

Submission to the Australian Energy Market Commission

Re: Metrology Harmonisation Rule Changes



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Distribution**

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1 Introduction

The Australian Energy Market Commission (AEMC) has sought comment on NEMMCO's proposed changes in regard to the harmonisation of metrology procedures and replacement of the derogations currently due to expire on 31 December 2006 under the National Electricity Rules (NER). United Energy Distribution (UED) appreciates the opportunity to comment on NEMMCO's proposals and while generally supporting the proposed amendments offers the following comments for the consideration of the AEMC.

The rule change proposal covers four main areas:

1. The establishment of a single national metrology procedure for 2nd tier meters to replace the existing national (for meter types 1-4) and jurisdictional (for meter types 5-7) metrology procedures;
2. Provide for the Joint Jurisdictional Regulators (JJR) recommendations to continue with the Local Network Service Provider (LNSP) as the party responsible for meter installations type 5-7 without the need to renew the derogation;
3. To introduce straightforward recommendations from the JJR review eg NEMMCO management of the new national metrology procedure; and
4. Editorial changes and correction of errors and outdated names.

UED has provided comments mainly in relation to the first two areas in section 2 of this submission. Important drafting comments and editorial comments are included in section 3 of this submission.

2 Comments on the implementation of the JJR recommendations

2.1 Remote read interval meters

As part of seeking to develop a single metrology procedure approach, NEMMCO has proposed that all remote read interval meters be considered type 4 metering installations. NEMMCO's approach would see existing type 5 metering installations capable of 'remote reading' reclassified as type 4 (referred to in this letter as 'small' type 4 metering installations).

2.1.1 Stranding risk

Under Clause 7.2.5(g) the Responsible Person must allow the replacement of a metering installation for which that person is responsible with another metering installation if notice is given by the Financially Responsible Market Participant (FRMP).

The effect of this clause unclear.

Does the reference to "allow" mean that the current Responsible Person remains the Responsible Person but must replace the metering installation "upon notice". This would be the case for example in the replacement of a type 6 meter with a type 5 meter where only the LNSP can be the Responsible Person. But it can't be right that the FRMP can

unilaterally effect this change “by notice”. There must be some further agreement (like that which arises for the provision of the original meter under clause 7.2.2) between the parties or further Rule to deal with the commercial issues. In particular, whilst clause 7.3.6 may operate to require the LNSP to pay for the new metering installation, it would not operate to cover the stranded asset costs of the replaced meter.

Or does it mean that the current Responsible Person must relinquish that role and allow the market participant to assume that role. This might arise where the FRMP wished to upgrade a type 5 to a type 4 metering installation as there is contestability for a type 4. Again, this should not occur simply “by notice”. Whilst there may be an agreement between the FRMP and the new responsible person, there must be some basis upon which the Responsible Person for the original meter can recover its stranded asset cost.

And if that is the intent of the provision, there must be some carve out in relation to a switch from type 6 to type 5, where the LNSP must be the Responsible Person.

Without the Rules dealing with these stranded asset cost questions, the Rule does not pass the Rule making test in section 88(1) of the Law in that the Rule change does not contribute to the achievement of the National Electricity Market Objective – it does not promote efficient investment in, and efficient use of, electricity services.

Similarly, it is unclear from clause 7.3.4(aa) whether the Responsible Person for a metering installation that is “altered” to make it capable of remote acquisition remains the Responsible Person. This may not be the case, as the alteration from type 5 to type 4 would carry with it a contestability right for the FRMP to move to a different Responsible Person from the LNSP. As for Clause 7.2.5(g), this shouldn’t be able to be done without there being an agreement or Rule dealing with the commercial issues.

Is it in fact an “alteration” and if so is the old Responsible Person obliged to deliver up title to the new Responsible Person? How are the stranded asset costs to be dealt with? Clause 7.3.4(ac) suggests an “alteration” is not intended but a “replacement”. If that is the case, what does clause 7.3.4(aa) add to clause 7.2.5(g)? And, if a replacement is envisaged, the stranded asset risk discussed above arises for the old Responsible Person again from the right for the FRMP to simply “advise” of the replacement date under clause 7.3.4(ac). These issues must be dealt with for the NEM objective to be satisfied.

The requirement to comply with clause 7.1.4(a) should be express, not implied.

In addition, UED consider it inappropriate under 7.2.5 (e) and (g) to put the Responsible Person in a policing role on the FRMP.

2.1.2 The cross over limit

Under NEMMCO’s proposal, data for ‘large’ type 4 metering installations would be delivered in accordance with market settlements requirements and data for ‘small’ type 4 metering installations would be delivered less frequently. As stated in the explanatory note under Clause 7.11(ab) (page 50) the crossover volume limit within type 4 metering installations is “entirely under NEMMCO’s control.” This is inconsistent with the current situation where the boundary between type 4 and type 5 is set by jurisdictions.

UED is unclear as to how NEMMCO will consult on this issue. X and Y limits currently are established as a matter of jurisdictional policy, as is the type 5 accumulation boundary. UED believes the crossover volume limit should be treated in a similar manner, with the

limitation that it should be initially set at, and cannot exceed, X (the volume limit for type 5). UED also suggest that the cross over volume limit should be established by a jurisdictional policy directive.

2.1.3 Scope of requirements

While the amendments proposed by NEMMCO refer specifically to data delivery issues, it is unclear whether it is proposed that all type 4 metrology requirements would apply to ‘small’ type 4 metering installations, not just data delivery requirements, and if so when these amended requirements would be applied to existing type 5 meters that are to be reclassified. In particular what arrangements are proposed to enable participants to adjust systems and processes to meet these new requirements for a ‘small’ type 4?

2.1.4 Duplication of procedures

Sub clause 7.11 (a) (5) (B) as drafted allows NEMMCO to specify data timeframes required for settlement in “procedures”. Given metrology procedures provide data requirements to the market and relevant participants UED believes that any revised data requirements be incorporated into the one metrology procedure document. The current drafting is vague and does not clarify which procedures document to look in to determine the regulatory requirements.

In addition, UED does not support creating further regulatory documentation which may overlap and create consistency problems and add to the regulatory burden. If the AEMC adopt UED’s suggested approach of providing these data timeframes in the metrology procedure, we recommend that Clause 7.11 (ab) be removed. As NEMMCO are in control of the Metrology Procedure, the parameters mentioned in sub clauses (ab) (1), (ab) (2) and (ab) (3) are readily dealt with in the Metrology Procedure by NEMMCO.

2.1.5 Transitional issues with service providers

The reclassification of some metering installations from type 5 to ‘small’ type 4 will require a change to service provider arrangements to ensure that only accredited service providers are providing meter provider services and meter data provider services. Many type 5 meter providers and meter data providers are not accredited for type 4 installations. UED consider that further thought be given to these transitional issues, including the specific requirements for relevant service level agreements, transfer of responsibilities etc.

2.1.6 Transitional issues – a start date for ‘small’ type 4 metering installations

The Metrology Coordinator providing a start date for any new metering installation has been removed as part of the removal of the Metrology Coordinator role. However, a number of transitional issues arise that suggest such a power is required. For example, the procedures referred to in 7.11 (a) (5) (B) only partially cover the regulatory requirements for ‘small’ type 4’s and do not yet exist. This Rule change allows a ‘small’ type 4 without corresponding review and update to the B2B procedures and CATS procedures. UED suggest that this new meter type should be subject to a defined start date (but one which can be set flexibly) to focus the completion of a review of procedures and the implementation of any necessary system changes for industry participants. If the AEMC choose not to proceed with specifying a start date approach then we suggest that these procedures need to be in place for the commencement of the revised NER and the single national metrology procedures.

2.2 Responsible person

The explanatory note below clause 7.2.3(aa) on page 8 states that:

“The market participant cannot elect to be the responsible person for type 5, 6 and 7 meter installations.”

So the LNSP is the only provider for type 5, 6 and 7 metering installations.

However, clause 7.2.3(ab) states that:

“If an agreement arising from acceptance of the clause 7.2.2(b) offer is terminated due to breach by the *market participant*, the *market participant* becomes the *responsible person* for that *metering installation* upon termination of that agreement;”

Clause 7.2.2(b) provides for the acceptance by the market participant of an offer under clause 7.2.2(a) or 7.2.2(ab). An offer under clause 7.2.2(a) covers types 1-4 metering installation while an offer under clause 7.2.2(ab) covers types 5-7 metering installations.

Thus the agreement that can be terminated under clause 7.2.3(ab) can relate to either a metering installation for which there is contestability or a metering installation for which there is not. Yet the agreement in the latter case can be terminated and the market participant becomes the responsible person. This would seem to circumvent the underlying position that the market participant cannot be the responsible person for type 5-7 metering installations. The approach as drafted is inconsistent with the Victorian derogation, as the Victorian derogation derogated away from Clause 7.2.3 (a). UED suggest that the AEMC amend Clause 7.2.3 (ab) to limit the ability to terminate to meter installations types 1-4 as this is consistent with the Victorian derogation and the JJR recommendation the LNSP be responsible for meter types 5-7.

2.3 Jurisdictional Policy Directives

2.3.1 Reviews

Clause 7.3.2A provides for a process by which jurisdictional policy directives can be incorporated into the Metrology Procedure while clause 7.3.2A(c)(1)(B) provides for a review of the directive within a specified period. Sub-clause (1)(C) further states that:

“the *jurisdictional policy directive*, as implemented by the *metrology procedure*, ends on the review date unless the relevant *Minister* issues *NEMMCO* with a new *jurisdictional policy directive* in accordance with clause 7.3.2A(g);”

Registered participants should not be placed in a position of possible non-conformance with the Metrology Procedure simply by the passage of time where the jurisdiction does not undertake a policy directive review within the prescribed timeframe. This clause should provide protection for registered participants in the event of such circumstances.

UED suggest that the clause be cast in the active case, requiring the relevant Minister to consider the review and in the absence of any decision, that the status quo continues. Alternatively, the Minister could be required to provide a formal decision to preserve the status quo on a regular basis (similar to the profiling sunset requirements on the Metrology Coordinators).

2.3.2 Scope

The definition of jurisdictional policy directive as set out on page 53 encompasses metering installation types 5, 6 and 7 only. As discussed in the remote read interval meter section, under the NEMMCO approach of considering all remote read interval meters as type 4 metering installations, a number of existing metering installations would be transferred from jurisdictional to NEMMCO control. Presuming an advanced interval meter roll out ('small' type 4) proceeds in Victoria over 4 years, this would mean that the Victorian Government would be limited to jurisdictional policy matters for type 7 meter installations only, as over time, there will be no type 5 and 6 metering installations. The jurisdiction would have virtually no control over matters relating to meter installations for small or relevant customers who will ultimately have a 'small' type 4 metering installation.

UED suggest that the Ministerial Policy Directives definition should be amended so that it also applies to 'small' type 4 meters in addition to meter types 5-7. This would allow the same customer group to be covered by Ministerial Policy directives as in the past.

2.4 NEMMCO power to grant exemptions in relation to Single National Metrology Procedure

In relation to the performance of the metering installation, NEMMCO has explicit powers under 7.11 (ba) and 7.11 (bb) to establish and publish an exemption procedure, and to grant an exemption in relation to the timeframe to repair/replace a faulty meter. The current Metrology Coordinator for the Victorian Metrology Procedure covering meter types 5, 6 and 7 has a broader power relating to the Metrology Procedure and metering generally to provide exemptions or no action letters. UED consider that the same power as currently with the Metrology Coordinator role to grant exemptions should be provided to NEMMCO and made explicit within the Rules.

3 Important drafting comments and editorial/corrections

3.1 Editorial and Corrections

3.1.1 Schedule 7.1

The diagram in Schedule 7.1 has been generated from the old NEC base and not the new NER. UED suggest amending the two instances of the word 'Code' to the word 'Rules'.

3.1.2 Definitions

The proposed rule changes attempted to remove the definition of a non metered connection point and to replace this with a definition for unmetered connection point. The non metered connection point definition has been partially altered. UED suggest that the non metered definition should be removed as was the intent.

3.2 Drafting Issues

3.2.1 Clause 7.1.4(a)(2)

A market participant does not “comply with clause 7.2.3” – there is no obligation in that clause.

3.2.2 Clause 7.2.0

The LNSP must only be designated as the *responsible person* after its offer has been accepted. Insert the words “in accordance with clause 7.2.2(b)” after the words “*Local Network Service Provider’s network*” on the third line.

3.2.3 Clause 7.2.2(ab)(3)

Any dispute under this clause must be resolved consistently with any applicable jurisdictional regulatory instruments. For example, it is quite likely that in the monopoly situation envisaged, a jurisdictional regulator will have prescribed the terms and conditions, including price, of the service. This concept, that was in clause 9.9A.2(c)(i) of the Victorian derogation has not been carried forward into these proposed Rules changes.

3.2.4 Clause 7.2.5(h)

This clause is curiously drafted. UED does not understand the meaning of the statement “in its role as incoming responsible person”?

3.2.5 Clause 7.3.2A(a)

This clause should only operate with a trigger. For example, where the AEMC publishes a notice that the new metrology procedure does not impose any substantively new conditions on registered participants.

3.2.6 Clause 7.3.2A(g)(2)

The basis upon which NEMMCO can reject a change proposal should be constrained in some way to ensure any such decision is not arbitrary.

3.2.7 Clause 7.3.4, Schedule 7.2.3, Table S7.2.3.1

3.2.7.1 Clarity on type 4 small

Clause 7.3.4(a) directs a responsible person to schedule 7.2 to determine which metering installation to install. But a type 4 metering installation in schedule 2 is one which complies with either clause 7.11(a) (large type 4) or (b) (‘small’ type 4). There is nothing which tells the responsible person whether to install a large or a ‘small’ type 4 meter.

NEMMCO refer in the paper to a concept of a ‘small’ type 4 metering installation being introduced to facilitate the ACCC carve out from the LNSP’s monopoly of types 5-7 metering installations. The proposed rule changes introduce a concept of a cross over volume limit, yet as drafted in this table, any type 4 metering may be used up to a volume limit of 750MWhpa as none of the notes to the table provide a limit for ‘small’ type 4.

UED suggest that a 'small' type 4 should be added to the table in the row for meter installation type 5 consistent with the intent of the ACCC authorisation and that a 'small' type 4 also be added as a meter type in each of the notes (note 3, 3a and 3b) relating to this meter installation type 5 row.

If the above is accepted then the following consequential amendments will also need to be included in Table S7.2.3.1;

- In the row for type 4 meter installation, change the reference from 7.11 (a) to 7.11 (a) (4)
- In the row relating to type 5 (and 'small' type 4) meter installation, change the reference from 7.11 (aa) to 7.11(a) (5) and 7.11 (aa) respectively.

3.2.7.2 Starting Point X and Y values

As drafted note 3 and note 4 provide a concept that NEMMCO require a Ministerial policy directive to establish and to amend the values set for X and Y. These values are currently set at 160MWhpa and this should be rolled forward into the single national metrology procedure without the need for any further policy directive.

3.2.8 Clause 7.13 (k)

The Ministers by 30 June 2008 must jointly complete a review of metering installations types 5 and 6, including a review of the outcomes from the JJR. Given that this set of Proposed Rule changes addresses many but not all of the JJR recommendations, it may be prudent to review the timetable to complete the Ministers review to allow all JJR recommendations to be implemented and then reviewed to ensure no additional issues are created as per the requirements of 7.13 (k). In reviewing this Clause, we suggest that the AEMC also consider whether/who the JJR is in 2008 and whether this terminology should be amended to JJR or jurisdictional Ministers.

3.2.9 Schedule 7.4.5

The proposed rule changes enable the capabilities of Accredited Service Provider's (ASP) to perform work on certain meter installations types and to enable NEMMCO to determine different competencies for different jurisdictions. The clause as drafted appears to refer/enable the NSW ASP scheme. However, where other jurisdictions have not adopted this scheme, the drafting provides no clarity on who can make the decision to adopt it in a jurisdiction. UED suggest that a Ministerial policy directive be required as a threshold for introduction of the ASP scheme into a jurisdiction. Once a Ministerial policy directive has endorsed this approach, then NEMMCO managing the scheme via accreditation and registration processes is appropriate.