

1 August 2013

Mr John Pierce
Chairman
Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

Submitted online: www.aemc.gov.au

Dear Mr Pierce,

RE: National Electricity Amendment (Victorian Jurisdictional Derogation, Advanced Metering Infrastructure) Rule 2013: Reference Number ERC0159

The Energy Retailers Association of Australia (ERAA) welcomes the opportunity to provide comments to the Australian Energy Market Commission (AEMC) on the *National Electricity Amendment (Victorian Jurisdictional Derogation, Advanced Metering Infrastructure) Rule 2013 Consultation Paper (the Consultation Paper)*. The Consultation Paper follows an application by the Victorian Government for a rule change request (**the Rule Change Request**) for the extension of the existing Victorian jurisdictional derogation from some of the metering provisions under chapter 7 of the National Electricity Rules (NER) for up to three years.

The ERAA represents the organisations providing electricity and gas to almost 10 million Australian households and businesses. Our member organisations are mostly privately owned, vary in size and operate in all areas within the National Electricity Market (NEM) and are the first point of contact for end use customers of both electricity and gas. The ERAA refers the AEMC to individual submissions of ERAA members for specific input to questions raised within the Consultation Paper.

The ERAA supports the provision of smart metering under a framework that allows competition and facilitates customer choice. The opposing outcome where monopoly segments of the market are given exclusive rights to the roll out of contestable infrastructure means that customers are not necessarily provided this service at least cost and may restrict the range of products and services provided through the infrastructure.

The ERAA has always supported the principle that monopoly businesses should not control smart grid enablers such as smart meters, as well as smart grids, as this entrenches the use of proprietary technology and related anti-competitive effects in downstream retail markets. This is particularly important given the key role smart meters play in balancing supply and demand through price signals and the provisioning of consumer benefits. As such, the ERAA does not support the Rule Change Request.

While the ERAA is generally supportive of nationally consistent regulation, the existing derogation has had sufficient impact on business confidence such that in this instance we would prefer Victoria move to contestable metering market ahead of national processes. Further, the precedent set by the Victorian Government's continued delay in implementing the National Energy Customer Framework (NECF) means retailers do not have confidence that Victoria will readily adopt a national metering framework, once ready for implementation. This continued uncertainty has a direct impact on investment in related products and services enabled by enhanced metering technology.



The collective voice of
electricity and gas retailers

It is with this overarching principle that we provide comments in response to the Rule Change Request. To briefly summarise, this submission

- explains why the ERAA does not support the Rule Change Request
- outlines the ERAA's preferred option
- proposes a transitional option
- responds to the issues raised in the Rule Change Request.

Should you wish to discuss the details of this submission, please contact me on (02) 8241 1800 and I will be happy to facilitate such discussions with my member companies.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Cameron O'Reilly', written in a cursive style.

Cameron O'Reilly
Chief Executive Officer
Energy Retailers Association of Australia

Options for consideration

The Proposed Option

The ERAA understands that the Rule Change Request seeks to extend the effect of the derogation to 31 December 2016. The derogation could also expire prior to this date should amendments to the Rules under the National Electricity Law (NEL), as proposed under the Power of Choice, come into effect **(the Proposed Option)**.

The ERAA's Preferred Option

The ERAA's preferred option is for the derogation to expire on 31 December 2013 **(the Preferred Option)**. The ERAA has always advocated that the Victorian Government must support the discontinuation of any legislative barriers, such as metering derogations that give distributors exclusivity over the metering arrangements for certain customer types. This view is consistent with AEMC's Power of Choice Review, which recommended:

“a competitive approach for investment in metering and data services for the residential and small business consumer sector. The framework we have proposed aims to facilitate greater innovation in metering services at a lower cost through their competitive provision...The approach we are proposing means that no entity has the exclusive right to be the person responsible for coordinating and providing metering and data services under the NER.”¹

And further that:

“...governments remove the possibility of a mandated roll-out of smart meters. This is because the approach of mandating a roll-out of smart meters may no longer be required. The removal of the provision would facilitate commercial participants entering into the market and coordinating the provision of metering services. We are concerned that the risks created by the possibility of a government-mandated roll-out occurring in the future could be inadvertently stall speed of commercial investment, and hence take up of potential DSP opportunities.”²

As such, the ERAA does not support the Proposed Option. This option is in direct contradiction with our overarching position regarding the monopoly provisioning of meters that are deemed contestable under National Electricity Rules (NER) 9.9B.4. The AEMC should not underestimate the potential adverse impact that accepting this Rule Change Request would have on establishing a robust contestable metering market as recommended under the Power of Choice.

When the new arrangements that arise from adopting the Proposed Option expire, there is a risk that further extensions will be requested. In fact the Rule Change Request fails to provide any indication that the Victorian Government will use an extension to prepare Victoria for contestable metering. Further extensions will heighten risks associated with the development of a contestable market for the provision of smart meters or to invest resources in improving service levels to end consumers in Victoria. This surely would not be in the long term interest of consumers in Victoria as required under the National Electricity Objective (NEO).

The ERAA's proposed Transitional Option

The Rule Change Request discounts the ERAA's Preferred Option. It does this by attempting to identify the direct impacts that may arise due to the insufficient time that remains in meeting operational and compliance obligations that may arise from the reclassification of meters from Type 5 to Type 4 meters. The ERAA must highlight that all interested parties have been aware of these transitional impacts since the introduction of the derogation. We are disappointed that

¹ AEMC, *Power of choice review – giving consumers options in the way they use electricity final report*, 30 November 2012, p.83

² *Ibid.* p.86

these matters have not already been properly addressed prior to the Rule Change Request, especially as we consider them to be insignificant.³

The ERAA and its members therefore propose a transitional option that addresses these perceived issues as outlined below, operates as a transitional model till a national framework is developed (**the Transitional Option**).

The Transitional Option

- would be to allow the distributor exclusivity element of the derogation to expire on 31 December 2013 but retain minimum necessary technical elements (i.e. the type 5 classification of distributor AMI meters)
- would allow competition in metering to develop through the existing business to business (B2B) processes that currently exist in the Type 4 metering market
- would require the introduction of a no-reversion policy which could be an industry agreement that metering installed at a premise is not removed in favour of less technically capable metering
- promotes the National Electricity Objective (NEO) as set out under section 7 of the National Electricity Law (NEL).

In essence, this option allows distributors to retain classification of meters installed as Type 5 meters, whilst also introducing competitive tension by opening the metering market to competition (through Type 4 metering arrangements). The no-reversion policy means that meter replacement would only occur where:

- a distribution business fails to meet service standards
- where a customer requests functionality beyond that of an AMI meter, or
- where consumers that do not have an AMI meter would like one installed by a different party (and potentially at a lower cost).

This would result in continuous improvements to metering services and service levels by introducing an element of competitive tension in distributor-retailer negotiations, irrespective as to whether a retailer participates in the provisioning of contestable meters.

While the Transitional Option is less ideal than our Preferred Option, this option

- provides retailers with comfort that they can still have a choice to either maintain existing Type 5 AMI meters, or replace the meter with a Type 4 meter and in particular should “best endeavours” service standards by distribution businesses not be met
- will allow existing Type 5 AMI meters to transition to a national framework as recommended by the AEMC under its Power of Choice review, and which was agreed to by SCER in 2012.

Options considered against National Competition Policies

Reform of the energy market began in the early 1990s when State and the Commonwealth governments recognised that commercial objectives on energy providers could drive more efficient allocation of resources towards infrastructure investment and customer outcomes. In 1996 energy market reform was wrapped with the objectives of National Competition Policy (NCP) which was developed in response to the Hilmer Report.

The NCP was a seminal and rare moment in Australia’s economic history when all governments regardless of political persuasion agreed that the national interest would be best served by a suite of reforms that could boost the nation’s productivity and international competitiveness. Improving competition in the energy market was identified as essential for driving down the costs of production and boosting gross domestic product.

³ Victorian Department of Primary Industries, *Transitional arrangements for the expiry of the Victorian AMI Derogation – Consultation Paper*, 4 March 2013, p.37

The core NCP objectives are fundamental to analysing the various plausible options. The objectives under the NCP were to:

- separate markets into their contestable parts and natural monopoly parts
- create the conditions for competition in the contestable parts of markets
- ensure that participants have fair and equitable access to natural monopoly infrastructure in order to compete in contestable markets
- remove anti-competitive outcomes unless the benefits of keeping them exceeded the costs
- improve consumer protection regimes.⁴

As indicated in the table below the ERAA does not believe that the Proposed Option meets the core objectives of the NCP.

NCP Objective	Preferred Option	Proposed Option	Transitional Option
Separate markets into their contestable parts and natural monopoly parts.	Option meets objective as AMI meters are deemed type 4 meters.	Does not meet objective as retains exclusivity and prevents competition.	Partially meets objective as opens up the market to contestable parts, and allows choice in parts where existing exclusivity has created natural monopoly positions.
Create the conditions for competition in the contestable parts of markets.	Option meets the objective.	Does not meet objective as retains exclusivity and prevents competition.	Option meets the objective.
Ensure that participants have fair and equitable access to natural monopoly infrastructure in order to compete in contestable markets.	Option meets the objective.	Option partially meets the objective, however limits choice and impacts on service levels if standards or metering services are not maintained.	Option meets the objective.
Remove anti-competitive outcomes unless the benefits of keeping them exceeded the costs.	Option meets the objective as costs it.	Option does not meet objective as the benefits of contestability and providing choice far exceeds costs identified in Table 1 which the ERAA believes overstates costs.	Option meets the objective and benefits of opening up the market to contestability far outweighs costs (if any) of issues identified in Rule Change Request.
Improve consumer protection regimes.	Option meets objective as detailed below.	Option meets objective, though customer choice is restricted.	Option meets objective as detailed below.

⁴ Council of Australian Governments, National Competition Policy Principles Agreement, 1996

Issues listed in the Rule Change Request

In support of the Rule Change Request the Victorian government listed various issues that may arise should the existing derogation lapse on 31 December 2013.

The ERAA believes that the majority of these issues can be addressed in a fairly short time frame, or shown to be immaterial, to provide confidence that the transition to contestable metering under the ERAA Preferred or Transitional Option will be smooth for both consumers and the industry. Irrespective of this, should service levels and standards be maintained from existing AMI meters already rolled out, then it is highly unlikely that any of these issues will ever eventuate, as AMI meters provided by distributors will cater for retail and consumer needs. It is with this assumption that we provide comments on the following issues highlighted in the Rule Change Request.

Inefficient business to business (B2B) processes to cater for a competitive metering environment

Whilst the ERAA considers that there are some B2B processes that would need to be developed to cater for a competitive metering environment, the ERAA does not support the assumptions made in the Rule Change Request. The Rule Change Request makes reference to the introduction of metering contestability in Victoria to be similar to the introduction of Full Retail Contestability where 2.5 million electricity customers in Victoria were able to choose their electricity retailers. This is a misrepresentation of the environment that would be present at the time when the derogation was due to expire. Considering that most meters in Victoria at this time would be AMI compliant then the number of customers who have need for meter replacement at that time would be minimal. Furthermore, as distributors would attempt to recover stranded metering cost through high exit fees; the likelihood of working AMI meters being replaced is highly remote as the business case for doing so would not be commercially economical. Therefore the need to develop and automate B2B arrangements to cater for a competitive metering market in Victoria would be in the short term unnecessary and prohibitive.

The Rule Change Request does not specifically identify in any detail which B2B processes need amendment – just that B2B processes would need to be developed. The ERAA considers that there are existing processes to manage accredited third-party meter providers and data providers in the NEM today. It is not factual to claim that new B2B processes are required; there are numerous third party provided meters (both in and outside of Victoria) operating successfully in the market today. Most of the B2B interaction is between the retailer (as responsible person) and their service provider- the distributor is largely a recipient of settlement data only.

Inefficient meter churn and barriers to retail electricity market competition

The ERAA believes meter churn is likely to be minimal if it occurs at all. This has a demonstrable impact on the estimates provided for in Table 1 of the Rule Change Request, which assumes as a worst case scenario the replacement of up to 50,000 meters per annum with societal costs of meter replacement costs of around \$42 million.

Assuming that market participants agree to a no-reversion metering policy,⁵ and should service levels and standards be maintained from existing AMI meters already rolled out, then it is highly unlikely that a meter will be churned. A meter would only churn if a customer requests a new meter and is willing to pay for the new meter and associated regulated exit fees (charged by distributors), or if the retailer is willing to absorb these costs. This will only occur in a situation where the customer places a significantly higher value on these additional services than they do on the cost differential between a new meter and the regulated metering

⁵ A no-reversion policy must be established which could be an industry agreement that metering installed at a premise is not removed in favour of less technically capable metering.

charges they would otherwise be paying. Given that customers have already paid a significant amount for AMI meters, but are yet to experience the related benefits, it is likely that AMI meter churn will be rare in the short and medium term. Stranding of meters is highly unlikely in any functioning market.

In addition, the concept of meter churn as customers change retailers is a misconception as to how a competitive metering market would operate, as commercial arrangements between retailer and meter providers would cater for customer switching.⁶ Below are three scenarios which depict how the competitive market will manage retailer switching and meter switching.

Scenario 1: Customer switches retailer, but not meter

A customer (Customer) is currently purchasing electricity from Retailer A, and has received a smart meter from their distributor through the AMI rollout. The Customer is happy with the products and services it enables. The Customer decides that Retailer B is offering a better deal and exercises their right to switch retailers.

In this scenario, the existing smart meter at the property supports all the services that Retailer B has to offer and thus there is no need to churn the meter. The AMI meter remains the status quo and it is highly likely that this is the scenario that would exist in Victoria till a national framework is developed and implemented.⁷

Scenario 2: Customer switches retailer, and switches meter

In this scenario, after a year with Retailer B, the Customer decides to switch retailers again. This time, the Customer wants to contract with Retailer C who has demonstrated to the Customer that it has a range of new products and services that Retailer A and Retailer B cannot provide, perhaps due to the technical limitations of the existing AMI meter. Retailer C is seeking to gain a competitive advantage over Retailer A and B by innovating and developing new products and services that it believes will be of value to the customer and the customer will be willing to pay for (in addition to exit fees).

However, to access these new services, Retailer C must replace the existing AMI meter with a meter that supports the new services being offered.⁸ This requires Retailer C to engage with an accredited Meter Provider that supports the new services the Customer wants. This could be the existing Meter Provider (the distributor) or another Meter Provider.⁹

How does the market manage this?

Now that Retailer B has lost the Customer, the contract with the existing Meter Provider will no longer apply. The existing Meter Provider (in this case the distributor) does not lose any value from a stranded asset because meter providers incorporate the risk of stranding into the original prices that it agreed with Retailer B. It is also possible that Meter Provider may be able to re-use the asset in another premise (e.g. another retailer may have won a new customer in a new housing estate and thus contracted with the Meter Provider to install the smart meter into the new customer's house).

The cost of the new meter from Retailer C would be incorporated into the market contract to which the Customer would need to give explicit informed consent to enter into. Thus, the Customer must either be willing to pay for the additional functionality built into the new meter

⁶ This is the New Zealand model, comprising a retailer-led rollout within the context of a very highly competitive market.

⁷ In this scenario the distributor acts as the Meter Provider (owner of the asset) and the Meter Data Agent, providing services to the retailer.

⁸ The ability to replace the meter for new services requested by consumers is important for innovation as customers move from a spectrum of being "uninformed" to "informed". Restricting flexibility in meter replacement will impede the market and constrain product and services development enabled by smart meter technology.

⁹ In this scenario the meter may churn should the distributor (the current owner of the meter) be unable to facilitate the additional services or standards required by Retailer C and therefore an independent Meter Provider is appointed.

(in addition to exit fees), or Retailer C must absorb these costs. If neither of these conditions holds, then the Customer has the option of remaining with Retailer B receiving the smart meter services the Customer was previously receiving (or indeed switch to a different retailer entirely). In this case, Retailer C will need to reconsider its proposition and business model because the market is telling Retailer C that customers are not willing to pay for its product – this is the reality of a competitive retail market.

The cost of Retailer C's new meter would reflect the Meter Provider's view of the life of that meter. Thus the additional charge the Customer would pay would be an annualised cost of the meter. The Meter Provider would be likely to approach other retailers and market participants to promote its new meter, reduce the risk of it becoming stranded and improving its pricing and helping increase the take up of Retailer C's new offer requiring the meter. It is also possible that Retailer C may absorb at least some of this cost in order to acquire the new customer and make their product more appealing in the market place (taking into consideration the operational efficiency or other benefits of the meter). This is a marketing and pricing decision for Retailer C.

Scenario 3: What happens if the Customer decides it no longer wants the additional services provided by Retailer C and wants to switch back to the product it was previously on with Retailer B?

In this scenario, it would again make no economic sense for Retailer B to want to churn the meter unnecessarily.¹⁰ The sophisticated metering that is at the premises is more than capable of delivering the services that customer now wants.

How does the market manage this?

To manage the metering arrangements at the premises, Retailer B establishes its own contract with the existing Meter Provider to retain the smart meter provided by the existing Meter Provider.¹¹ Note that Retailer B may already have a contract with the existing Meter Provider for the service of other premises and thus no new contract need be established.

Instead, the existing Meter Provider is providing and managing the meter on behalf of Retailer B rather than Retailer C. Retailer B thus takes on the cost of metering at the property from Retailer C so that, in effect, the meter and meter services contract has shifted from Retailer C to Retailer B.

Retailer B has an incentive not to replace a technically functioning meter already installed at the house, because Retailer B would incur additional costs from doing so. Passing this cost on to the Customer, with the associated inconvenience of a technically unnecessary meter change, would make Retailer B's offer to the Customer less attractive and the Customer may naturally decide to stay with Retailer C. Even if Retailer B could absorb the costs of installing another meter, it would not make good business practice to do so because the existing meter already has the functionality that the Customer wants to use. It is cheaper for Retailer B to enter into a contract with the existing Meter Provider rather than replace the meter.

¹⁰ This scenario assumes that the Meter Provider is not the existing distributor. The market could also accommodate a situation where the Customer did not want to continue paying the annualised amortised cost of the smarter meter installed by *Retailer C* when the *Householder* switched back to *Retailer B*. *Retailer B* could organise with its *Meter Provider* to replace the smarter meter with the smart meter that was previously at the property. Thus, the Customer would likely pay a lower amortised cost for the meter reflecting the lower technical capability of the metering device. The ERAA proposes that retailers agree to a no-reversion policy where this makes economic sense.

¹¹ This scenario assumes that the Meter Provider is not the existing distributor. The market could also accommodate a situation where the Customer did not want to continue paying the annualised amortised cost of the smarter meter installed by *Retailer C* when the *Householder* switched back to *Retailer B*. *Retailer B* could organise with its *Meter Provider* to replace the smarter meter with the smart meter that was previously at the property. Thus, the Customer would likely pay a lower amortised cost for the meter reflecting the lower technical capability of the metering device. The ERAA proposes that retailers agree to a no-reversion policy where this makes economic sense.

Inefficient development of Victorian specific processes and systems to accommodate contestable metering services

The Rule Change Request does not identify which Victorian specific processes and systems need to be accommodated to allow for metering contestability to commence and therefore it is difficult to provide substantive commentary on this matter.

The ERAA however does not believe that this is a material issue. As most meters installed in Victoria by December 2013 will be AMI meters, then developing specific processes to accommodate contestable metering services would only apply to a small number of meters installed initially post December 2013. This would be catered through B2B arrangements that currently exist within the Type 4 metering market. These arrangements would support the model proposed under the ERAA's Transitional Option until a national framework is developed.

If this issue was indeed material, it presumably would create similar problems in other NEM jurisdictions today. The ERAA and its members have practical current experience with the operation of chapter 7 of the NER in Victoria (for grandfathered type 4 meters at small customer sites) and in other NEM jurisdictions. The current Rules support the provision of contestable metering today and are the foundation of the development toward widespread market-led deployment of smart meters. To infer that a raft of new processes and rules are required to support choice of service provider is simply incorrect and is inconsistent with current market realities.

For example, where there is the requirement for a new connection, the customer (or their agent) will contact either the distributor or the retailer of choice to request the new connection. Where the distributor is contacted, they will be the responsible person for the site, and will perform the new connection as per current practise. Should the customer request a new connection from their retailer of choice, the retailer can either act as the responsible person as currently occurs under Type 4 arrangements, or accept an offer for the distributor to take on this role (as per NER Chapter 7). Where the retailer is responsible for the new connection, their meter provider (this could also be assigned to the distributor) would physically go to site to install the meter required by the customer. Understanding that in Victoria, meter providers are not currently approved to insert the fuse into a meter to energise a site then in the short term the distribution business will be required to return to the site to perform this function.¹² Retailers would pay for both site visits in accordance with the distribution business' gazetted fee structure.

Adverse impact on customer reliability with meter faults

The Rule Change Request makes reference that contestability may have an adverse impact on the reliability of customer's supply where there is a meter fault through long outages. Whilst distributors would be unable to repair the fault where they are not the responsible person for the meter, they do have obligations to restore supply.

Firstly meter failure is extremely rare. Recently, Energy Safe Victoria recently advised the ERAA that one per cent of AMI meters are faulty on installation, and are immediately replaced. As at early March 2013, only one AMI meter had failed after installation across all Victoria. Retailer-provided meters should not be a barrier to distributor's ability to meet their service level obligations. It is important that customer's supply is restored in a timely manner, regardless of who is the responsible person for the meter.

Retailers have the option to either engage distribution businesses to remain responsible for fault services or alternatively, their meter provider could assist in the case of meter faults.

¹² A plausible longer term solution would be to enable meter providers to become approved to insert the fuse.

Under the latter scenario, the process outlined below could apply. This process could be enabled by:

- industry agreement
- amendment to Use of System Agreements (if applicable)
- Victorian Derogation to the National Energy Customer Framework (NECF) (if applicable).

Lack of appropriate customer protections

The Rule Change Request is silent on what consumer protection measures will be impacted through the introduction of contestable metering so it is very difficult for the ERAA to comment on the specific measures being impacted. The Rule Change Request though does make reference to the potential impact on consumer confidence as consumers attempt to understand the rationale of introducing competitive metering services following a mandated rollout of AMI meters and the potential confusion with the introduction of flexible pricing in late 2013.

However the application of the ERAA Transitional Option would have no impact on the Victorian government's customer protection concerns regarding the introduction of flexible pricing. The AMI Order in Council applies to all new flexible tariffs that were made available from 24 June 2013.¹³ As such the additional customer protection provisions covering such things as explicit informed consent, provision of meter data and reversion would continue to apply to flexible tariffs applied to type 4 meter installations going forward. There would be no impact on consumer protection or the desire by industry and government for the continued realisation of smart meter benefits.

Policy makers must appreciate that smart meters are an enabler to many products; with one of the many products that it enables is that of flexible pricing. Yet any program which attempts to make consumers pay for a service, as was the case in Victoria, prior to receiving any of the benefits is problematic, and would impact consumer confidence. However the ERAA does not understand how introducing contestability in metering, especially as proposed under our Transitional Option, would dilute consumer confidence in the program.

As shown above in *scenario 2* it would be the responsibility of the retailer to sell the benefits of replacing an AMI meter to the end consumer. Retailers would have a strong incentive to inform customers about smart meters and the services they enable in order to attract and retain customers, once this becomes contestable. Whilst the ERAA believes that replacement of AMI meters in the short to medium term is highly unlikely, as depicted throughout this submission, the ERAA is of the strong opinion that providing customers with choice and smart meter-enabled retailer services would heighten confidence in the AMI program.

Benefits associated with AMI roll-out not being realised

Remote re-energisation/de-energisation

The Rule Change Request highlights that a process has been developed with Energy Safe Victoria (ESV) that ensures the public are protected during a remote re-energisation or remote de-energisation. The benefits associated with this service is estimated to be in the vicinity of \$40 million per annum based on the 2011 Deloitte report and it is assumed that this will be reduced as a new process would need to be developed.

Our understanding is that Rule Change Request implies that there is a barrier to retailers providing re-energisation/de-energisation services because only distributors have the right to provide remote services due to requirements in the Code and the NECF, and concerns about safety requirements.

¹³ <http://www.gazette.vic.gov.au/gazette/Gazettes2013/GG2013S216.pdf>

The ERAA does not agree with this interpretation of the Retail Code. Clause 35.1 is an interpretative clause and provided recognition at the time of its original drafting (early 2000s) that distributors provided metering services for Type 6 metering. As a result, retailers were reliant on distributors for retailers to meet their obligations under the Code. For example, clause 5.1 requires that a retailer must use its best endeavours to ensure the customer's meter is read (rather than estimated) at least once every 12 months. With Type 6 metering, distributors were the party responsible for reading meters and thus retailers were reliant on distributors doing an actual meter read every 12 months. Clause 35.1 qualified the obligations under clause 5.1 to recognise the retailers could not undertake meter readings themselves and thus retailers could not be held accountable for not having the meter read at least every 12 months.

Clause 35.1 has been retained over time because distributors still retain control of metering services including for smart metering because of the derogation. As a result, retailers remain reliant on distributors to meet their obligations under the Code. For example, because distributors have been granted a meter reading monopoly which extends to smart metering, retailers are still reliant on distributors to fulfil retailers' obligations under Clause 5.1. If the derogation is lifted and retailers commence undertaking their remote services, then Clause 35.1 becomes redundant.

The National Energy Consumer Framework (NECF) does not prevent retailers from undertaking remote services. Part 6 of those Rules sets out the procedures that retailers must follow prior to initiating a de-energisation. It does not contain any prohibition against retailers performing the de-energisation themselves. Indeed, Chapter 7 of the National Electricity Rules makes retailers the Responsible Person for smart metering services and thus for re-energisation/de-energisation

The Victorian Government has not previously been opposed to derogating away from NECF. If the AEMC considers this remains unclear, we consider a Victorian derogation to clarify that retailers have the option to perform re-energisation/de-energisation independent of distributors is feasible before the NECF is introduced in Victoria.

Safety concerns for the public

Energy Safe Victoria (ESV) has an established Memorandum of Understanding (MOU) which outlines the requirements for a safe remote re-energisation/de-energisation process. Participants are approved to perform remote re-energisation and de-energisation only after an audit by ESV ensures compliance with the process set out in the MOU.

The ERAA understands that the existing MOU is sufficient to ensure safe remote services initiated by either a distribution or retail business. Retailer-initiated services involve fewer parties; they can be actioned immediately, reducing the risk of circumstances changing between the time of the request and its actioning. The ERAA is also aware that the ESV considers this is an improved level of safety compared to the current remote re-energisation/de-energisation process.

Should remote re-energisation/de-energisation not occur due to a potential infrastructure communication issue, then the retailer's service provider would re-energise the site physically. This process would be established contractually between retailers and their service providers within the time frame required to facilitate implementation of the ERAA's Transitional Option.

The MOU also caters for customers that are on Life Support arrangements. Each retailer currently maintains their own register of current customers on life support. This is regularly reconciled with distribution businesses to ensure it is up to date, and this practise will continue after derogation expiry. Pursuant with the MOU, retailers would not perform a remote de-energisation for an entrant on that register. The ESV have confirmed that this is sufficient to

protect these customers, however for further comfort retailers may contractually require their service providers to also maintain a life support register, to act as an additional check point.

Network operational efficiencies

The ERAA does not support assumptions made in the Rule Change Request that introducing meter contestability in Victoria will deplete these benefits from being realised. As the roll out of AMI meters is to conclude by December 2013, and assuming that the ERAA's Preferred or Transitional Option is adopted, then it would be assumed that the network benefits of \$20 million per annum envisaged in the 2011 Deloitte cost-benefit analysis should still be realised. Furthermore, where on the rare occasion that a meter is replaced or where the roll out of an AMI meter has not occurred, then any meter installed by retailers will comply with the Victorian Minimum AMI Functionality Specification, until a minimum specification is identified under the national process. As per current Type 4 arrangements, retailers would offer network services enabled by these meters to distributors on commercial terms allowing them to still realise the benefits as espoused by Deloitte's.

Benefits such as the need to have access to the AMI meter to facilitate outage detection are incorrect. The Rule Change Request highlights distributors' concern that contestable metering will become a barrier to the realisation of network benefits associated with smart meters. Of primary concern is the impact retailer-provided meters may have on distributor fault/outage detection. The ERAA believes that network benefits can still be accessed in a competitive environment, where they are shown to be of value to customers, retailers or their service providers.

In a competitive environment, distributors have the option of offering advanced network services (such as fault detection services) to retailers. As a competitive provider, distributors will need to demonstrate that these services are a worthwhile investment for retailers' metering assets.

Distribution businesses have raised concerns that they will not have continuous visibility of the energisation status of retailer-provided meters. They have indicated that MSATS is not close enough to real-time to make it a reliable reference. If a distributor is engaged to provide fault detection services to retailers, it would have real-time visibility of any assets they are engaged to monitor. If they are unsuccessful in winning this engagement, our technical advice is that distributors will still be able to access sufficient information to enable reliable fault detection.

We understand distributors currently have models which identify all devices in their network which may cause faults ("faultable devices"), and all other devices which are downstream from these devices. This acts as a simple fault diagnostic tool which is not dependent on having a dense population of AMI meters. For example:

- when more than one AMI meter reports that they are off supply downstream from a faultable device, it is a reasonable assumption that there is an outage that affects more than once customer.
- when a third of customers (AMI meters) downstream from a faultable device are off supply, then a phase has failed.
- when all of the customers (AMI meters) downstream from a faultable supply are off supply, then all phases have failed.
- when some other number (more than one) are off supply, there may be a local failure without a faultable device; for example wires down in a street, but no circuit breaker or fuse has tripped.
- when only one meter is off supply, it is likely to be an individual customer problem.

Again and as highlighted throughout this submission, under the Preferred or Transitional Option it is unlikely that retailers will replace AMI meters in any significant volume. Retailers are more likely to replace basic meters, or those that do not offer a full set of services such as

daily data delivery or load control. However, it is possible that distributor-provided meters will be replaced with meters which do not provide distributors with real time notifications. Provided there is more than one distributor-provided meter on a particular network segment, the distributor can still identify whether the problem is isolated to a single customer, or more than one customer.

As example, even if the penetration of meters with real-time notification drops to 20 per cent in the CitiPower network area, then CitiPower would have 50,000 fault reporting meters across 250,000 customers. This is more than 30 times as many as would be needed to provide real time fault location and isolation information.

As a network gets more remote, there are generally less customers per faultable devices. This means a higher proportion of fault reporting meters need to be retained per faultable device. Even under this scenario, removal of distributor-provided meters would have to occur at a substantial rate to risk losing real time fault reporting in a meaningful sense. As highlighted previously, under the Preferred and Transitional Option proposed this is highly unlikely.

Retailers therefore do not believe that the installation of retailer-provided meters could materially impact a distributor's ability to detect system failures, in particular within a time frame when national smart metering arrangements are introduced. Furthermore distributors will be free to offer fault detection and recovery services to retailers in a contestable environment.

Other Issues identified in Rule Change Proposal

Impact on competition

The Rule Change Request refers to the potential impact that removing distributor exclusivity would have on competition as meters would need to be replaced with a change of electricity retailer. As previously highlighted throughout this submission the likelihood of this scenario occurring is remote. In 2005, the Australian Competition and Consumer Commission (ACCC) recognised that concerns that retailers would need to churn meters as customers churned were overstated:

The ACCC considers that concerns that meters will be removed in circumstances where it is inefficient to do so may be overstated, and that avoiding metering churn is not of itself sufficient reason to continue the metering derogations. The ACCC further considers that such concerns assume that retailers will tend to replace meters, irrespective of whether this is a commercially beneficial decision.

It is likely that a rational retailer (that does not wish to create barriers to switching) will only choose to replace meters when it is efficient to do so. ... The ACCC considers that meter churn can also be a by product of the adoption of innovative forms of metering and tariffs.¹⁴

Table 1

The ERAA would like to submit comments on some of the assumptions made in Table 1 on the potential incremental costs and benefits supporting the Proposed Option.

¹⁴ Australian Competition and Consumer Commission 2005 *Applications for Authorisation: Amendments to the National Electricity Code, Victorian Metering Derogations*, p. 26

Description of incremental cost/benefit	ERAA Comments
Costs	
Replacement of working meters with a change in retailer	Highly unlikely to be the amounts provided for in the Rule Change Request as meter churn would be minimal as indicated throughout the submission. Any assessment of the cost analysis would be at the lower end of the scale, and would more likely be minimal.
Development of Victorian-specific arrangements that will be replaced by national arrangements.	Whilst a detailed cost break down of the \$6 million provided for in Table 1 has not been provided, the ERAA questions the estimated costs provided. Irrespective under the ERAA Transitional Option Victorian specific arrangements would be limited as most arrangements would be catered for under existing Type 4 B2B procedures.
Risk that benefits associated with flexible pricing are compromised	The ERAA is unclear as to how these figures were calculated and assumptions used for the calculation. From the ERAA Working Paper on a Market Driven Roll Out, and a no reversion policy being introduced, consumers would still benefit from flexible pricing, one of the products enabled by a smart meter. As also highlighted in our submission the Orders in Council would still apply ensuring consumer protections are maintained.
Risk that benefits associated with network operational efficiencies not realised	Highly unlikely that espoused operational efficiencies will not be realised as indicated in this submission.
Risk that benefits associated with remote re-energisation and de-energisation not realised	As highlighted above there is a highly unlikely scenario that the benefits of remote re-energisation and de-energisation would not be fully realised, as derogation expiry does not introduce any barriers to retail-initiated remote services.
Risk that benefits associated with competitive retail electricity market compromised.	As highlighted throughout the submission the likelihood of meter churn and the impact on retail competition would be highly unlikely. The ERAA also does not support assumptions made in the Rule Change Request that introducing contestability in metering would impact on competition and therefore result in an increase in electricity prices. The New Zealand market, as example, depicts an environment where consumers are benefiting from a competitive retail and metering market, at no additional cost to consumers.
Benefits	
Efficient metering services	The calculations are based on working meters being replaced each year with a change in retailer. We consider this is a substantial overstatement of the level of meter churn which may occur. The likelihood that “workable” meters would be replaced in the short to medium term is highly unlikely, in particular if these meters provide retailers with the necessary services to facilitate consumer product offering.
Customer engagement campaign to support introduction of metering contestability deferred by three years	Under a market driven roll out of meters in a contestable metering environment it is the market that engages with end consumers on the benefits of a smart meter. In essence the benefits are sold first prior to the installation of the meter, or a customer being asked to pay for a service. The ERAA though does recognise that there may be a need for a customer engagement campaign led by Government explaining that consumer’s would now be provided with a choice in metering contestability.

Objectives under the NEO

In its 2009 Rule Determination the AEMC determined that that deployment of smart meters under a distributor led roll out would accelerate the extent of economic efficiency benefits that could be realised under a mandatory retailer or contestable rollout. As the AMI Orders in Council imposed an obligation on all distributors to replace existing metering with AMI metering by the end of 2013, then these benefits should now be realised.

The 2009 AEMC Rule Determination went further by stating that in making its determination that

“In the absence of a demonstrated market failure, any Rule change which limits or reduces competition in an actively or potentially competitive market, as required by the Derogation Proposal, would normally be viewed as contrary to the focus of the NEO on promoting efficient electricity services for the long terms interests of consumers. However, such a Rule could be justified if there are benefits from constraining competition, including efficiencies and other social or public benefits that outweigh the competitive detriments.”¹⁵

The ERAA contends that at present there is no demonstrated market failure. The efficiencies, social and public benefits provided for in the Rule Change Request do not outweigh the competitive detriments that would result through an extension. This is in particular as the detrimental impacts provided for in the Rule Change Request have and can be adequately addressed. The ERAA strongly recommends that the AEMC in its draft determination either supports the ERAA's Preferred Option, or agrees to the approach envisaged under the ERAA's Transitional Option.

¹⁵ Australian Energy Market Commission (2009), *National Electricity Amendment (Victorian Jurisdictional Derogation, Advanced Metering Infrastructure Roll Out) Rule 2009*, p.48.