

# Australian Power & Gas

Australian Energy Market Commission  
PO Box A2449  
Sydney South NSW 1235

Via lodgement facility at [www.aemc.gov.au](http://www.aemc.gov.au)

24 April 2013

Dear Mr Pierce

## Reference ERC0153: Access to NMI Standing Data Consultation Paper

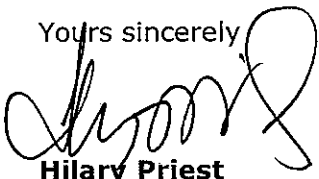
Australian Power & Gas (**APG**) welcomes the opportunity to provide comments on the Australian Energy Market Commission's (**AEMC**) consultation paper on access to NMI standing data. APG commends the AEMC on its work so far in progressing the concerns raised by Energy Australia in relation to ambiguity around parties access to NMI standing data in customer acquisition and during a customer's life cycle.

APG has provided its specific responses to the consultation questions raised in the attached table. Nevertheless, APG supports the rule change raised by Energy Australia in its entirety and considers that amending the National Electricity Rules (**NER**) as recommended in the rule change proposal is consistent with the National Electricity Objective (**NEO**) in that it will create regulatory certainty for market participants. This is important as the NER informs stakeholders of their rights and compliance obligations and effects commercial decisions made by market participants.

Further, this rule change proposal contributes to the achievement of the NEO with respect to price as it will ensure that retailers are not required to make significant changes to their existing business models to maintain the same level of service provided to customers at present. Failing this rule change, some retailers, including APG, will be required to make substantial changes to their business models which may undermine their financial sustainability. Loss of a retailer for this reason or the imposition of significant costs would have a damaging effect on market competition and electricity prices for consumers.

APG welcomes the opportunity to discuss its concerns with the AEMC at its convenience. Please do not hesitate to contact me on **02 8908 2714** or via email on **hpriest@auspg.com.au**.

Yours sincerely



**Hilary Priest**

Manager Government and Regulatory Affairs

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Australian Power and Gas Pty Limited  
ABN 26 118 609 813

Level 9, 341 George Street  
Sydney NSW 2000

Address all mail to:  
Locked Bag 5004,  
Royal Exchange NSW 1225

Ph: 02 8908 2700  
Fax: 02 8908 2701

[australianpowerandgas.com.au](http://australianpowerandgas.com.au)

## Australian Power & Gas: Responses to Consultation Questions on Access to NMI Standing Data

**Question 1** – What is considered the minimum information required for retailers to undertake their market functions, for example, sale and supply of electricity as opposed to consumer acquisition activities?

To efficiently carry out its market responsibilities in relation to the sale and supply of electricity APG requires access to a significant amount of data included in the NMI standing data and otherwise provided through MSATS. A retailer requires information in relation to the customer's applicable network tariff in order to accurately bill the customer and engage with the customer on potential tariff changes. Further, to ensure our compliance with our obligations to classify and reclassify customers based on consumption bands, APG would be required to have access to this information both at the acquisition stage and during the life of a customer contract.

Physical location and other information relating to the metering installation would be required to engage with a customer where a retailer is required to arrange for upgrades to a site through the distributor or where the customer is seeking to upgrade existing installations. A retailer is required to have a customer's physical address in order to bill and send customer collateral, and in circumstances where an existing customer moves out of a property and an incoming customer consumes on the site without signing up to a supply contract, and retailer requires details of the physical site to make contact with the unknown occupier.

Other uses would include use during the transfer process and for back of house network settlement purposes.

APG also utilises NMI standing data in its processes to acquire customers through both its unsolicited and consumer driven channels. When a potential customer is solicited by APG, including by its authorised third party agents, the NMI data is needed to ensure that in acquiring a customer, APG correctly identifies the customer's meter to avoid any error that may lead to delay in the customer's transfer, incorrect quoting of offers available to customers, and future billing errors. Regardless of whether APG is directly selling energy services or utilising a third party agent, the requirements for the data remain the same.

**Question 2** – are the existing provisions in the NER ambiguous regarding retailers ability to access and use NMI standing data for the purposes of providing, accurate quote to consumers? If yes, what changes are required to the NER?

APG considers that the current wording is ambiguous and should be clarified to more accurately reflect what retailers consider is the policy intent of rule 7.7(a). The current wording is not clear as to whether retailers that do not have a financial interest or are not Financially Responsible Market Participant (**FRMP**) at the time of accessing the NMI standing data are currently able to access that data under the National Electricity Rules (**NER** or **the Rules**). APG believes that the policy intent has always been that retailers with a possible future financial interest in the NMI should be able to, through the NMI discovery process, be able access the standing data for the purposes of quoting. This is clear by reference to clause 3.13.12 which contemplates access through the NEM Standing Data Schedule. However APG recommends clause 7.7(a) is amended to explicitly allow this use and avoid unnecessary confusion.

Further in light of the AER's narrow interpretation of rule 7.7(a) in relation to contracted third party agent access, in APG's view it is important that the wording of rule 7.7 be amended such that it is also clear that activity such as the above is permitted under the NER. Any move by the AER to restrict or prevent such activity would result in a significant decrease in efficiency and transparency for customers as retailers would be unable to accurately quote on applicable pricing. Given the number of potentially applicable network tariffs, particularly in some states, if contracted agents of retailers were unable to do this it would be likely to create significant customer confusion and inefficiency.

APG supports Energy Australia's proposed drafting in its rule change proposal as the proposed rule 7.7(a)(10) is sufficiently broad to capture this activity by all retailers, however narrow enough to prevent other third party service providers from gaining unnecessary access to this data.

**Question 3** – Are the existing regulatory arrangements and retail contractual arrangements with their suppliers sufficiently clear and robust to allow retailer agents access to NMI standing data (and hence MSATS)?

No, APG believes that the Rules create significant ambiguity. It has long been retailers' views that as retailers effectively bear the compliance risk and liabilities associated with non-compliances by the contracted third parties by virtue of their registration as market participants and jurisdictional licence holders that the Rules extended to parties who act as agents providing sales and back office arrangements. This was further confirmed by AEMO's MSATS Introduction Guide which implied that third party providers of retailers were able to access NMI standing data.

In the case of APG, where front and back office functions in addition to customer acquisition operations are outsourced to contracted third party partners, this ambiguity leaves APG exposed to potential non-compliance and requirements for complete overhaul of its business model for what it understood under the Rules and AEMO's consistent interpretation that third party agents

	<p>of a market participant were able to utilise NMI standing data.</p> <p>However, the publication of the AER's compliance bulletin has highlighted that there are possible contrary interpretations of the Rules and accordingly the NER should be amended to create certainty around meaning.</p>
<p><b>Question 4</b> – Should the NER be amended to provide for retailer authorised agents access to NMI standing data or should other mechanisms be considered? If the NER should be amended, what provisions should be put in place?</p>	<p>APG agrees with Energy Australia's rule change proposal and proposed wording for a new 7.7(a)(10). APG considers that amending rule 7.7(a) is the clearest avenue for making this change and would then provide an exhaustive list of parties who are able to gain access to this data. But expanding rule 7.7 it would provide regulatory certainty to market participants.</p> <p>Furthermore, these third party providers are independently required under privacy laws and confidentiality agreements with their respective retailers to maintain the confidentiality of customer data, including their NMI standing data.</p>
<p><b>Question 5</b> – Noting that there are a suite of consumer protection and obligations on retailers, should additional requirements be placed on their service providers who are performing consumer acquisition activities on the retailer's behalf?</p>	<p>APG believes that the current consumer protections will adequately protect consumers. Retailers have always operated on the basis that as registered participants and licenced entities, retailers are liable for any breaches under the National Energy Customer Framework (NECF), the NER, the Australian Consumer Law (ACL) and jurisdictional laws and regulations.</p> <p>Retailers effectively assume the compliance risk and liabilities that may eventuate through improper action by contracted third party service providers. As such, it will always be retailers's intention to mitigate to the extent possible those risks through their commercial arrangements with these third parties and actively monitor the third party service providers compliance with the retailer's obligations.</p> <p>Furthermore in order to ensure a positive ongoing commercial relationship in the future, there are heavy incentives on service providers to act in accordance with agreed practice. Accordingly, APG considers that the existing framework is sufficient to protect consumers.</p> <p>As above, APG does not believe that additional obligations are required.</p>
<p><b>Question 6</b> – If additional obligations are required for authorised retailer agents, what arrangements should be put in place?</p>	