

19 September 2013

Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

Submitted by upload to the AEMC website.

Reference ERC0153: National Electricity Amendment (Access to NMI Standing Data) Rule 2013

Thank you for the opportunity to respond to the Australian Energy Market Commission (AEMC) Draft Rule Determination on National Electricity Amendment (Access to NMI Standing Data) Rule 2013 (the Paper).

The AER Compliance Bulletin No. 8 identified that retailers had been acting outside of the Rules in allowing their service providers to have direct access to MSATS and NMI Standing Data. Like many energy retailers, Simply Energy relies on an outsourcing model for a number of business functions, including customer acquisition channels, management of current customer accounts and market transactions. This allows us to deliver energy services more efficiently and thus more cheaply than if we were to provide these services in-house.

The impact on Simply Energy's business would have been significant had the AEMC not addressed the issues that had been identified by the AER. We would like to thank the AEMC for addressing this matter.

We are concerned, however, that the wording of the proposed Rule change does not address the issue that has been highlighted by the AER.

Our concern centres on the proposed Rule 8.6.2(b1). There are two issues with the way this proposed Rule has been drafted:

- 1) A literal interpretation of the wording requires a retailer act as 'middle man' between MSATS and our service providers. The retailer would need to access MSATS, extract the data required and then pass this on to the service provider. This is unworkable for us and means we would have to replicate the outsourced function in-house, making outsourcing redundant.
- 2) The proposed Rule only provides for our service providers to access NMI Standing Data. Our service providers require access to data that goes beyond NMI Standing Data to assist them in ongoing customer management. For example, if a customer contacts us to query their bill, our service provider will need to be able to see the customer's metering data to be able to resolve the customer's query. Our service providers require access to customer information to not only quote prospective customer but also for ongoing customer management.

We have proposed a re-wording of the proposed Rule 8.6.2(b1) that is consistent with the wording used in other clauses under clause 8.6.2 and that allows our services providers access to the data and information they need to undertake retailing activities on our behalf.

(b1) (service providers): the disclosure, ~~use and reproduction of information by of NMI Standing Data by a Customer or the Customer's Disclosees to~~ a person who requires the information for the purposes of providing services in connection with the ~~Customer's Registered participant's supply or~~ sale of electricity to end users."

We encourage the AEMC to give our proposed wording close consideration. We would prefer to solve this issue in this review rather than find ourselves in the same situation in a few years' time.

We would be pleased to discuss this further with the AEMC if you feel that this would assist your considerations. Please contact James Barton on 03 8807 1171, or at james.barton@simplyenergy.com.au.

A full response to the Draft Report is included in the attachment.

Yours sincerely

Dianne Shields
Senior Regulatory Manager

Reference ERC0153: Attachment to submission

Two problems were identified with the current Rules, and we are pleased to see that the intention of the Draft Determination has been to address these problems.

However, we consider that minor changes to the drafting proposed for Rule 8.6.2 could eliminate potential misunderstanding about the intention and scope of the proposed Rule amendment.

The problems with the current Rules

There are two problems with the current Rules:

- (1) The list of those who can access NMI Standing Data set out under clause 7.7(a) of the National Electricity Rules does not include agents acting on behalf of a retailer.
- (2) The list under clause 7.7(a) does not include prospective retailers (or their agents) who may be seeking to win a customer site from the financially responsible Market Participant.

The list of those who can access NMI Standing Data set out under clause 7.7(a) does not include agents acting on behalf of a retailer.

The Australian Energy Regulator's (AER's) Compliance Bulletin¹ raised concerns around the current practice of providing agents with direct access to NMI standing data for the purpose of undertaking retail services and customer acquisition activities on a retailer's behalf.

While every retailer is different, typical practice across the industry has been for retailers to engage an agent(s) to perform customer acquisition and customer management services on the retailer's behalf. Retailers have done this because of the cost savings that outsourcing can generate. However, for the outsourcing model to work, the retailer's agent(s) needs to use NMI Standing Data so that the agent(s) can give the customer an accurate quote and/or respond effectively and accurately to any questions that a customer may have. It is more efficient and cost effective for the retailer and the agent if the agent can access MSATS directly rather than go through the retailer to obtain this data. If the agent(s) were required to go through the retailer, then the role of the agent really becomes redundant and the retailer may as well undertake the activity in-house. However, in-house delivery of these services would significantly increase costs.

The AER ruled that the clause 7.7.(a) list did not include agents acting on behalf of retailers and that therefore these agents were not authorised to access MSATS directly and use NMI Standing Data.

To preserve the cost efficiencies generated by outsourcing, the list needs to be expanded to accommodate agents acting on behalf of a retailer.

The list under clause 7.7(a) does not include prospective retailers (or their agents) who may be seeking to win a customer site from the financially responsible Market Participant.

EnergyAustralia's (EA's) Rule Change Request² identified a further issue with clause 7.7(a). The list of persons authorised to access NMI Standing Data only extended to a retailer that had a financial interest in a site. In other words, the retailer had to be the financially responsible Market Participant (FRMP) for a site to be able to access the NMI Standing Data for that site (clause 7.7(a)(3)).

¹ Australian Energy Regulator 2012 *Compliance Bulletin No. 8: Confidentiality Requirements for Energy, Metering and NMI Standing Data*, June

² EnergyAustralia 2012 *Rule Change Request to the AEMC*, 15 November

To win a customer from another retailer, a retailer (or its agents) must be able to accurately quote the customer. However, pricing the supply of energy services for a customer relies on the information contained within the NMI Standing Data. However, the way clause 7.7(a) is written prohibits prospective retailers (or their agents) from accessing NMI standing data for customer acquisition activities.

If prospective retailers (or their agents) cannot access NMI Standing Data, then it will severely curtail retail competition. Therefore, to facilitate competition, the AEMC needs to amend clause 7.7(a) to accommodate customer acquisition activities.

The proposed amendments

We support the proposed change to Rule 7.7 that provides the authority for a prospective retailer to access NMI Standing Data for the purposes of quoting customers.

We support the AEMC's intention for the changes to Rule 8.6.2, which is to provide a firm basis in the National Electricity Rules (NER) for retailer outsourcing arrangements.

However, we do not believe the wording proposed for Rule 8.6.2(b1) is adequate to address the AER's Compliance Bulletin No.8. A literal interpretation of the wording requires a retailer act as 'middle man' between MSATS and our service providers. Further, the proposed Rule only provides for our service providers to access NMI Standing Data, whereas our service providers require access to data that goes beyond NMI Standing Data to assist them in ongoing customer management.

We suggest some minor changes to the proposed Rule that will more clearly reflect the intention of the Rule change. The proposed amendment to Rule 8.6.2 is as follows:

"After clause 8.6.2(b) insert:

(b1) (**service providers**): the disclosure of *NMI Standing Data* by a *Customer* or the *Customer's Disclosees* to a person who requires the information for the purposes of providing services in connection with the *Customer's* sale of electricity to end users."

We suggest that the proposed amendment is drafted as follows:

"After clause 8.6.2(b) insert:

(b1) (**service providers**): the disclosure, use, and reproduction of information by a person who requires the information for the purposes of providing services in connection with the *Registered participant's* supply or sale of electricity to end users."

This would more clearly provide a basis for service provider access to metering data and other information used in ongoing customer management, as well as NMI Standing Data. Additionally, it would remove the possible interpretation (of the currently proposed amendment) that retailers need to access the information and pass it on to their service providers, rather than service providers accessing it directly.

Without this clarity, there is a risk that we would need to bring in-house all of the functions that we currently outsource. This would significantly increase the cost to us of undertaking our retail activities, potentially reducing our competitiveness against first tier retailers who have economies of scale advantages that second tier retailers do not have, and causing significant price increases for our customers. Simply Energy does not believe that this outcome is in the long term interests of energy customers.