

30 May 2024

Australian Energy Market Commission
Project code: **ERC0378**

To Whom It May Concern

Draft rule determination - National Electricity Amendment (Accelerating Smart Meter Deployment) Rule - Submission

Energy Locals Pty Ltd (ACN 606 408 879) welcomes the opportunity to provide a submission to the Australian Energy Market Commission (**AEMC**) in relation to the draft rule determination on accelerating smart meter deployment (**Draft Determination**).

Energy Locals is an authorised electricity and gas retailer that supports customers directly as well as via partnerships with newcomers to the energy retail sector, such as RACV, Indigo Power, IO Energy, Tesla, and others. A retail gas offer is in the process of being launched.

Energy Locals recognises the benefits of accelerating smart meter deployments and is generally supportive of the aims of the rule changes in the Draft Determination. However, given that retailers will play a key role in the roll out, we have a number of concerns with the proposed rule changes:

- It appears that, while Local Network Service Providers (**LNSPs**) have the initial obligation of developing the Legacy Meter Replacements Plans (**LMRPs**), from early 2025 onwards the burden of achieving universal uptake of smart meters by 2030 falls mainly on retailers, who risk type 1 breaches for non-adherence. It is madness for the market participant that faces consequences to be a different entity to the one that develops the plans.
- Delivering against the LMRPs will likely require significant resource allocation and upgrades to retailers' internal systems. This cost burden does not seem to be fully appreciated by the AEMC in the Draft Determination. Energy Locals anticipates that, at a minimum, compliance with the proposed rules will require an investment of more than *[Confidential information has been omitted for the purposes of section 24 of the Australian Energy Market Commission Establishment Act 2004 (SA), sections 31 and 108 of the National Electricity Law and sections 223 and 268 of the National Energy Retail Law.]* over five years, comprising of system changes and incremental resources to support the rollout. Larger retailers would likely face proportionally higher costs.
- The requirement to provide customers with 30 business days' notice of a tariff change is not practical without further commitment from the Distribution Network Service Providers (**DNSP**). We note that in some regions in the National Energy Market, introduction of a smart meter automatically places a residential customer on a demand tariff, which they do not understand, leading to queries and complaints being directed to the retailer.
- In recognition that a customer will no longer have a right to opt out of a smart meter replacement, we propose a moratorium on network tariff changes for an agreed period, or at a minimum, provide customer choice to revert back to the network tariff they were moved from. Citing that retailers have a choice what to charge customers places the burden on retailers to manage this commercial and customer impact, once again, and in any case, we question the point of cost-reflective tariffs if customers are shielded from the price signals contained within them. We note in Victoria, customers have a choice of tariffs available to them.

- We are concerned that, even with increased notice periods to customers, the smart meter replacements may give rise to an increase in customer confusion and complaints placing further burden on retailer resources to manage. Dissatisfaction and queries in general may arise, not just from the meter exchange process, but the subsequent customer touchpoints, most notably their bill.
- Given the annual compliance and reporting obligations for retailers, and civil penalties apply at the end of the acceleration period, it is imperative that the LMRPs include achievable targets for all affected retailers. Again, we see it as extremely peculiar that a 'network-led' roll-out means simply that networks produce targets for others to meet. Incentives, responsibility, and accountability must align.
- To minimise burden on retailers, all rule changes which require an adjustment to engaging with customers should commence at the same time.

We have elaborated on these points in our submission below. We have also outlined aspects of the proposed rule change where further clarification from the AEMC is required.

1. Legacy Meter Replacement Plan (LMRP)

Under the proposed rules, retailers will be responsible for arranging for the replacement of legacy meters in accordance with the LMRPs. We appreciate that the AEMC has set out a clear process for this. We also support the LMRP principles which LNSPs must have regard to when developing the LMRPs. In particular, we consider the "the impact of the LMRP on retailers impacted by the LMRP (described as Affected Retailers)"¹ to be the paramount principle. It is also important that the targets align with industry capabilities to ensure the targets are realistic and attainable.

We appreciate that affected retailers will have an opportunity to provide feedback on the LMRP before being approved by the AER. If an Affected Retailer raises reasonable concern about a target in a draft LMRP, the LNSPs should be required to act upon this feedback and disclose this to the AER. We note that the LNSP must include a description on how it has addressed concerns raised in the engagement². We support this and hope that LNSPs act upon on all reasonable requests in the stakeholder engagement phase. Hope is not a good strategy though, so unless the AEMC will enforce this, it is unreasonable that a retailer may face enforcement action over a plan that it reasonably disagreed with.

2. Amendment of LMRP

While a LMRP covering the five-year acceleration period does support retailer planning, a limitation of this approach is that there is a strong likelihood that changes will be required for the targets in each interim period. Even with the best planning, it is difficult to anticipate all potential delivery difficulties in advance.

We do appreciate that the AEMC has considered this and has built in an amendment process. As above, we would like to see a guarantee that requested changes be implemented in circumstances where an Affected Retailer has identified that an aspect is no longer achievable. While we would like to think that the LNSP and AER take a generous approach to their interpretation of Material Change Event for the purposes of approving a revision to an LMRP, the AEMC should require this in the rules.

While we recognise that there is a process for seeking an amendment, we would like to clarify whether that means all other affected stakeholders will have an opportunity to comment on the adjusted LMRP, or whether it would just be the element that the Affected Retailer sought amendment for that will be adjusted.

¹ AEMC, Accelerating Smart Meter Deployment, Draft rule determination, 4 April 2024, p.12

² Draft rule 11.[XXX].2(b)(3) of the *Draft National Electricity Amendment (Accelerating smart meter deployment) Rule 2024*

We suggest that in addition to the amendment process, the LMRPs are reviewed and adjusted on an annual basis to ensure they continue to meet LMRP principles. In this regard, all relevant stakeholders will have a better understanding on the achievability of interim targets after the first year of the acceleration period. These learnings will be useful for the next delivery year.

3. Notification requirements

While we strive to keep customers informed, Energy Locals does have concerns about the burden on small retailers of the increased notification requirements in the proposed rules.

a) Notification of replacement

Under the draft rules, retailers will be required to provide customers with a retailer information notice no more than 60 business days and no fewer than 4 business days before a proposed metering installation date.³ Given this is a relatively broad time range, we would like to confirm that such notices can specify an estimated date for installation rather than the exact installation date?

Similarly, it would be helpful if the AER, in preparing its guidance documents, prepared a template of the appropriate wording for the smart meter information notice requirements.

b) Notification of tariff changes

Under the proposed rules, the retailer must issue a notice at least 30 business days before any variation in the tariff is applied to the customer for a smart meter replacement.⁴ Energy Locals considers this to be a significant increase from the current requirements.

While the retailer will, to some extent, have control over the installation date given the role in appointing a metering provider, tariff reassignments by DNSPs are outside the control of a retailer.

We reject the AEMC's comment in the Draft Determination that retailers have discretion whether or not to reflect network tariff structures in their offers.⁵ Given the sheer number of meter replacements over the acceleration period retailers will be at a considerable commercial disadvantage if they do not pass on network tariffs to customers.

Furthermore, we question the AEMC's support for non-flat network tariff structures if customers are not exposed to the price signals contained within them. Hiding the price bands that are intended to reduce demand at certain times of day from the customers who are able to respond to those price signals renders newer network tariff structures a huge waste of industry time.

For a 30 business days' notice period to be achievable in practice, retailers require certainty on any tariff changes. There should be:

- a restriction on DNSPs amending network tariffs earlier than 30 days from the installation of a smart meter (to align with the notification period);
- a clear direction to DNSPs on the tariff reassignment process for smart meters; or
- a freeze on tariff reassignments for smart meters.

Given that DNSPs will be aware of the locations/ NMs that will be upgraded each year, there could be a moratorium on tariff changes for that year.

³ Rule 59A of the Draft National Energy Retail Amendment (Accelerating smart meter deployment) Rule 2024, AEMC, Accelerating Smart Meter Deployment, Draft rule determination, 4 April 2024, p.23.

⁴ Schedule 3 of *Draft National Energy Retail Amendment (Accelerating smart meter deployment) Rule 2024*

⁵ AEMC, Accelerating Smart Meter Deployment, Draft rule determination, 4 April 2024, p.21, footnote 56.

A freeze on tariff changes would alleviate impacts on customers and retailers. Providing notice of these potential tariff changes, updating new tariff structures in retailer billing systems and responding to customer queries and complaints in relation to being placed on a time of use or demand tariff will create a significant resource burden which is elaborated further in paragraph 6(a) below.

c) Notification of site defects

There are a few aspects of the proposed rule changes on site remediation which require clarification.

Under draft rule 59AAA(1)(c), when a metering provider encounters a defect on a site visit retailers are required to, within 5 business days of being notified of a site defect, send a notice to the customer. If the defect is not fixed within 40 business days from the date of that notice, the retailer is required to send another follow up notice no less than 40 business days and no more than 45 business days after issuing the first notice to the customer.

While Energy Locals acknowledges the rationale for follow up notices, it queries the narrow time band of 40-45 business days. Without an automated system or dedicated resource such requirements will be burdensome and therefore costly.

We note that the AEMC has advised that the retailer is not required to install the meter if a customer confirms with the retailer that the site defect has not been rectified, or if the retailer is not able to contact the customer. However, it is not clear what the retailer's ongoing obligations will be. As noted in the Draft Determination, site remediation is currently the responsibility of the customer and beyond the scope of the energy laws and rules. This means a customer cannot be compelled to remediate their site.

It is not immediately apparent what steps a retailer should take if the customer refuses to take the required remediation action. Energy Locals requests clarification of the following:

- If a site-defect is never rectified by a customer, do they remain on a legacy meter?
- Is a retailer required to follow up on additional occasions, or would their obligation under a respective LMRP be met if the retailer has taken steps to request a customer to rectify the defect?

We think the latter is reasonable. While the scope of a retailer is broad, hassling a customer to rectify issues that block a non-essential meter replacement on their own property is, we believe, a step beyond our natural remit.

We therefore assume that if the site is not remediated and the smart meter cannot be replaced, the retailer has satisfied the target under the LMRP. We would like to engage with the AEMC if the intent is different.

4. Clarification on meter replacement where a customer refuses to give site access

A further scenario for meter replacements which requires clarification is if a customer refuses to give site access for a smart meter replacement.

We expect this to be considered an exemption to delivery against the LMRP and this should be made clear in the rules.

5. One-in-all in – Shared Fusing Meter Replacement

Under the draft rules proposed for the Shared Fusing Meter Replacement Procedure (**Shared Fuse Procedure**), a metering upgrade for one or more customers on a shared fuse would trigger the upgrade for all meters on the shared fuse. While we do appreciate the logic and efficiency that this Shared Fuse Procedure presents, Energy Locals queries whether the timeframes in the Shared Fusing Meter Replacement Procedure will be achievable in practice.

In this regard, clarification is required on how these shared fuse sites work alongside the LMRPs:

- It is not clear whether retailers are required to follow the same notification periods as outlined in paragraph 3 for customers on a shared fuse or whether they are exempt from the required notices?
- If the notice requirements apply and a tariff reassignment by the DNSP is likely, the 30-business day notice required for a tariff change conflicts with the retailer's requirement to raise a meter replacement service order within 10 business days of being notified of the shared fuse.

It appears that under the Shared Fuse Procedure, the process commences on discovery of a shared fuse by a metering provider. If a DNSP is aware of shared fuse sites, it would be more efficient for these sites to be identified in the LMRP, which would enable this to be built into retailer planning.

Energy Locals also queries why the Shared Fuse Procedure is due to commence on 22 January 2025. Energy Locals recommends that the rules commence at the same time as the first year of the Acceleration Period, being 1 July 2025.

6. Costs

a) Additional resourcing

Implementing the new rules will require significant resources. At a minimum, additional resourcing will be required to:

- plan and engage metering providers to deliver against the LMRPs;
- amend systems and templates to meet new notification requirements;
- train staff on the new requirements; and
- manage other impacts mentioned above.

For Tier 1 retailers, the costs of implementing such changes, may not be noticeable but it will be felt by smaller retailers. In particular, a key cost and resourcing burden will be coordinating adjustments to systems to automate notices. We rely heavily on systems to deliver efficient communications to customers and these systems require intricate changes to be made to avoid unintended issues, such as interfering with other forms of critical customer communication (including life support).

To meet implementation for mid next year, retailers will need to begin planning immediately. We urge the AEMC to keep this in mind, before progressing any further changes and to ensure it meets its planned timeframe of 11 July 2024 for the Final Determination.

A further cost which the AEMC may not have fully considered, is the likelihood of an increase in complaints. The inability for customers to opt-out of a smart meter, coupled with a likely change to a time of use or demand tariff, will prompt many customers to contact retailers or raise a complaint. In light of this, retailers will need to ensure they have adequate resources to handle an increase in queries and complaints. Similarly, remediation of site defects or following up with customers to ensure site access for a meter replacement will also be time intensive for staff.

Energy Locals has not yet been able to fully scope the project to calculate expected costs to update billing systems and customer platforms. However, we estimate the approximate cost of compliance with the new rules and accelerated roll out of smart meters over the 5-year period to be:

- System upgrades: estimated at *[Confidential information has been omitted for the purposes of section 24 of the Australian Energy Market Commission Establishment Act 2004 (SA),*

sections 31 and 108 of the National Electricity Law and sections 223 and 268 of the National Energy Retail Law.]

- Resourcing and staff training to be ready for 1 July 2025 and ongoing compliance during the acceleration period: approximately *[Confidential information has been omitted for the purposes of section 24 of the Australian Energy Market Commission Establishment Act 2004 (SA), sections 31 and 108 of the National Electricity Law and sections 223 and 268 of the National Energy Retail Law.]*

The true impact will not be fully understood until the LNSPs confirm the LMRPs.

b) Costs recovery

The proposed rules do not appropriately provide a cost recovery mechanism for retailer spend.

i. Costs to be reflected in the Default Market Offer (DMO)

We urge the AEMC to ensure a commitment from the AER that all reasonable retailer costs for implementing the smart meter roll out will be factored into future DMOs.

We acknowledge that the AER has outlined in their Final Determination that they considered the anticipated roll out of smart meters.⁶ However, given that many of the costs of compliance with the proposed rules have not yet been fully identified by retailers, the DMO does not reflect all true and potential costs.

We would like an assurance from the AER that all costs incurred in smart meter replacements will be appropriately reflected in the DMO for each year of the acceleration period. At a minimum, we consider that the AER must factor the following into the calculations of *retailer costs and margin*:

- the number of meters specified for replacement during the relevant Interim Period in the LMRP;
- the realistic annual cost of the current proportion of smart meters;
- average fees charged by Metering Providers for smart meter replacements;
- the Distributor costs of the remaining basic meters; and
- administrative costs incurred by retailers in compliance (as summarised above in paragraph 3(a)).

ii. Network contribution

Considering that the roll out of smart meters is led by the distribution networks, and that those organisations will see cost savings from the removal of legacy meters, we propose the networks provide funding to retailers to support the transition.

While DNSPs may try to argue that smart meters lower a retailer's cost base, the reverse is true. Firstly, as outlined above, the AER is yet to include the true cost of smart meters in the DMO. Secondly, we see customer queries and complaints tend to increase when a customer transitions from a legacy meter.

7. Implementation/ timelines

We understand that given the review has been fast tracked that implementation would commence progressively with the first delivery against the LMRP occurring from 1 July 2025.

⁶ Australian Energy Regulator, Default market offer prices 2024–25: final determination, p.46

Energy Locals considers that all rules that relate to interactions with customers should all commence at the same time to ease the burden on retailers and to assist with system upgrades.

Given the significant demands on resourcing, as much notice as possible on the final rules is helpful to enable retailers to adjust system capabilities.

8. Summary of Energy Locals position

In summary, Energy Locals sees the merit in the roll out of smart meters and is supportive of the approach of LMRPs with yearly targets, provided such targets are realistic, are agreed collaboratively with retailers, and can be amended as required.

However, we do have significant concerns over the administrative burden these rule changes will impose on retailers. Not only are the increased notification periods burdensome on retailer's resourcing, they will also be difficult to meet in practice. Given that implementing the changes will impose additional cost and resource requirements on retailers, and the cost of regulatory reporting is ultimately borne by consumers, we consider that the AEMC must work with the AER to ensure that there are appropriate cost recovery mechanisms in the DMO, not just for the cost of managing this roll out but to ensure that smart meter costs in each annual DMO keep pace with the forecast number of smart meters in the market (as per the LMRP) for the year ahead.

Further clarification on a few rules is also needed to assist with implementation. Similarly, Energy Locals would welcome any guidance from the AER on suitable templates for customer notices.

Energy Locals also considers that the full extent of the burden on retailers may not be known until the first year of the acceleration period. It is therefore very important that LNSPs engage continuously with retailers to ensure delivery against the LMRPs by 2030 is achievable.

We would like to thank the AEMC for the opportunity to provide this submission. We are very happy to discuss any aspect.

Yours faithfully,

Adrian Merrick
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Energy Locals Pty Ltd