



27 January 2016

Ms Ann Pearson  
Acting Chief Executive  
Australian Energy Market Commission  
PO Box A2449  
Sydney South NSW 1235

Dear Ms Pearson

### **RE: Meter Replacement Processes Draft Determination**

ERM Power Limited (ERM Power) welcomes the opportunity to respond to the Australian Energy Market Commission's (the Commission) Draft Determination on the Meter Replacement Processes rule change.

#### **About ERM Power Limited**

ERM Power is an Australian energy company that operates electricity generation and electricity sales businesses. Trading as ERM Business Energy and founded in 1980, we have grown to become the fourth largest electricity retailer in Australia, with operations in every state and the Australian Capital Territory. We are also licensed to sell electricity in several markets in the United States. We have equity interests in 497 megawatts of low emission, gas-fired peaking power stations in Western Australia and Queensland, both of which we operate.

#### **General comments on the Draft Determination**

The Draft Determination shows some progress towards addressing a number of the issues raised by ERM Power in its rule change request. In particular, with clarification of the process for large customers to appoint their own Metering Coordinator (MC) and affect meter replacement independently of the retail transfer process, ERM Power is comfortable that the adverse meter replacement experiences most commonly experienced today will be addressed. However, we are disappointed that the Commission did not address the significant issues relating to multi-site customers. We offer a potential solution in the submission that follows.

We welcome the removal of clause 7.839(e), which states that an MC cannot arrange a meter replacement prior to the completion of a retail transfer. The Commission has proposed to replace this clause with Draft Rules to direct AEMO to facilitate alignment of meter churn and retail transfer dates through the market procedures. We understand the Commission's intent with this change is to reduce the transitional period experienced by small customers when meter replacements occur after transfer, and we strongly support that intent. However, our assessment is that AEMO's procedures already facilitate this, but parties cannot perform this in practise due to restrictions in the National Electricity Rules (NER). We do not believe the Commission's intent can be achieved without further amendment to the NER. Having said that, we believe the amendments required are straightforward, and urge the Commission give our recommended amendments due consideration.

We reiterate the seriousness of this issue in ensuring positive customer experiences associated with the provision of advanced metering services to small customers, as enabled by the Commission's recent determination on the *Competition in metering and related services* rule change. The significant customer

frustration and confusion that will result from a customer's inability to access its chosen tariff and advanced products and services from its contract start date could undermine the success of a range of demand-side participation reforms. We believe the Draft Rule, if implemented without further amendment, would not improve this experience for small customers compared to current arrangements.

It is also unclear why the Commission have assigned AEMO only until 1 September 2016 to amend the Procedures in response to the proposed Rules. We believe that AEMO should be free to amend the Procedures as required to manage its program schedule for procedure amendment under its Power of Choice project, to meet an effective date of 1 December 2017.

The recommendations we outline in our submission meet the Commission's assessment framework, by:

- Improving consumer engagement and satisfaction with the meter replacement and retail transfer process.
- Supporting an efficient market for metering services, including the procurement of contracts with retailers.
- Improving transparency and regulatory certainty, by ensuring the NER provisions clearly align with the intent of market procedures and industry's operational requirements.
- Minimising transaction costs, by reducing the significant operational inefficiencies associated with a delay in meter replacement following retail transfer.

Our submission is set out in the following structure:

1. Large customers
2. Multi-site customers
3. Commercial arrangements with incumbent parties
4. Aligning meter replacement and retail transfer dates
5. The Commission's alternative option

Please contact me if you would like to discuss this submission further.

Yours sincerely,

[signed]

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## 1. Large customers

ERM Power welcomes the Commission's clarification that under recent amendments to the NER, an MC appointed by a large customer can replace a metering installation at any time, independent of the retail transfer process. We confirm that this is likely to sufficiently address the issues raised in ERM Power's rule change request for the majority of large customers.

## 2. Multi-site customers

We are disappointed by the Commission's draft position that the issues relating to multi-site customers are out of scope for this rule change.

The specific issues relating to coordination of retail transfer and meter replacement for multi-site customers were detailed in the statement of issues in ERM Power's rule change request. We restate that this refers to cases such as shopping centres that comprise many small premises, telecommunications businesses with hundreds of individual towers, or other businesses with combinations of small (and potentially also large) sites. These businesses have elected to aggregate these sites under the National Energy Retail Rules (NERR) to be treated as a single large customer for the purposes of their retail contract. Many of them have direct metering agreements in place to also manage their metering services in an aggregated manner, and would value the option to continue a similar approach by appointing their own MC.

Managing the meter replacement and retail transfer process with the aggregated entity would also materially reduce the operational burden to retailers compared to coordinating numerous individual sites. Where the meter is not replaced by the transfer date, the retailer is required to track the timing of meter replacements at individual sites as they can be scheduled, each triggering different tariff arrangements that then must be represented on one consolidated bill. The complexity and operational burden of this process should not be underestimated.

While we understand that the particular solution proposed by ERM Power will not be pursued by the Commission, we believe that these issues remain in scope for this rule change consultation, with the opportunity to make a more preferable rule under the NER (or consequential changes to the NERR) to address the issues raised.

We acknowledge that the existing NERR provision for small customer aggregation does not extend to metering provisions under the NER, and that there may be material flow-on implications from changing the approach to customer classification. However, this provision does provide a precedent generally for groups of small business customers to provide consent to opt-out of certain small customer arrangements.

ERM Power proposes a more direct solution. Clause 7.6.2(a) lists the persons who are permitted to appoint an MC under various scenarios. We recommend that a new clause is added as follows:

**7.6.2(a)(3)(iii)** *a business customer that has agreed that consumption at two or more premises are to be treated as aggregated under rule 5 of the National Energy Retail Rules or any equivalent provision in Victoria.*

If there is concern about referring to the NERR aggregation provisions, the following is an alternative:

**7.6.2(a)(3)(iii)** *a business customer with two more premises that the consumption of which, when aggregated, exceeds the large customer threshold under the relevant jurisdictional electricity legislation.*

This would provide these customers with the right to appoint their own MC, thereby avoiding the significant operational inefficiencies associated with managing each site individually. We urge the Commission to consider this alternative proposal.

### **3. Commercial arrangements with incumbent parties**

As discussed in our submission to the Directions Paper, ERM Power does not believe that commercial agreements between incumbent and incoming parties are generally feasible, given the asymmetric benefits of such arrangements. We have been unable to secure such arrangements with incumbent parties in the past.

We note there may be circumstances where it could be possible to enter into arrangements with the incumbent MC, where this was a contestable entity that values relationships for the purpose of future business opportunities. However, the majority of small customer sites in the short to medium term will be managed by a distribution business MC. It is expected that the AER's ring-fencing guidelines will prohibit these entities from engaging in contestable metering services. We therefore do not believe these entities will have sufficient incentive to enter into arrangements with an Incoming Retailer.

The Draft Determination does not provide a response to ERM Power's position that agreement between incumbent and incoming parties could be facilitated through the objection process associated with a change request transaction (for the retail transfer or new role assignment) in MSATS. We maintain that this meets the needs of both parties, in an established and less resource-intensive manner. We believe that this form of agreement is more likely to be a feasible approach to making preparatory metering arrangements, and ask the Commission to again consider this.

### **4. Aligning meter replacement and retail transfer dates**

The Commission agrees with concerns raised by ERM Power and other stakeholders relating to the compromised experience of a customer who cannot access its contracted products and services from the start of its retail contract, due to delay in meter replacement. In its Draft Determination, the Commission proposes provisions that aim to reduce this delay (also referred to as the transitional period), and potentially enable transfer and meter replacement to occur on the same day. The Draft Rules (clause 7.8.9(e)) directs AEMO to amend the MSATS Procedures to:

- (1) *permit an Incoming Retailer to nominate the Metering Coordinator, Metering Provider and Metering Data Provider to be appointed at a connection point in respect of which it is the Incoming Retailer, with such appointments to become effective on the day that the market load at the connection point transfers to the Incoming Retailer as the new financially responsible Market Participant; and*
- (2) *facilitate the transfer of a market load at a connection point on the same day that a new or replacement metering installation is installed at the connection point, where requested by an Incoming Retailer.*

ERM Power welcomes the Commission's intent to reduce the transitional period and improve customer experiences. However, we do not believe these draft clauses result in any change from current arrangements.

*It is the NER, and not MSATS, that requires amendment*

The current MSATS Procedures already enable the Incoming Retailer to nominate the MC, MP and MDP via the use of a 'Change Retailer' change request (CR 1000). The problem is that the current NER does not

allow this transaction to be used for this purpose, because only the Financially Responsible Market Participant for a small customer site may appoint the MC, and only the MC may appoint the MP and MDP. If it is the Commission's intent to allow advance nomination, amendment to rules 7.6.2 (3)(i), 7.3.2(a)(1) and 7.3.2(d) would also be required.

Equally, the current MSATS Procedures already facilitate the transfer of a market load at a connection point on the same day as a meter replacement. This is enabled through the 'Change Retailer - Retrospective Align to Meter Read' change request (CR1010). ERM Power has discussed the operation of related processes in its previous submissions to this consultation. Again, it is the NER that disallows the use of this transaction in the case of meter replacement, as the incoming metering service providers may not operate in respect of a connection point until the retail transfer has completed in MSATS.

Therefore, it is the NER that requires amendment in order to achieve the Commission's objective.

#### *Enabling meter replacement on the transfer date*

ERM Power's preferred position is that meter replacement be permitted to occur in advance of retail transfer completion (or for meter replacement to trigger retail transfer). However, we have also explored what would need to occur to enable the meter replacement to occur on the retail transfer date.

There are three steps must occur in the following order:

1. The existing metering installation is read
2. The retail transfer completes in MSATS
3. The metering installation is replaced.

In order for these steps to occur on the same date, the same service provider will be required to perform the meter read and the meter replacement (due to scheduling requirements). It is most appropriate for this to be the incoming metering service provider, rather than the incumbent service provider, because the integrity of the new installation will need to be assured for ongoing operation. However, the current NER (and Draft NER) does not allow the incoming service provider to commence operations until after the retail transfer. Therefore, this outcome cannot be facilitated under the current Rules.

If the incoming metering service provider were permitted under the NER to begin operations *immediately prior* to the retail transfer completing, they could perform the final meter read, and provide this electronically to the incumbent retailer. While still on site, they may be able to receive confirmation from the incumbent retailer that the transfer has completed, and then proceed to replace the metering installation. This would depend on retailer resourcing and availability. In our experience, many retailers take up to two business days to respond to final read notifications. Operating hours will also impact this option, to accommodate customers' common request for their meter replacement outage to occur outside business hours.

While we conclude that meter replacement on the retail transfer date is possible, ensuring an efficient process would require additional resourcing that is likely to come at material cost.

### **5. The Commission's alternative option**

In its Draft Determination, the Commission explores an alternative option to the Draft Rule, where the physical meter replacement is the trigger for the retail transfer completion. This option is quite similar to the meter replacement process enabled by the previous version of the Meter Churn Procedures. This option would, of course, be preferable to the previous meter churn arrangements, because the NER

would explicitly provide the Incoming Retailer with rights required to nominate roles and arrange meter replacement in advance of transfer completion, providing transparency and clarity to participants.

Prior to the amendment of the Meter Churn Procedures, it was common practise for the meter churn and retail transfer dates to be aligned in MSATS. In our previous submissions to this consultation, we have detailed the processes and change requests used to perform this. However, this process was predicated on the fact that the physical replacement of a metering installation could be undertaken in advance of the retail transfer completing in MSATS (recognising that MSATS is always a historical record of events). Following the meter replacement, MSATS would be updated to specify that the retail transfer was effective from the date of meter replacement.

We believe this alternative option could be enabled with the following amendment of clause 7.8.9(e):

*A Metering Coordinator must not arrange the alteration or replacement of a metering installation under paragraph (a) until the transfer of the relevant market load has been **effected by AEMO** initiated by the Incoming Retailer in accordance with the Market Settlement and Transfer Solution Procedures.*

Further amendments would also be required to specify that the MP and MDP roles may also be effective from this time (subject to objections as per the MSATS Procedures).

These amendments would provide the option for the transitional period to be eliminated, delivering the customer's contracted products and services from the first day of their retail contract, and significantly improving the efficiency of retailer's operations.

The Commission states that it believes that this option would require significantly more time and effort to develop, and that it may be more costly to implement. Given the processes and transactions are likely to be very similar to those operated by industry for many years prior to the Meter Churn Procedure amendment in 2015, it is unclear why this option is considered onerous to develop and implement. AEMO and industry would simply be required to review previous procedures and requirements, rather than develop new ones. With an implementation date of 1 December 2017, and a thorough review of all market procedures and systems occurring in the meantime, we do not see any practical impediments to implementing this option.

The Commission outlines some particular concerns relating to this process, which we address specifically below.

- *The point in time when the Incoming Retailer may exercise the right to affect a change in the meter should be clearly defined.*

The definition for Incoming Retailer restricts this role to a retailer that has entered into a contractual arrangement with a customer, and has initiated a retail transfer through MSATS. Therefore, these requirements would also be pre-requisites to any Incoming Retailer's actions under the NER.

The previous version of the Meter Churn Procedures required meter replacement to occur as close as possible to the proposed transfer date, and in any event, not more than 20 business days prior to the proposed transfer date (aligning with the length of time allocated for the meter replacement process). We consider that this is an appropriate timeframe, however a reduced timeframe could be introduced to reduce the risk of retail contract cancellation. Each retailer would operate by its own policies regarding the time when they are comfortable performing this change, within the specified timeframe.

- *The rights and obligations of the Incoming Retailer and incumbent metering parties should be clearly defined.*

As noted above, the NER would need to be amended to specify the point in time when the incoming MP and MDP roles may commence operation at a connection point. We do not believe it is necessary to insert new clauses to specify the point in time when incumbent roles cease, as this is self-evident.

The current MSATS Procedures outline the rights and obligations of the Incoming Retailer and metering parties for the 'Change Retailer - Retrospective Align to Meter Read' change request (CR1010), including objection rights. This would continue to be sufficient to support this transaction. Further responsibilities relating to data transfer between metering parties would be outlined in the Meter Churn Procedures and the Service Level Procedures (as was the case prior to the Meter Churn Procedure amendment, though these could be further refined).

We note the procedural requirements outlined by the Commission are very similar to procedures either currently or previously in place to support the CR1010 and previous meter churn process. Therefore, procedure development is not expected to be resource-intensive.

- *The incumbent retailer's ability satisfy its obligations as FRMP may be undermined*

In our submission to the Consultation Paper, ERM Power outlined what we believe would be the impact to the incumbent retailer where retail transfer was aligned with meter replacement. We note that the incumbent retailer would have advance notification and the right to object to the transfer and role nominations, as per the MSATS Procedures.

Should the Incoming Retailer nominate a new MC, and make arrangements for meter replacement in preparation for the retail transfer, there may be a period of some days (perhaps 1 – 4 business days) between the proposed transfer date and the date the meter replacement may be scheduled and performed. Once the meter has been replaced, it may take up to two business days for MSATS to be updated to show that the retail transfer was effective from the date of meter replacement. During this period, the incumbent retailer must still be able to continue servicing the customer without adverse impact.

The retrospective alignment of retail transfer date with meter replacement means that the incumbent retailer would not be responsible for billing the customer during the period following meter replacement and before MSATS reflects the transfer completion. It is therefore unclear which of the retailer's obligations could be impacted by this transaction.

It is possible that the retailer may seek to perform some value-added service to the customer between the date of meter replacement and when MSATS has been updated to reflect the retailer transfer. Under the amended NER (following the *Competition in metering and related services* final determination), an MC is not permitted to replace a metering installation with one that has a lower services specification. This means that any services that were supported by the existing meter must still be supported by the new meter. It is true that the incumbent retailer may not have contractual arrangements in place with the new MC to deliver these services. However, the metering parties would still be obliged to perform metrology services to enable the retailer to meet its obligations, and contestable metering service providers already have deemed arrangements in place to account for this.

ERM Power would be comfortable with this approach as an incumbent retailer.

We recommend that the Commission reconsiders the changes required to implement this outcome.