

23 Marcus Clarke Street
Canberra ACT 2601
GPO Box 3131
Canberra ACT 2601
tel: (02) 6243 1111
www.aer.gov.au

Our Ref: 16800281
Your Ref: ERC0378
Contact Officer: Jana Burgin

5 June 2024

Anna Collyer
Chair
Australian Energy Market Commission
60 Castlereagh Street

SYDNEY NSW 2000

Dear Ms Collyer

Re: Draft determination – Accelerating smart meter deployment

Thank you for the opportunity to comment on the Australian Energy Market Commission's (AEMC's) 'Accelerating smart meter deployment' draft rule determination and draft rules. These comments reflect and expand upon the views set out in the AER's letter to the AEMC dated 30 April 2024 regarding customer notification of variations to their tariffs.

We support the AEMC's draft determination and draft rules as enabling changes that will support higher penetration rates of smart meters, which are critical in enabling future market services. Efficient investment will ultimately contribute to reduced costs for consumers. We agree with the AEMC that accelerating the current rollout in a timely and cost-effective way is crucial if the benefits of smart meters are to be realised in a timeframe that supports the transition to renewable energy and emissions reductions.

The draft rule drives forward the reform agenda established via the *Review of the Regulatory Framework for metering services* (the Review) (completed in August 2023). Faster replacement of legacy meters will enable consumers to access the benefits that smart meters can provide sooner, including faster integration of consumer energy resources (CER) in the energy system.

The Australian Energy Regulatory (AER) notes that the cost benefit analysis undertaken by Oakley Greenwood for the Review¹ demonstrates that the reform program has net benefits to consumers from a more efficient and coordinated deployment.

The AEMC's draft rules are intended to:

- accelerate the deployment of smart meters across the NEM.
- enable better access to power quality data (PQD) from smart meters.

- provide new customer safeguards.
- make improvements to the customer experience in metering upgrades.
- reduce barriers to installation and improve industry coordination.
- create a fit-for- purpose meter testing and inspection regime.

These draft rules will create a number of new roles for the AER, particularly with respect to the Legacy Meter Retirement Plans (LMRP) framework, reporting retailer performance reporting against interim and 2030 targets, as well as compliance monitoring. The AER notes that enacting these roles will have a material impact on AER resourcing, both as a result of the transitional functions during the acceleration period under the LMRP framework, and compliance and enforcement of new obligations attracting civil penalties. AER staff will continue to work closely with AEMC staff to ensure that the AER has sufficient access to information and data to undertake its new functions.

Smart meter deployment is expected to place downward pressure on networks costs through improved network management and relaxing of pressure on peak demand as users are enabled to better respond to more cost-reflective tariffs. However, not all customers will be able to respond to time of use tariffs or have access to CER. The regulatory framework must balance the need for price signals with appropriate pricing structures, protections and guidance for consumers. To address these concerns, the AEMC's draft rule proposes a number of safeguards which the AER supports. However, as detailed in Attachment A, there may be a need to consider further actions to better support a broader range of consumers with regards to notification and information safeguards, potentially through other complementary processes.

Finally, the ambitious nature of the target for universal uptake of smart meters by 2030 makes it even more critical that the AEMC build social licence and broad community support for the roll out. If consumer engagement throughout the roll out is ineffective, and social licence is lost, this may jeopardise achieving the 2030 universal uptake target and the realisation of the benefits of smart meters to customers. To this end, the AER emphasises the importance of sustained, strategic communications with consumers to support the smart meter roll out process noting that the Review recommended a broad communication strategy for the accelerated deployment of smart meters and that the AEMC is acting on this recommendation in partnership with Energy Consumers Australia (ECA).

We have provided more detailed comments in Attachment A. If you have any questions or wish to discuss this submission further, please contact Jana Burgin, Assistant Director, Policy Development team at jana.burgin@er.gov.au.

Yours sincerely



Danielle Chifley
a/g General Manager
Policy Branch
Australian Energy Regulator

Sent by email on: 05.06.2024

Attachment A

1 Consumer safeguards – tariff notification and information obligations

Schedule 3(1) of the *Draft National Energy Retail Amendment (Accelerating smart meter deployment) Rule 2024* requires retailers to notify a small customer at least 30 business days prior to any tariff pricing structure or charge variation related to a meter replacement. Further, retailers must provide additional information to assist the small customer to manage their electricity usage and, if requested, comparative estimates of how the varied tariffs or charges will impact the customer's bill. These changes are transitional and are proposed to apply only where the variation to the tariff or charge occurs during the period between 1 July 2025 and 31 December 2030. It is relevant to emphasise that section 5 of the National Energy Retail Law defines a small customer as a customer who is a residential customer; or who is a business customer who consumes energy at business premises below the upper consumption threshold.

The AER considers these consumer safeguards are beneficial by empowering small customers to better engage in the market and make informed decisions on their electricity plan. Further, they may allow some customers to adjust their usage behaviour to suit the new tariff structure, potentially benefitting them by reducing electricity costs. We consider these safeguards should apply for small customers on both standard and market contracts.

Further, we have concerns that these new obligations are limited to small customers receiving a smart meter installation and will cease at the conclusion of the rollout after 2030. We consider they should be extended to **all** tariff variation notification scenarios on an ongoing basis.

All customers would benefit from expanded tariff notification and information requirements.

Currently, a retailer's obligations for notifying market retail contract customers of tariff variations are outlined in rule 46 of the National Energy Retail Rules (NERR), which provides for shorter and variable tariff notification obligations, specifically:

- five business days under rule 46(4)(a) of the NERR, which is extended to ten business days in Queensland due to a derogation, or
- as soon as possible in the event of a distributor tariff reassignment in accordance with rule 46(4C) of the NERR.

The draft determination notes negative customer experiences if customers are not appropriately informed of pricing structure changes, which has been prevalent outside of the accelerated roll-out. It also notes that consumers moving to a time-of-use or other flexible tariff may not be able to change their usage behaviour and be exposed to increased energy costs.

The AER has some concerns with retailers complying with their obligations to notify customers of tariff changes including retailers providing inadequate notice to customers of tariff changes not in accordance with rule 46 of the NERR, and/or not including the required elements in the variation notice as required in rule 46(4A) of the NERR. We are working with retailers to improve compliance in this area.

The AER Contacts Centre also regularly receives complaints from customers regarding time-of-use tariffs. These notably concern inadequate notification, an inability to receive a flat-rate tariff from their retailer, and increased usage/costs.

The AER is actively undertaking various compliance activities to ensure these critical obligations are met. In April 2024, we [wrote to retailers](#) to remind them of their obligations relating to notifying customers of variations to electricity tariffs and charges. In this, we set out that we consider it is beneficial for customers to be given as much notice of variations as possible. This followed a [joint ACCC/AER compliance bulletin](#) published in May 2023 to remind retailers of their obligations around communicating pricing changes to their customers.

It is difficult to determine with certainty the extent of customer experiences regarding time of use tariffs, however the AER does have some anecdotal experience on the types of issues raised by consumers based on the calls to the AER Contacts Centre. For example, complaints notably concern inadequate notification, challenges in accessing a flat-rate tariff from their retailer, and increased usage/costs under a time of use tariff. Customers have also noted differences in how peak rates are applied across different NEM jurisdictions (e.g. South Australia has longer peak periods than New South Wales) and some have expressed support for the increased visibility (often in real time) that smart meters provide with regards to energy usage.

An extension of the consumer safeguards to all tariff variation notification scenarios on an ongoing basis, rather than for a transitional period, may assist in addressing previously observed compliance issues and customer dissatisfaction, while recognising that a change in tariff can have significant implications for a customer whether the tariff variation was a result of a meter replacement under the smart meter roll-out or some other reason. Accordingly, the reasoning for additional consumer safeguards set out by the AEMC in the draft determination applies equally for all tariff variations - the safeguards should apply for all variations.

We consider that amendments to the consumer safeguards within rule 46 of the NERR support the objectives of the accelerated rule change and therefore could be considered within the scope of the current rule determination. Uniformity in these obligations regarding any changes to a customer's retail pricing structure will increase consumer awareness of tariff structures. This will ultimately alleviate consumer harms and increasing broader social license of the accelerated smart meter deployment. It will also ensure these safeguards are provided to all customers in a timely fashion, given this is an expedited process.

We do not consider that these advanced tariff notification and information obligations will be overly burdensome on retailers, as they should already have the systems in place to meet these obligations.

Ambiguities with information and notification obligations under Rule 46 of the NERR

While not strictly in the scope of the AEMC's smart meter rule change, we have also identified some broader industry confusion with the application of specific timeframes within rule 46 of the NERR. This may come from what we consider to be some potential inconsistencies with the rule:

- Rule 46(4C) operates despite rule 46(4)(a) and requires a retailer to provide the notice of a variation to tariffs or charges to a customer as soon as practicable and, in any event, no later than the customer's next bill, where the variations to the customer's tariff and charges are a direct result of a tariff reassignment by the distributor pursuant to clause 6B.A3.2 of the National Electricity Rules (NER).
- Clause 6B.A3.2 of the NER sets out a tariff reassignment process where a retailer must or may, in certain circumstances, request that the distributor review the tariff assigned to the customer. On receipt of this request, the distributor must then decide whether to change the tariff.

- Our interpretation is that rule 46(4C) as drafted, together with the operation of clause 6B.A3.2 of the NER, restricts the application of rule 46(4C) to retailer requested tariff changes and excludes distributor-initiated changes.
- However, the relevant [AEMC Final Determination](#) and other AEMC commentary suggests that it was intended to apply to both distributor-initiated and retailer-requested tariff changes. We have noted instances where industry have interpreted these obligations this way. In any respect, the timeframe obligations of ‘as soon as practicable’ adds further timeframe complexity and industry confusion.

We consider there is a need for this rule to be amended to reflect the apparent intention expressed by the AEMC, potentially through adapting the expanded tariff notification and information provisions proposed in the rule change. We expect that these changes will mitigate industry confusion and allow us to deliver consistent compliance and enforcement messaging.

Further considerations

We suggest the AEMC considers the interaction between the retail tariff change notification periods for retailers and the annual 1 July network tariff changes.

Distribution network tariffs are amended each year on 1 July for the upcoming financial year. Ahead of 1 July each year, distributors undergo a compliance process whereby they submit their proposed tariffs for the upcoming year to the AER for assessment against their approved tariff structure statement and the NER. At present, network tariffs are finalised by 17 May in most years, and as late as mid-June in the first year of a distributor’s regulatory control period.

We note that, depending on how a broader retail tariff notification obligation is framed, there is potential for retailers to be obliged to notify customers of retail tariff changes (i.e., the level of charges) ahead of every 1 July, even in the absence of substantive changes to retail tariff structure.

Consideration will need to be given to timelines for submission (clause 6.18.2(a) of the NER) and approval (clauses 6.18.8(c2) and (c3) of the NER) of a pricing proposal. This will need to reflect appropriate time for retailers to update systems, plan and prepare notifications, and deliver customer notifications at least 30 business days prior to 1 July.

Furthermore, the AEMC should also consider the interactions with the commencement period for Default Market Offer prices each year (a 30 day rather than 30 business day requirement). Multiple obligations could make it more complex for retailers to comply with notification and system upgrade requirements, should changes occur around the end of the financial year. Additionally, it may further complicate a customer’s understanding and could potentially cause confusion if poorly coordinated notification deadlines across various Rules leads to multiple notifications to customers.

2 Legacy Meter Retirement Plans

Changes to reporting requirements

In Schedule 3(1) of the Draft National Electricity Amendment (Accelerating smart meter deployment) Rule 2024, we propose changes to reporting requirements under draft NER, 11.[XXX].8 Reporting:

- We note that the reporting obligations in their current form could pose a significant administrative burden on the AER and retailers. This is especially challenging with regards to the qualitative information requirements that will require the implementation of new systems and processes to adequately manage the annual reporting obligation. The AER is currently reviewing our Retail performance reporting procedures and guidelines¹ and our Compliance procedures and guidelines - 2024 update² which will require extensive system reconfigurations by the AER and retailers to implement changes to reporting. Our preference is that our existing systems can be used to meet these new AEMC reporting requirements, as this will significantly lower the cost and be more efficient for both the AER and retailers.
- We recommend providing less prescriptive qualitative reporting obligations (any obligation requiring a retailer statement or explanation on the performance of, and/or compliance with an obligation) as a new section of the Annual retail market performance report published each year in November. For example, under subparagraph (a)(5) the AER should be afforded more latitude on the type of information and explanations to collect from Affected Retailers relating to their compliance with Interim Targets and recovery plans.
- We suggest instead making a generic requirement to report to the AER and we would communicate to Affected Retailers how to provide quantitative and qualitative data. This would not prevent the AER from including relevant information in retail market performance reports, especially of a qualitative nature. For example, the AEMC makes a rule under which the AER “may” (but is not required to) include the manner and form in which Affected Retailers must report their compliance with LMRPs in the Guideline or another way prescribed by the AER. We would work with the AEMC to refine this requirement.

In addition, we suggest that it would be preferable to clearly define annual reporting data submission dates that coincide with the annual retail performance data submission requirements and recommend that the date for reporting under (a) and (b) be specified as 31 July each year from 2026 to 2030 in relation to the previous interim period.

Merit assessment of LMRPs

Draft NER 11.[XXX].4 sets out the process it is proposed the AER will undertake with respect to approving LMRPs. The AER notes that the AEMC’s intention is for the AER to have a light touch oversight role, with a focus on whether DNSPs have met their requirements in developing the LMRPs (e.g. whether the LMRP meets prescribed principles

¹ AER, [Retail performance reporting procedures and guidelines \(2024 update\) | Australian Energy Regulator \(AER\)](#), June 2024

² AER, [Compliance procedures and guidelines - 2024 update | Australian Energy Regulator \(AER\)](#), June 2024.

and objectives, includes required information, and met consultation requirements). We agree with this approach and note that the AER's approval process will not consider or endorse the efficacy of the LMRPs and the AER will not be undertaking a merits review assessment.

This lowers the requirements for stakeholder engagement during the approval process, noting the limited timeframe that the AER has to approve and publish the LMRPs.

We invite the AEMC to consider whether any further amendments would assist in clarifying the AER's role in this regard. AER staff will continue to work closely with AEMC staff to support any drafting changes.
