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Australian Energy Market Commission  
Level 15, 60 Castlereagh Street  
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Submitted via online portal

**RE: Accelerating smart meter deployment – Directions paper on enhanced customer safeguards**

## About Shell Energy in Australia

Shell Energy delivers business energy solutions and innovation across a portfolio of electricity, gas, environmental products and energy productivity for commercial and industrial customers, while our residential energy retailing business Powershop, acquired in 2022, serves households and small business customers in Australia.

As one of the largest electricity providers to commercial and industrial businesses in Australia<sup>1</sup>, Shell Energy offers integrated solutions and market-leading<sup>2</sup> customer satisfaction, built on industry expertise and personalised service. Our generation assets include 662 megawatts of gas-fired peaking power stations in Western Australia and Queensland, to provide back-up for rising levels of renewable energy, and the 120-megawatt Gangarri solar energy development in Queensland. Shell Energy also operates the 60MW Riverina Storage System 1 in NSW.

Shell Energy Australia Pty Ltd and its subsidiaries trade as Shell Energy, while Powershop Australia Pty Ltd trades as Powershop. Further information about Shell Energy and our operations can be found on our website [here](#).

## General comments

Shell Energy welcomes the opportunity to provide feedback on enhanced customer safeguards to the Australian Energy Market Commission (AEMC) Directions Paper on the National Energy Retail Amendment (Accelerating smart meter deployment) Rule 2024 (the directions paper).

Shell Energy supports the rollout of smart meters as a step towards greater customer enablement and empowerment in the way that they consume and manage their usage. The key to an optimised consumer experience is a harmonious process that takes into account every level of the energy value chain from generation to distribution to retail. Shell Energy recognises the need for customer safeguards throughout this process and in the uptake of smart meters in general. Our submission focuses on three key areas, consideration for aggregation of business customer premises, the implementation timeframe, and the ability to align to network tariff structure.

Please note that **red text** indicates drafting changes to the rules recommended by Shell Energy. The table in Appendix A provides a summary of these recommended changes.

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<sup>1</sup>By load, based on Shell Energy analysis of publicly available data.

<sup>2</sup> Utility Market Intelligence (UMI) survey of large commercial and industrial electricity customers of major electricity retailers, including ERM Power (now known as Shell Energy) by independent research company NTF Group in 2011-2021.

**UNRESTRICTED**



## Aggregation

Table 1: Summary of key concerns and recommendations for Aggregation

AEMC Proposal	Shell Energy Position and Recommendation
<p>5 Scope and application</p>	<p>Customers who have consented to the convenience and contract streamlining from aggregating under Part 1 Division 2, Rule 5 of the National Energy Retail Rules should be excluded from the draft provisions under this section.</p> <p><b>Recommendation:</b> Include the following:</p> <p>5 Scope and application</p> <p>(1) A retailer is not required to comply with this Division (excluding rule 4): ...</p> <p><u>(e) where the variation of the tariff is for a premises that is subject to an agreement between the retailer and a business customer for the aggregation of consumption at two or more business premises under Rule 5.</u></p>

Shell Energy requests that the exclusions under the proposed Section 5 – Scope and application be extended to include business customers who have agreed to aggregate consumption under Rule 5 of the National Energy Retail Rules (NERR). Such customers have sophisticated contracting arrangements and can understand and cater for the impacts of load shifting and tariff optimisation.

Large scale aggregated business customers such as shopping malls or banks are not the intended beneficiaries of the draft provisions, and the cost to serve these customers without an exclusion would be a significant risk to retailers and be unworkable with their contract arrangements.

We consider that these customers have chosen to be effectively treated as large customers and have elected for small customer protection provisions of the NERR not to apply. Therefore, we consider it appropriate for an exclusion to be included in the final determination.

Shell Energy has included a recommended drafting change in Table 1 above which we consider appropriately reflects Rule 5 of the NERR.

## Implementation Timeframe

Table 2: Summary of key concerns and recommendations for the Implementation Timeframe

AEMC Proposal	Shell Energy Position and Recommendation
<p>Commencement Date 1 January 2025</p>	<p>The timeframe between the rules being finalised and the commencement date is currently impractical and unworkable.</p> <p><b>Recommendation:</b> Align with the LMRP commencement date of 1 December 2025.</p>



Consistent with the feedback provided throughout this consultation process, Shell Energy is concerned that the proposed implementation timeframe is not manageable. Assuming the timeframe remains unchanged, it is expected that the rules will be published on 1 December 2024 with a commencement date of 1 January 2025. This leaves retailers with a one-month window to overhaul the current system design, and create, test, and implement changes amid public holidays and staff on leave over the Christmas holiday period.

We are concerned that the proposed timeframe will have neither a positive benefit or outcome for consumers or retailers. Shell Energy urges the AEMC to reconsider the currently proposed timeline and instead align with the Legacy Meter Replacement Plan (LMRP) commencement date of 1 December 2025.

Our systems are not currently designed to have a mismatch of retail tariff to the network tariff in Market Settlement and Transfer Solutions (MSATs), as the current practice is for the systems to pick up the assigned tariffs in order to bill accurately. This is common practice as it minimises unnecessary complication which could incur extra costs for the consumer. Shell Energy’s concerns regarding the imminent risk of mismatch to the network tariff extends to an implementation and systems concern, as this means we will be required to overhaul our billing system to accommodate the proposed requirements.

To be clear, this is by no means a simple system update, and will require significant planning, testing and implementation into an already full pipeline of planned IT work. We consider that it will be near impossible to complete the required changes within a month, or indeed six months, given the interconnecting nature of the system and complexity. Given this unworkable timeframe, we believe that compliance would be placed at a considerable risk. It is also worth noting that the cost of building a new billing system will inevitably raise customer costs-to-serve, which will likely be reflected in pricing structures.

Because of the condensed timeframe, it appears that the AEMC has assumed that retailers can build systems based on the draft determination ahead of the final rules being released in December. This is a virtually unheard-of practice given the changes that can come into effect between draft and final versions and carries an unmatched level of financial risk which a limited number of retailers would be able or willing to commit to. If this occurred and variances were discovered in the final determination, this could essentially double the cost to a retailer or lead to wasted costs as the retailer pursues implementation by the commencement date.

This approach also presumes that the rules as drafted are likely to be final, which brings into question the consultation process and whether stakeholder views on these significant consumer reforms will be considered by the AEMC in their rule making process.

Aligning with the LMRP commencement date of 1 December 2025 would mitigate the above concerns. Delaying the commencement will allow retailers adequate time to implement the changes, ensure the necessary consumer safeguards are in place, and put in the resources required to build a system properly the first time.

## Tariff Structure

Table 3: Summary of key concerns and recommendations for Tariff Structure

AEMC Proposal	Shell Energy Position and Recommendation
Mismatch between network tariff and customer tariff during explicit informed consent (EIC) period	<p>Retailers are unreasonably required to absorb costs associated with this mismatch which will inevitably be passed on to consumers via a risk premium and would be an unmanageable and unsustainable risk for small and medium retailers.</p> <p><b>Recommendation 2:</b> Distributors in NECF regions must have a flat tariff available for customers that have a smart meter installed.</p>



	<p><b>Recommendation 3:</b> Include rules for networks to make available and accommodate a flat tariff in the underlying network tariff at retailers’ request, to reduce the risks retailers will be exposed to.</p>
<p>Three-year explicit informed consent period</p>	<p>A three-year informed consent period could lock customers into an unfavourable tariff structure and undermines previous policy work on tariff reform and best offer calculations and recommendations. There is no apparent rationale for how a three-year period will benefit consumers.</p> <p><b>Recommendation:</b> Amend to 12-month period, which enables collection of information for customers to make an informed decision without prolonging an ineffective tariff structure.</p>
<p>30 business days’ notice period</p>	<p>This timeframe is lengthy, introduces complexity around tariff changes and price changes for customers and can cause disengagement and negative outcomes for the consumer. This is also a compliance risk with overlapping notices.</p> <p><b>Recommendation:</b> Amending to five business days would align with current price change requirements under the National Electricity Rules (NER).</p>

The proposed Explicit Informed Consent (EIC) Period would allow networks to place customers on a non-flat tariff after a legacy meter is replaced. For retailers, the inability to align retail tariffs to the assigned network tariff creates a situation where retailers are unable to recover costs. Network tariffs are a large component of retail tariffs and are determined by regulated monopoly businesses. Retailers with little influence over the structure or cost of network tariff setting cannot mitigate or hedge the largest component of the retail tariff. The impact of this misalignment can be significant, particularly for small and medium retailers, which will ultimately cause be detrimental to consumers.

While we acknowledge and support the intent of the Directions Paper in seeking to apply additional customer safeguards to protect customer choice in light of feedback received, the proposal places the cost and the risk for customers adopting smart meters onto retailers. Indeed, the customers experience does not only depend on the relationship and systems put in place by the retailer but is also dependent on interactions with the underlying distribution network. This includes the drive to cost reflective tariffs, which has been long been pursued by networks, and supported by the regulator, market bodies and policy makers.

The Australian Energy Regulator (AER) completed a study of the impact of network tariff reform on retail offers in consideration of the new tariff structure statements (2020- 2025) of South Australia and Queensland distributors that had proposed the movement to new time-based price signalling (non-flat tariffs) with the installation of smart meters; the AER explained that:<sup>3</sup>

*...the underlying network tariff structure that distributors will charge retailers for customers who have a smart meter will be changing. For all customers with a smart meter, the retailer will be charged a network tariff that has a time-based price signal - to encourage greater use of the network during off-peak times and to encourage less use of the network during peak times. The retailer will be charged either a time-of-use energy network tariff or a peak demand-based network tariff.*

<sup>3</sup> Understanding the impact of network tariff reform on retail offers Australian Energy Regulator [2020], accessed via <https://www.aer.gov.au/system/files/Understanding%20the%20impact%20of%20network%20tariff%20reform%20on%20retailers%20in%20SA%20and%20QLD.pdf>



Further, in the final determination by the AEMC on the Network Pricing Arrangements rule change in 2014, it was also stated that:<sup>4</sup>

*Retailers operate in a competitive market and outcomes for consumers will be improved if retailers are free to design their prices as they see fit in response to consumer preferences and the other costs retailers face. However, because network charges are retailers' largest cost, they will have a significant incentive to pass on network price signals to consumers in some form when deciding how to structure their retail prices.*

Both the AER and AEMC acknowledge above that network tariff structure has a direct effect on consumer pricing and that the move to cost-reflective network tariffs has been supported by networks, and policy makers to support or change customers' usage behaviour, with the understanding that the network tariffs flow through to customers. They also demonstrate an understanding by the market bodies that retailers must front the cost from distributors before it is passed onto the consumers.

Under the proposed safeguards, retailers will not only be expected to front this cost, but also absorb it where there is a mismatch between what a distributor charges a retailer, and what a retailer can charge a customer. The impact of this on retailers is compounded in a mass rollout of smart meters if consent to change the tariffs is not given by customers.

The inability of retailers to properly recoup network costs is particularly relevant in light of the proposed EIC period in that distribution network service providers (DNSPs) are not restricted in their ability to apply a new tariff to the connection point immediately post the installation of a smart meter, without customer consent. However, the current drafting requires retailers to obtain EIC prior to any changes to the customer's retail tariff. This means the risk is entirely and inappropriately borne by retailers.

Based on experience in the Victoria, we expect it is unlikely that customers will opt in to flexible tariffs. This experience was noted by the AEMC in the "Aligning Network and Retail Tariff Structures for Small Customers" rule change:<sup>5</sup>

*Distribution businesses noted that under similar arrangements currently operating in Victoria, few small customers with advanced meters have chosen to opt-in to cost reflective tariffs, even though many could be better off. Jemena noted that in Victoria, only 0.3 per cent of residential consumers chose a flexible price in the year after the introduction of the Advanced Metering Infrastructure (AMI) Tariff Order, despite an extensive campaign to communicate the benefits of this tariff to consumers. The distribution businesses considered that the experience in Victoria demonstrates that where consumers are effectively given a choice to opt-in to cost reflective network prices, there is a slower transition to cost reflective pricing and, thereby, a slower realisation of the benefits of cost reflective pricing.*

While customer choice should be respected, Shell Energy considers that there are several amendments that the AEMC could implement which would reduce unnecessary pressure on retailers and therefore reduce costs from the risk premiums which may be passed on to consumers.

We are also concerned that the proposed rules create a heightened risk for small- and medium- sized retailers which will not be able to absorb costs associated with insufficient network cost recovery. This could also lead to competitive advantages for larger retailers that are able to absorb these costs with a diverse customer base, by

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<sup>4</sup> *Distribution Network Pricing Arrangements, Rule Determination* AEMC [2014], accessed via <https://www.aemc.gov.au/sites/default/files/content/de5cc69fe85048e09277-b3db79dd25c8/Final-determination.PDF>

<sup>5</sup> *Aligning Network and Retail Tariff Structures for Small Customers* AEMC [2015], page 11, accessed via <https://www.aemc.gov.au/sites/default/files/content/5abc9dca-9886-403a-83df-010f08239fc0/ERC0175-Final-Determination-%28FINAL-for-publication%29.pdf>.



either cross-subsidising or socialising the risk premium across a larger number of customers. We strongly believe that any implementation of safeguards must not occur in advance of distributors being mandated to make flat tariffs available to smart meter customers and assign a customer to a flat tariff at the request of a retailer.

## Shell Energy Recommendations on Tariff Structure

### Tariff Misalignment

First, Shell Energy considers that both retailers and distributors are responsible for the pricing which a customer experiences, especially where this relates to the underlying tariff. Indeed, the National Electricity Rules (NER) includes pricing principles for DNSPs in which the structure of each tariff must be reasonably capable of:<sup>6</sup>

- 1) Being understood by retail customers that are or may be assigned to that tariff (including in relation to how decisions about usage of services or controls may affect the amounts paid by those customers) or
- 2) Being directly or indirectly incorporated by retailers or Small Resource Aggregators in contract terms offered to those customers.

We consider that alignment of the retail tariff and the network tariff must be included in these protection provisions due to the inherent linkages set out above. We ask that where retailers are required to implement or keep a flat retail tariff for consumers, that the underlying network tariff must reflect this as well.

We strongly argue the AEMC should follow the example of Victoria's Advanced Metering Infrastructure (Retail and Network Tariffs) Order<sup>7</sup> (the order), which accommodated the rights of consumers while prioritising consumer choice. The order gave customers the option to switch out from 'time of use' tariffs to a flat tariff if the meter configuration was compatible. Importantly the order mandates that the distributor must have flat tariffs available, and that the distributor must assign the customer on to a flat tariff if directed by a retailer on a customer's request. The order recognises the inherent risks to retailers, the imbalance of negotiating power with distributors in shaping tariff types and availability, and the criticality of being able to match the distributor tariff to manage the retailer cost pass through. It also accommodated the rights and needs of consumers while prioritising consumer choice. We encourage the AEMC to follow this example to provide the same abilities and rights.

Distributors in NECF regions must have a flat tariff available for customers that have a smart meter installed.

We also suggest that tariff reassignment be opt in or opt out. We recommend that the AEMC include a new provision within the proposed rules to the effect of:

Distribution networks are not permitted to change a customer tariff or customer tariff structure during the EIC Period unless the customer has provided EIC to the retailer for that new tariff or tariff structure (opt in).

Distributors must assign or reassign the network tariff to a flat tariff on the request of a retailer (on the back of a request from the customer) and the timeframe for the Distributor to fulfill for this assignment request should be minimal (opt out).

Further, we query whether EIC is the correct tool to enable choice as it requires an action from the customer, meaning that silence or inaction would result in no change. Shell Energy considers that an opt out from tariff change may be more appropriate, to be exercised within a specific period of time.

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<sup>6</sup> NER clause 6.18.5 (i)(1)-(2).

<sup>7</sup> See <https://www.gazette.vic.gov.au/gazette/Gazettes2021/GG2021S295.pdf>.



If 'opt in' via EIC is pursued, as a further protection for retailers from potential tariff misalignment, we also propose a change to the NER as per the below:

### 6B.A3.1 Adjustment of network charges

(a) If a retailer is:

(1) not permitted to recover network charges from a shared customer under the NERL or the NERR; or

(2) unable to recover network charges from a shared customer under the NERL or the NERR because a shared customer has not provided its explicit informed consent to a tariff change.

then neither is the Distribution Network Service Provider permitted to recover those charges from the retailer.

(b) Subject to paragraph (a), network charges contained in a statement of charges may be adjusted to account for any error in, or correction or substitution of:

(1) metering data; or

(2) any other amount or factor that affects the calculation of the network charges.

(c) An adjustment under paragraph (b) may be made by a Distribution Network Service Provider by including, in a subsequent statement of charges, the amount required to be paid by, or credited to, the retailer together with an explanation of the adjustment. Note: See also clause 6B.A3.3.

This change would mean that under clause 6B.A3.3 the NER, a DNSP would not be permitted to recover these charges from a retailer. We consider that this would provide an economic incentive for the DNSP not to change the tariff where the retailer does not have customer EIC.

Should an 'opt out' mechanism be pursued, a similar protection could be made whereby if the customer has 'opted out' to a flat tariff and the distributor has not reassigned to a flat tariff on the request of a retailer, the distributor would not be permitted to recover the charges from the retailer.

### Three-year EIC Period

Shell Energy queries the justification for the EIC period of three years. This duration is extensive and may not benefit a consumer over time as market price signals change and the market itself evolves to create better customer offerings. In particular, this may produce negative outcomes for disengaged customers and best offer messaging which becomes largely redundant when the customer essentially has a tariff lock.

We also query the timeframe as there does not appear to be a clear rationale as to why a three-year period would benefit either customers or retailers. A three-year tariff lock would present more of a hinderance to consumers, and also be contrary to the policy direction of recent years relating to the benefits to be derived from tariffs in shifting consumer behaviour and curbing demand.

Shell Energy recommends that the EIC Period be reduced to 12 months as this creates further opportunity for engagement between consumer and retailer. This also allows enough time to pass for retailers to collect bill information in order to provide accurate estimates on variances between tariff structures considering seasonality.

### 30-business day notification

It is not clear how a 30-business day notification period will benefit consumers nor what barriers it seeks to overcome. We are concerned that this timeframe represents a six-week window which creates significant complexities in messaging which may only confuse and risk disengaging the consumer. Particularly where this notice period coincides with other customer communications relating to price change notifications, billing



information, and best offer messages, making it difficult for customers to understand which outcome will best benefit them.

We recommend that the AEMC consider changing this notice period from 30 to five business days as this aligns with current price change requirements under the NER.

Shell Energy would like to commend the AEMC for the level of engagement undertaken as part of this rule change request and opportunities for engagement through online forums and industry group meetings. We would welcome the opportunity to meet with the project team regarding the points raised throughout this submission, particularly as this relates to aggregation given the significant risk to contracting for our customers, and our points on tariff alignment and the opt in or opt out provisions.

If you have any questions relating to the points raised throughout this submission or would like to set up a meeting to discuss, please reach out to Shelby Macfarlane-Hill at [Shelby.macfarlanehill@shellenergy.com.au](mailto:Shelby.macfarlanehill@shellenergy.com.au).

Yours sincerely,

Libby Hawker

General Manager – Regulatory Affairs and Compliance





## Appendix A: Amendments Version

The table below sets out Shell Energy’s drafting recommendations to the AEMC’s proposed tariff safeguard drafting as well as the NER, as set out in the body of this submission.

**Red Text** - Additional changes proposed by Shell Energy.

Section	Recommended wording
<b>AEMC Proposed Tariff Safeguard Drafting</b>	
<p><b>New Provision</b></p>	<p><u>Distribution networks are not permitted to change a customer tariff or customer tariff structure during the EIC Period unless the customer has provided EIC to the retailer for that new tariff or tariff structure (opt in).</u></p> <p><u>Distributors must assign or reassign the network tariff to a flat tariff on the request of a retailer (on the back of a request from the customer) and the timeframe for the Distributor to fulfill for this assignment request should be minimal (opt out).</u></p>
<p><b>5 Scope and application</b>            (1) A retailer is not required to comply with this Division (excluding rule 4):            (a) - (d)</p>	<p>5 Scope and application            (1) A retailer is not required to comply with this Division (excluding rule 4): ...</p> <p><u>(e) where the variation of the tariff is for a premises that is subject to an agreement between the retailer and a business customer for the aggregation of consumption at 2 or more business premises under Rule 5.</u></p>
<b>National Energy Rules</b>	
<p><b>6B.A3.1 Adjustment of network charges</b></p>	<p><b>6B.A3.1 Adjustment of network charges</b></p> <p>(a) If a retailer is:</p> <p><u>(1) not permitted to recover network charges from a shared customer under the NERL or the NERR; or</u></p> <p><u>(2) unable to recover network charges from a shared customer under the NERL or the NERR because a shared customer has not provided its explicit informed consent to a tariff change,</u></p> <p>then neither is the Distribution Network Service Provider permitted to recover those charges from the retailer.</p> <p>...</p>