and NERO to support the delivery of AEMO's

40 Section 88 of the NEL.

41 Section 7 of the NEL.

42 Section 236(1) of the NERL.

43 Section 13 of the NERL.

44 Section 236(2)(b) of the NERL.

45 That is, the legal tests set out in s. 236(1) and (2)(b) of the NERL.

proposed changes to the MSATS CATS procedures. AEMO will be required to assess its proposed high level design against the NEO and undertake consultation in accordance with the NER consultation procedures. The proposed assessment criteria includes whether the rule change:

- Provides adequate consumer protections related to retail customer transfers and support consumer choice of retail energy market products and services.
- Improves transparency and certainty of market processes including:
 - Certainty on the process for customer transfers and clarity on the suite of meter read options available to retailers and customers for customer transfers, and
 - The benefits to retailers and other relevant market participants from improving outdated processes that are contributing to delays and failed transfers.
- Reduces regulatory and administrative burden including the extent to which the changes improve AEMO's MSATS market systems and processes, retailers, and other relevant parties.

QUESTION 9: ARE THERE ANY OTHER MATTERS THAT SHOULD BE CONSIDERED IN THE PROPOSED ASSESSMENT FRAMEWORK FOR THIS RULE CHANGE REQUEST?

4.3 Making a more preferable rule

Under s. 91A of the NEL and 244 of NERL, the Commission may make a rule that is different (including materially different) to a proposed rule (a more preferable rule) if it is satisfied that, having regard to the issue or issues raised in the rule change request, the more preferable rule will or is likely to better contribute to the achievement of the NEO and NERO.

4.4 Northern Territory

Under the Northern Territory legislation adopting the NEL, the Commission may make a differential rule if, having regard to any relevant MCE statement of policy principles, a differential rule will, or is likely to, better contribute to the achievement of the NEO than a uniform rule. A differential rule is a rule that:

- varies in its term as between:
 - the national electricity system, and
 - one or more, or all, of the local electricity systems, or
- does not have effect with respect to one or more of those systems

but is not a jurisdictional derogation, participant derogation or rule that has effect with respect to an adoptive jurisdiction for the purpose of s. 91(8) of the NEL.

As the proposed rule related to parts of the NER that currently do not apply in the Northern Territory, the Commission has not assessed the proposed rule against additional elements required by the Northern Territory legislation.⁴⁶

⁴⁶ From 1 July 2016, the NER, as amended from time to time, apply in the NT, subject to derogations set out in regulations made under the NT legislation adopting the NEL. Under those regulations, only certain parts of the NER have been adopted in the NT. (See the AEMC website for the NER that applies in the NT.) National Electricity (Northern Territory) (National Uniform Legislation) Act 2015.

ABBREVIATIONS

ACCC	Australian Competition and Consumer Commission
AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
Commission	See AEMC
COAG EC	Council of Australian Government Energy Council
NEL	National Electricity Law
NEO	National electricity objective
NERL	National Energy Retail Law
NERO	National energy retail objective
MSATS	Market Transfer and Settlement procedures
CATS	Customer Administration and Transfer Solution