SEPTEMBER 2024

Submission: Accelerating smart meter deployment

Prepared by
Compliance Quarter

Status
Public

12 September 2024

Submission to the Australian Energy Market Commission: Accelerating smart meter deployment - Directions Paper (ERC0378)

1. Compliance Quarter appreciates the opportunity to respond to the Australian Energy Market Commission's (**AEMC**) Directions Paper on Accelerating smart meter deployment.
2. Compliance Quarter works with energy businesses in helping them understand and apply the regulatory framework. We let our clients know about regulatory changes, help them implement compliance management frameworks, provide technology solutions to integrate compliance into their businesses, and participate in consultations and policy development.
3. Our experience gives us a unique insight into the difficulties faced by energy retailers seeking to comply with the regulatory framework. As the energy market transitions, that regulatory framework will continue to increase in complexity. The existing regulatory framework is extremely complex and all encompassing.
4. While we accept that changes to the regulatory framework are needed as the energy market transitions, we submit that those changes should be grounded in logical and achievable outcomes and not in abstract economic theory.
5. We believe that competition between electricity retailers is critical. Consistent with the view expressed by the ACCC, we believe that new entrants benefit consumers. Part of our work involves assisting new entrant retailers obtain required licences and approvals. That means we talk to businesses that are considering ‘becoming’ energy retailers. We know their motivations, their concerns, and their outlook. Our submission is informed by this knowledge.
6. When we put forward submissions, such as this submission, we do so with the objective of ensuring that the regulatory framework develops in such a way that is consistent with the National Electricity Objective (**NEO**), benefits consumers, and can be implemented by energy businesses. This means we call out proposal that we think would result in complexity without consumer benefit or proposals that will have unintended consequences. This is our submission; it is not made for or on behalf of any client and does not necessarily reflect their own views.

The elephant in the room: Rule 46

7. Where a customer has a smart meter installed, the AEMC recognises that the distribution network service provider (**DNSP**) may then impose a network tariff change for that customer. That new network tariff applies to the retailer immediately. Currently, the

National Energy Retail Rules (Rule 46) provides a mechanism for retailers to then vary their pricing to reflect the DNSP's network tariff.

8. The rule change proposed by the AEMC focuses on the application of Rule 46 following a smart meter installation (a trigger). But it does not consider that Rule 46 would continue to result in the same outcome for consumers where there are other network tariff changes for other triggers. The Rule 46 'procedure' does not give a customer any say. It is clearly designed to ensure that energy retailers are not left in a position where they are exposed to greater costs without a cost recovery mechanism. What is proposed is the opposite, to place all risk on the retailer for a period of 3 years.
9. Ultimately, what the AEMC is seeking to do in this rule change is to address the shortcomings of Rule 46. Those shortcomings apply regardless of whether or not a consumer has a smart meter installed (i.e. regardless of the trigger of the price change or tariff structure change). An alternative to Rule 46 needs to apply universally, regardless of the trigger. We need to move away from piecemeal fixes to the regulatory framework if we want to avoid tying ourselves and consumers in knots.
10. In the Directions Paper, the AEMC states that '…*we consider broader changes that are unrelated to a smart meter deployment to be out of scope for this rule change process*.' However, we say that the application of Rule 46 is within the scope or if it is not, the scope should be adjusted. A narrow interpretation of your ability to consider the core issues at play would result in unsatisfactory outcomes.

All stick and not enough carrot

11. Our submission focuses on the most obvious problem with the AEMC proposal which is the allocation of significant cost risk to a party who has no say and realises no benefit from the relevant trigger (the retailer). That risk will disproportionately impact on smaller energy retailers who do not have the benefit of a large customer portfolio to mitigate risk. There isn't much sympathy for retailers and the AEMC's proposal will be popular with certain groups. But that is not an indication of its usefulness (to industry or to consumers). We explain why below.
12. Our submission does not cover the proposed obligations of designated retailers to offer a flat tariff in detail. However, on that point, we submit that it should be the *local area retailer,* not the *designated retailer* with the obligation to offer a flat tariff and that this reform should be considered in a separate rule change that also explains a social tariff, as described in our submission to the Australian Energy Regulator [here].
13. The carrot of smart meters is real time data that can be used by consumers to make decisions. And yet, they don't have that real time access to their metering data, and they can't make decisions with the data they are given. And so, we are yet again considering

‘who pays’ before clearly articulating ‘why.’ This is a common theme in network TSS determinations, again often argued on the basis of abstract economic theory.

14. It is our submission that the AEMC should first finalise rule changes to ensure that consumers benefit from the smart meter roll out before finalising this proposed rule change.

The AEMC proposal and why it is not the smart approach

15. From our understanding the AEMC is proposing that where a customer has a new smart meter installed and the DNSP then imposes a new network tariff change for the customer, the retailer should then shoulder the increased network tariffs for a period of up to three years where the relevant customer does not provide explicit informed consent (**EIC**).

16. Clearly, there is a real risk that very few customers are going to provide EIC resulting from such a network tariff change, so the retailer will continue to be responsible for those additional network charges incurred from the DNSP for three years. It must then send a notice to the customer and wait for a period of 30 business days. Consumers will not magically provide EIC in response to better or more useful information, they will either not engage or not believe their retailer.

17. The AEMC characterises one of the benefits of the proposal as follows: “*providing stronger incentives for retailers to give customers detailed and useful information explaining how they may be able to benefit under a proposed new retail tariff structure*.” It is our view that the only resulting incentive of the rule change will be for retailers to stifle and delay the smart meter roll out process.

18. From our understanding, such network tariff reassignments provide zero benefits to retailers.

19. When considering the proposed rule change, we recommend that the AEMC consider the reason for the relevant network tariffs. While perhaps a simplification, it appears that the reason that time reflective and demand-based tariffs are proposed by the DNSPs to the AER is primarily that they:
    a) Influence consumer behaviour and encourage usage of the network at off peak times (**Consumer Influence Factor**); and
    b) Result in more ‘equitable’ contributions to network costs (**Equitable Contribution Factor**).

20. If our characterisation in the above paragraph is correct, then the AEMC’s proposal will **completely negate** the Consumer Influence Factor and the Equitable Contribution Factor of network tariffs for a period of up to three years.

21. Should the proposed rule be accepted, the implications in terms of the AER’s review of TSS is unclear- DNSP proposals relating to the Consumer Influence Factor and

Equitable Contribution Factor will not carry water for three years where relating to smart meter installations.

22. What is clear is that we will have tariffs designed to do certain things, not doing those things, and retailers absorbing the cost. The DNSPs are not expected to object to this proposal, as they get paid regardless.

23. The AEMC's proposal to introduce a three-year period before retailers can pass new tariff structures onto customers is fundamentally flawed and demonstrates a clear misunderstanding of the retail energy market's operational and financial realities.

24. Smaller retailers will be disproportionately impacted. The recent spate of RolR events is a demonstration of this. With fewer energy retailers now than we had before 2022, should this rule be accepted, we can expect more pressure on smaller retailers and more retailer failures. Concentration of market power will result in higher prices paid by consumers. The overly complex nature of the regulatory framework is already resulting in less new entrant retailers and that complexity is not resulting in positive outcomes for consumers.

Financial Impost on Retailers

25. The proposed requirement for retailers to obtain explicit informed consent before changing a customer's retail tariff following a smart meter installation place an undue financial burden on retailers. As noted in the Directions Paper (section 3.1.2, p. 10-11): "*In instances where a customer does not give their explicit informed consent to vary their retail tariff following a smart meter deployment, this means that their retailer may face a network tariff cost structure that it is unable to directly pass through to the customer via a corresponding retail tariff structure, for a period of up to three years*."

26. Suggestions that these risks can be mitigated by '*increasing retail price levels*' is contrary to the NEO. A suggestion that retailers could '…*choose to specifically raise price levels for customers with a smart meter who choose to remain on their existing (likely flat) tariff over their three-year explicit informed consent period'* is also inconsistent with the NEO and the objective of the smart meter roll out.

27. This scenario creates significant cost risks for retailers, who may be forced to absorb higher network costs without the ability to adjust retail tariffs accordingly. The AEMC's suggestion that retailers may choose to manage these risks by increasing retail price levels across their customer base (p. 11) is not a viable solution and unfairly penalises other customers.

However: We agree with a requirement for EIC

28. We have pointed out some concerns that we hope can be appreciated by the AEMC above, but we would also like to put forward an alternative.

29. We agree that consumers need to be given the choice to move to time reflective tariffs following a meter change and that Rule 46 needs to be amended. We suggest an alternative approach that better aligns incentives and responsibilities. This alternative retains a requirement for explicit informed consent (**EIC**).
30. The difference in what we propose vs the AEMC's current proposal is that **DNSPs should only be permitted to change the network tariff on request from the retailer following EIC from the customer**.
31. Where a customer has a smart meter installed, the retailer would present a cost reflective tariff option to the customer and include detailed information to assist the customer in making that decision. If the customer then provides EIC to enter into that new product, the retailer will then notify the DNSP and request a tariff change.
32. The new network tariff would then apply at the same time as the new retail tariff, all of which would be **grounded in consumer consent**.
33. Changes would be required to both Rule 46 of the NERR and clause 6B.A3.2 of the NER resulting in retailers and DNSPs working together to implement tariffs that are beneficial to consumers.
34. A summary of the differences between the existing regulatory framework, the AEMC's proposal, and Compliance Quarter's alternative is set out below:

Smart Meter Deployment and Tariff Change Process Comparison

Step	Current Process	AEMC's Proposed Process	Compliance Quarter's Alternative
Step 1	Smart meter installed	Smart meter installed	Smart meter installed
Step 2	DNSP applies new network tariff	DNSP applies new network tariff	Retailer presents cost-reflective tariff option to customer
Step 3	Retailer notifies customer (5-10 business days)	Retailer must obtain EIC from customer	Customer provides EIC for new tariff
Step 4	New retail tariff applied	If EIC obtained: New retail tariff applied	If EIC obtained: Retailer requests network tariff change from DNSP
Step 5	N/A	If EIC not obtained: Retailer absorbs cost difference for up to 3 years	DNSP applies new network tariff
Step 6	N/A	After 3 years, retailer gives 30 business days' notice	New retail tariff applied simultaneously
Step 7	N/A	New retail tariff applied	If EIC not obtained: No changes to network or retail tariffs

35. Compliance Quarter's proposal is better than the current proposal in the following ways:
    a) **Consumer Choice:** Under the AEMC proposal, consumers are not really given choice- they are given three years where they can avoid being forced onto new time reflective tariffs. Under Compliance Quarter's proposal, consumer tariffs are

grounded in choice and consent, a consumer won't be placed on a new tariff unless they provide explicit informed consent.

b) **Retailer Financial Risk:** If the AEMC proposal is finalised and accepted, as noted above there will be a new significant financial risk for energy retailers. In contrast, there is no such risk should Compliance Quarter's proposal be accepted.

c) **DNSP Benefit Alignment**: here we look at the alignment between the relevant network tariff and its actual effect. Under the AEMC's proposal, there will be misalignment as retailers will be paying for price signals that are invisible to consumers. Under Compliance Quarter's proposed approach, there is alignment, and consumers will receive appropriate signals for those products that they consent to be on. The Consumer Influence Factor and the Equitable Contribution Factor rationales for time reflective tariffs can hold.

d) **Implementation complexity**: implementation of the AEMC's proposed approach will be complex, take time, and cost money. While the Compliance Quarter alternative will result in additional costs for retailers, those costs will be dedicated towards seeking consent and will result in beneficial consumer outcomes.

Impacts	Current Process	AEMC's Proposed Process	Compliance Quarter's Alternative
Consumer Choice	⊗ Low	✓ High	✓ High
Retailer Financial Risk	— Medium	⊗ High	✓ Low
DNSP Benefit Alignment	— Medium	⊗ Low	✓ High
Implementation Complexity	✓ Low	⊗ High	✓ Low

Conclusion

36. The AEMC's proposed changes, particularly the three-year EIC period, represent a significant step backward in energy market reform. They unfairly burden retailers, misalign incentives, and fail to address the root causes of consumer concerns about smart meter deployments and tariff changes. Should a final determination be made on this basis, we will have more complexity and greater risk within the market.

37. We strongly urge the AEMC to reconsider the proposal and to carefully consider our alternative proposal which does not suffer from the same deficiencies and would result in positive consumer outcomes.