



Australian Energy Market Commission

RULE DETERMINATION

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

Rule Proponent
EnergyAustralia

31 October 2013
For and on behalf of the Australian Energy Market Commission

**RULE
CHANGE**

Inquiries

Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

E: aemc@aemc.gov.au

T: (02) 8296 7800

F: (02) 8296 7899

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About the AEMC

The Council of Australian Governments (COAG), through its then Ministerial Council on Energy (MCE), established the Australian Energy Market Commission (AEMC) in July 2005. In June 2011, COAG established the Standing Council on Energy and Resources (SCER) to replace the MCE. The AEMC has two main functions. We make and amend the national electricity, gas and energy retail rules, and we conduct independent reviews of the energy markets for the SCER.

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Summary of final rule determination

The Australian Energy Market Commission (AEMC or Commission) has determined to make a rule to clarify the entitlement of retailers to access National Metering Identifier (NMI) Standing Data. The Commission considers the rule will promote the efficient delivery of services and facilitate retail competition. Consumers will benefit from these changes by allowing them to be provided with accurate information, enabling them to decide which retail offer is best suited to them.

NMI Standing Data is the information related to a customer's connection point. The information is about the physical location and properties of the meter, which includes the applicable network tariff and the consumer's consumption threshold bands. It does not include the customer's consumption data. In order for a retailer to provide an accurate quote to a consumer it requires access to NMI Standing Data.

EnergyAustralia's rule change request proposed that there were ambiguities and uncertainty under the National Electricity Rules (NER) with regards to retailers' entitlement to NMI Standing Data which should be clarified.

A second issue raised by the rule change request is whether retailers should be authorised to disclose NMI Standing Data to its service providers (including agents of retailers). The Commission notes that it is common business practice for retailers, or any business, to use service providers to perform business retail functions. The Commission considers that where service providers are acting on behalf of retailers, retailers should be able to disclose NMI Standing Data to their service providers.

In response to stakeholders' concerns that the draft rule could be interpreted as that service providers cannot access NMI Standing Data themselves, the rule as made clarifies that retailers can disclose to their service providers NMI Standing Data or the means to directly gain electronic access to that data. The Commission's policy intent has not changed, which is that the rule as made will allow retailers' service providers access to NMI Standing Data so that they can undertake their relevant market functions.

This rule change does not address access to data by third party service providers offering general products and services or acting on behalf of consumers. This issue will be addressed in a separate rule change on third party access to data arising from the AEMC's Power of Choice (PoC) review.

The Commission has determined to make, with amendments, the rule proposed by EnergyAustralia (the rule as made). The rule as made specifically:

- introduces a new rule under rule 7.7 of the NER which entitles retailers to NMI Standing Data. This rule specifies that the retailer's entitlement is subject to them doing whatever may be required under the applicable privacy legislation;¹

¹ For the purposes of this final rule determination we refer to retailers. However, the rule as made uses the phrase '*Customer* who engages in the activity of selling electricity to end users' to describe

- introduces a new clause under rule 8.6 of the NER that authorises retailers to disclose to their service providers NMI Standing Data or the means to gain electronic access to that data; and
- makes necessary and consequential amendments to the NER to facilitate retailers' entitlement to NMI Standing Data and authorisation to retailers to disclose NMI Standing Data to their service providers.

The Commission notes that NMI Standing Data is provided through systems managed by the Australian Energy Market Operator (AEMO). The rule as made also provides for a transitional provision that enables AEMO to amend its systems and procedures to reflect the rule as made under a simplified consultation procedure.

retailers as the defined term “retailers” in the NER only applies in jurisdictions that have applied the National Energy Retail Law (NERL) as a law of their jurisdiction.

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1 Energy Australia's rule change request

1.1 The rule change request

On 13 November 2013, Energy Australia (EA) (rule proponent) made a request to the Australian Energy Market Commission (Commission) to make a rule regarding retailers' (and their authorised service providers')² access to NMI Standing Data (rule change request).

NMI Standing Data is the information related to a connection point³ at which supply of electricity for consumption occurs. NMI Standing Data information includes, but is not limited to: applicable network tariff, consumption threshold bands, loss factors, physical location and other data related to the physical properties of the metering installation at the connection point. NMI Standing Data does not include the customer's consumption at a connection point.⁴

1.2 Rationale for rule change request

In this rule change request the rule proponent sought to clarify the existing arrangements under the NER regarding retailer (and their authorised service providers) access to NMI Standing Data. Specifically, EA was seeking to address:

- Retailers' rights to access NMI Standing Data relating to potential customers: EA raised concerns that there is potentially an inconsistency in the NER regarding the rights of retailers to access NMI Standing Data relating to customers for which a retailer is not the financially responsible market participant (FRMP). Currently, rule 7.7(a) of the NER sets out the parties that are entitled to access NMI Standing Data, which does not include retailers who are not the FRMP. Meanwhile, clauses 3.13.12 and 3.13.12A of the NER provides for the NMI Standing Data schedule, which appears to allow all retailers' access to NMI Standing Data through this schedule.⁵
- The ability of retailer authorised service providers to access NMI Standing Data on a retailer's behalf: EA was seeking clarification of the confidentiality requirements under the NER and whether service providers are able to perform functions on retailers' behalf.⁶

² For the purposes of this final rule determination, we use the term 'retailer service provider' to mean agents or third party service providers who are engaged to undertake certain services (that is, consumer transfers, acquisitions etc.) on a retailer's behalf.

³ Connection point is defined as the agreed point of supply agreed, for example, by the retailer and network service provider.

⁴ "NMI Standing Data" is defined under Chapter 10 of the NER.

⁵ EnergyAustralia rule change request to the AEMC, EA, 15 November 2012, p.3.

⁶ EnergyAustralia rule change request to the AEMC, EA, 15 November 2012, pp.2-3.

EA's rule change request sought to address an issue raised in an Australian Energy Regulator (AER) compliance bulletin. The AER outlined in that bulletin that it considered retailer service providers are not one of the parties entitled to access or receive NMI Standing Data under either rule 7.7 or clause 3.13.12 of the NER. EA submitted that retailers, and other participants, use service providers to perform certain functions and activities on their behalf. It considered that limiting the access of service providers is impractical and will have implications for retailers' business models. This may lead to inefficient delivery of services to consumers and increased costs for both retailers and consumers.⁷

1.3 Solution proposed in the rule change request

The rule proponent proposed to resolve the issues discussed above by making a rule that:

- amended rule 7.7(a) of the NER to include a new provision which explicitly provided for retailers (and their service providers) to access and receive NMI Standing Data. Access to NMI Standing Data would be for the purpose of conducting relevant retailing activities, including but not limited to:
 - consumer transfers;
 - billing and settlements;
 - consumer acquisitions; and
 - other retailer functions as required.
- introduce a new clause in the NER that explicitly makes retailers responsible for the actions of their service providers.

EA outlined in its rule change proposal that the proposed rule change would:

- clarify the intent of the relevant provisions in the NER. The changes would create certainty for retailers regarding the ongoing nature of their operations, and preserve the ability for customers to choose their retail supplier based on accurate pricing information;
- align the regulatory framework with efficient market practices; and
- remove any additional costs to consumers from retailers having to adapt their processes and system to comply with existing NER provisions.

⁷ EnergyAustralia rule change request to the AEMC, EA, 15 November 2012, pp.2-5.

1.4 Background

1.4.1 Existing provisions for the access and use of NMI Standing Data

What is NMI Standing Data

NMI Standing Data is the information related to a connection point at which supply of electricity for consumption occurs. NMI Standing Data information includes, but is not limited to: applicable network tariff, consumption threshold bands, loss factors, physical location and other data related to the physical properties of the metering installation at the connection point. NMI Standing Data does not contain consumption data from a consumer's metering installation. A list of NMI Standing Data items is contained in Appendix B.

Mechanism to access NMI Standing Data

The Australian Energy Market Operator (AEMO), as part of its market functions, is required to establish a system to store and maintain NMI Standing Data, which provides for parties who are entitled to access the data to do so. To fulfil this requirement and other system operation and information requirements under the NER, AEMO established the Market Settlement and Transfer Solution (MSATS) system. The MSATS system includes a number of functionalities and categories of information. This includes:

- The Consumer Administration and Transfer Solution (CATS). This is used to record and update information on connection points used in the settlement of the electricity market. It is also used to handle the transfer of consumers between retailers, and facilitate NMI discovery (which is discussed below).
- Wholesale, Interconnectors, Generator and Sample (WIGS) NMIs. Facilitates consumer transfer, the registration of metering installation and management of Standing Data for NMIs that have been classified as wholesale, interconnector, generator, sample data or external profiles.
- The Metering Data Management System (MDM). This holds and processes metering data recorded from the consumers meter for the purposes of market settlement; and
- The Business to Business (or B2B) System.

Access and use of MSATS is through a dedicated and secure web portal. To access and use MSATS, registered participants are to comply with a number of AEMO procedures,⁸ including those that outline the authorisations and allocation of user

⁸ Clause 3.19(c) of the NER.

identification logins to the system.⁹ Access to MSATS is in accordance with obligations in the NER and AEMO's strict password controls.¹⁰

Access to NMI Standing Data under the NER

Access to NMI Standing Data is set out under the NER. Rule 7.7(a) of the NER sets out the parties that are entitled to access energy data, or receive metering data, NMI Standing Data, settlements ready data or data from the metering register for a metering installation. Under these NER provisions a number of parties are entitled to access or receive the data. For this rule change request, the following parties are relevant:¹¹

- registered participants with a financial interest in the metering installation or the energy measured by that metering installation;
- financially responsible market participants (FRMP) in accordance with the meter churn procedures in the NER;¹² and
- a consumer, upon request to their retailer, for information relating to that consumers metering installation.

NMI Standing Data is classified as 'confidential information'.¹³ This means that registered participants are subject to confidentiality obligations under rule 8.6 of the NER in relation to that information which includes an obligation that participants must not disclose confidential information to any persons except as permitted by the NER and must not permit unauthorised persons to access confidential information.¹⁴

Other relevant information

NMI Standing Data schedule

In accordance with the NER, AEMO is required to develop and publish a National Energy Market (NEM) wide NMI Standing Data schedule for those jurisdictions that have applied the National Energy Retail Law (NERL) as a law of their jurisdiction.¹⁵ The NEM wide NMI Standing Data schedule developed and published by AEMO provides, among other things, that all retailers can access the NMI Standing Data for the purposes of providing a retail customer with a quotation or proposal and entering

⁹ Refer to AEMO MSATS Procedures: CATS procedure principles and obligations, July 2012.

¹⁰ Australian Energy Regulator, Compliance Bulletin No. 8: Confidentiality requirements for energy, metering and NMI Standing Data, AER, June 2012, p.4; clause 7.2.8 of the NER and AEMO's MSATS procedures.

¹¹ Other parties entitled (in accordance with the NER) include: authorised metering and metering data providers; network service providers; the Australian Energy Market Operator (AEMO); the Australian Energy Regulator (AER); and the relevant jurisdictional regulators and energy Ombudsman.

¹² Clause 7.3.4(j) of the NER.

¹³ Rule 7.10 of the NER.

¹⁴ Clauses 8.6.1(b)(1) and 8.6.1(b)(3) of the NER. These are civil penalty provisions.

¹⁵ Clause 3.13.12A of the NER.

a change of retailer request into the MSATS database.¹⁶ However, the NER itself does not provide that retailers are entitled to NMI Standing Data relating to customers for which they are not the FRMP. The NEM Standing Data schedule replaces certain jurisdictional arrangements relating to NMI Standing Data.¹⁷

NMI discovery

One of the functions provided by MSATS is 'NMI discovery'. NMI discovery refers to the process where a retailer queries MSATS to find a NMI for a consumer (where it is not known or cannot be provided by the consumer). Once a NMI is identified, the retailer is able to obtain the NMI Standing Data.

1.4.2 AER Compliance Bulletin

As noted in the AEMC consultation paper, EA indicated in its proposal that the rule change request was being raised in response to an AER compliance bulletin. This was the compliance bulletin the AER issued in July 2012 relating to the confidentiality requirements under the NER for energy, metering and NMI Standing Data.¹⁸

As part of the compliance bulletin, the AER highlighted a compliance issue about retailers providing their authorised service providers with access to MSATS to retrieve NMI Standing Data.

The issue arose in response to the AER discovering that a retailer had allocated a portion of its MSATS user identification logins to a third party service provider who was engaged to perform consumer acquisition services on behalf of that retailer (that is, as an authorised retailer agent). The AER noted that this third party service provider (who was not a registered participant in the NEM) then used the login details to research NMI Standing Data.¹⁹

The AER considered that the retailer participant, (by providing that third party service provider with passwords to MSATS, and thereby access to NMI Standing Data) may not be complying with their confidentiality obligations under NER. The AER stated that, the retailer's contracted third party service provider was not one of the persons entitled to access or receive NMI Standing Data under either rule 7.7 or clause 3.13.12 of the NER. The AER also considered AEMO is the only party under rule 7.7 or related clauses which can provide energy data, NMI Standing Data or metering data to its authorised service providers.²⁰

¹⁶ AEMO, 2012, www.aemo.com.au/en/Electricity/Retail.../0620-0027.pdf.ashx

¹⁷ Clause 3.13.12 of the NER.

¹⁸ AER, Compliance Bulletin No. 8: Confidentiality requirements for energy, metering and NMI Standing Data, AER, June 2012.

¹⁹ AER, 2012, Compliance Bulletin No. 8: Confidentiality requirements for energy, metering and NMI Standing Data, p 9.

²⁰ AER, 2012, Compliance Bulletin No. 8: Confidentiality requirements for energy, metering and NMI Standing Data, p.9.

The compliance bulletin stated that the AER would not take any enforcement action in relation to retailers that have provided, or may be providing, third party service providers (acting on a retailer's behalf to perform consumer acquisition activities) with access to NMI Standing Data. This approach would take effect from 29 June 2012 and be reviewed after 31 December 2013. The AER noted however that it would closely monitor industry behaviours and may use its discretion to take any enforcement action if it considers the disclosure of confidential information has resulted in a significant market impact or breach of privacy.²¹

In the compliance bulletin, the AER decision not to take any immediate action was based on a number of factors including:

- AEMO's MSATS introduction guide contemplated the use of MSATS by service providers approved by registered participants. We understand that AEMO are now considering revising the introduction guide and other relevant documents to remove references to third party service providers in response to AER's compliance bulletin.
- To allow sufficient time for industry and policy makers to clarify the requirements of the NER and other energy legislation or, alternatively, for market participants to change their practices.

The AER's compliance bulletin raised a second compliance issue with regards to distributors providing direct access to energy or metering data to consumers with smart meters. This issue is outside the scope of this rule change.

1.4.3 Related reforms

There are some broader reforms occurring that are considering similar issues which this rule change request and submissions have raised. In particular, these relate to the AEMC Power of choice review and recommendations, and the SCER smart meter work program to review customer protection arrangements in context of smart meters. These are discussed below.

AEMC Power of Choice review

In November 2012, the AEMC published the final report for the Power of Choice (PoC) review. The review identified the opportunities (information, education, and technology, and flexible pricing options) for consumers to make more informed choices about the way they use electricity. The review also identified the market conditions and incentives needed for network operators, retailers and other parties to maximise the potential of efficient demand side participation (DSP) and respond to consumers' choices. The overall objective of the review was to ensure that the community's

²¹ AER, 2012, Compliance Bulletin No. 8: Confidentiality requirements for energy, metering and NMI Standing Data, p 10.

demand for electricity services is met by the lowest cost combination of demand and supply side options.²²

The AEMC PoC Final Report put forward a suite of recommendations to the existing NEM arrangements. For the purposes of this rule change request, the recommendations of relevance include:

- Amending rule 7.7(a) of the NER regarding consumer (and their service providers) access to energy information.²³ This rule change request also seeks to amend rule 7.7(a);
- Amending the National Energy Customer Framework (NECF)²⁴ to establish a framework governing (non-retailers and regulated network services) who provide energy services and residential and small business consumers. The proposal outlined that the framework should consider what aspects of the NECF would apply to third party energy service providers and in what circumstances.²⁵ This rule change request specifically relates to third party service providers who are under contract to a retailer to perform certain services;
- A review of retailer switching arrangements to better support consumer choice and to make consumers switching retailers more efficient (that is, timing). This rule change request may have implications for consumer switching arrangements and hence access to relevant information.²⁶
- A proposal to introduce a framework in the NER that provides for competition in metering and related services for residential and small business consumers. This would, if agreed, have implications for who is able to have access to relevant consumer energy and metering data under the existing rules.²⁷

Following receipt of the AEMC Power of Choice Final Report, the Standing Council on Energy and Resources (SCER) agreed to progress a number of rule changes proposals. This includes the proposal to revise rule 7.7(a) of the NER.

Other reforms

We note that there are other reforms, where the work may intersect with some of the issues in this rule change request such as:

22 Australian Energy Market Commission, Power of Choice review - giving consumers options in the way they use electricity, final report, AEMC, 30 November 2012.

23 Australian Energy Market Commission, Power of Choice review - giving consumers options in the way they use electricity, final report, AEMC, 30 November 2012, Chapter 3.

24 The NECF establishes the energy specific protection obligations and arrangements for regulating the sale and supply of electricity and gas to consumers. It includes amongst other things, consumer protection measures relating to marketing, informed consent, security and privacy provisions.

25 AEMC, op.cit, 39-46.

26 AEMC, op.cit, 37-38.

27 AEMC, op.cit, Chapter 4.

- The SCER smart meter work program to review customer protection arrangements in context of smart meters. This work covers a range of consumer protection issues and energy services/products provided by a range of parties (including third party energy service providers) related to introduction of smart meter services.²⁸
- An Australian Government scoping study on the need for an energy information hub to improve energy information disclosure. An element of this work is considering how third party service providers can access consumer information and how that data can be efficiently transferred to these and other parties.²⁹

1.5 Commencement of rule making process

On 14 March 2013, the Commission published a notice under section 95 of the National Electricity Law (NEL) advising of its intention to commence the rule making process and the first round of consultation in respect of the rule change request. A consultation paper prepared by AEMC staff identifying specific issues or questions for consultation was also published with the rule change request. Submissions closed on 26 April 2013.

The Commission received fifteen submissions on the rule change request as part of the first round of consultation. They are available on the AEMC website.³⁰ A summary of the issues raised in submissions and the Commission's response to each issue is contained in Appendix A.1.

1.6 Extension of time

On 27 June 2013, the Commission decided under section 107 of the NEL to extend the period of time for the making of the draft rule determination to 8 August 2013. The reason for this decision was to allow time for it to consider a number of complex and difficult issues that were raised in submissions.

1.7 Publication of draft rule determination and draft rule

On 8 August 2013, the Commission published a notice under section 99 of the NEL and a draft rule determination in relation to the rule change request (draft rule determination). The draft rule determination included a draft rule.

Submissions on the draft rule determination closed on 19 September 2013. The Commission received ten submissions on the draft rule determination. They are

²⁸ SCER Energy Market Reform Working Group, National Smart Meter Consumer Protection and Safety Review, Officials report, November 2012.

²⁹ The Australian Government Department of Energy and Resources, 2012 Scoping study for a consumer energy data access system (CEdata), August 2012.

³⁰ www.aemc.gov.au

available on the AEMC website.³¹ A summary of the issues raised in submissions, and the Commission's response to each issue, is contained in Appendix A.2.

31 www.aemc.gov.au

2 Final rule determination

2.1 Commission's determination

In accordance with section 102 of the NEL the Commission has made this final rule determination in relation to the rule proposed by EA. In accordance with section 103 of the NEL the Commission has determined to make, with amendments, the rule proposed by the rule proponent.³²

The Commission's reasons for making this final rule determination are set out in section 3.1.

The *National Electricity Amendment (Access to NMI Standing Data) Rule 2013 No 6* (rule as made) is published with this final rule determination. The rule as made commences on 31 October 2013. The rule as made is the rule proposed by the rule proponent with amendments. Its key features are described in section 3.2.

2.2 Commission's considerations

In assessing the rule change request the Commission considered:

- the Commission's powers under the NEL to make the rule;
- the rule change request;
- the fact that there is no relevant Ministerial Council on Energy (MCE) Statement of Policy Principles³³;
- submissions received during first and second round of consultation; and
- the Commission's analysis as to the ways in which the proposed rule will or is likely to, contribute to the achievement of the National Electricity Objective (NEO).

2.3 Commission's power to make the rule

The Commission is satisfied that the rule as made falls within the subject matter about which the Commission may make rules. The rule as made falls within section 34(1)(a)(iii) of the NEL which relates to: "the activities of persons (including registered participants) participating in the national electricity market or involved in the operation of the national electricity system".

³² Under section 103 (3) of the NEL the rule that is made in accordance with section 103(1) need not be the same as the draft of the purposed rule to which a notice under section 95 relates or the draft of a rule contained in a draft rule determination.

³³ Under section 33 of the NEL the AEMC must have regard to any relevant MCE statement of policy principles in making a rule.

Also, the rule as made relates to the subject matter in Item 35 of Schedule 1 of the NER. That item provides that the Commission may make a rule relating to confidential information held by a registered participant and AEMO.

2.4 Rule making test

Under section 88(1) of the NEL the Commission may only make a rule if it is satisfied that the rule will, or is likely to, contribute to the achievement of the NEO. This is the decision making framework that the Commission must apply.

The NEO is set out in section 7 of the NEL as follows:

“The objective of this Law is to promote efficient investment in, and efficient operation and use of, electricity services for the long term interests of consumers of electricity with respect to:

- (a) price, quality, safety, reliability and security of supply of electricity;
and
- (b) the reliability, safety and security of the national electricity system.”

For this rule change request, the Commission considers that the relevant aspect of the NEO relates to the efficient operation and investment in electricity services for the long term interests of consumers of electricity with respect to price.³⁴

The Commission is satisfied that the rule as made will, or is likely to, contribute to the achievement of the NEO because:

- It clarifies the entitlement of all retailers to NMI Standing Data for the purposes of consumer acquisitions. This is achieved by amending the NER to entitle retailers to NMI Standing Data subject to anything that may be required or otherwise necessary under any applicable privacy legislation.³⁵ Further, it amends the confidentiality obligations of registered participants under NER, so that retailers can disclose to their service providers NMI Standing Data or the means to directly gain electronic access to the data, for consumer transfer and acquisition activities.
- By clarifying rights to access and disclose NMI Standing Data, it supports a greater level of certainty and predictability regarding access and use of information required for customer acquisition activities. This reduces the existing uncertainty and risks for retailers to use the information to fulfil market functions either under the NER. The rule as made is likely to facilitate retail competition,

³⁴ Under section 88(2), for the purposes of section 88(1) the AEMC may give such weight to any aspect of the NEO as it considers appropriate in all the circumstances, having regard to any relevant MCE Statement of Policy Principles.

³⁵ Privacy legislation means the Privacy Act 1988 (Cth) and any State privacy laws that apply to participants in the NEM.

reduce barriers to entry and promote the provision of least cost and efficient energy services to consumers.

- Consumers will be provided with accurate information which will allow them to make informed decisions in regards to their electricity supply. This is because retailers (and their service providers) will be in a better position to provide accurate quotes based on NMI Standing Data.
- The rule as made also removes the potential for ambiguity and inconsistency under the NER. This is likely to lead to a greater transparency in market arrangements, which should reduce compliance risks and costs.

Under section 91(8) of the NEL, the Commission may only make a rule that has effect with respect to an adoptive jurisdiction if satisfied that the proposed rule is compatible with the proper performance of AEMO's declared network functions. The rule as made is compatible with AEMO's declared network functions because it is unrelated to them and therefore it does not affect the performance of these functions.

3 Commission's reasons

The Commission has analysed the rule change request and assessed the issues arising out of this rule change request. For the reasons set out below, the Commission has determined that a rule should be made. Its analysis of the proposed rule and the key features of the rule as made are also set out below.

3.1 Assessment of issues

In submitting the rule change request, EA sought to clarify arrangements and obligations under the NER regarding access to NMI Standing Data by retailers and their authorised service providers. Currently retailers and retailers' service providers have been accessing NMI Standing Data through the NMI Standing Data schedule for the purposes of facilitating consumer quoting and transfers. As a result of the AER's compliance bulletin relating to the treatment of confidential information contained in the NMI Standing Data, EA considered that there was ambiguity and potential uncertainty in the NER with regards to retailers and their service providers accessing this data.

In assessing the proposed rule the Commission considered the purpose and use of NMI Standing Data, the current arrangements for accessing this data and the rule proponent's and stakeholders' views on the need to clarify these current arrangements. The Commission also considered stakeholder concerns about the implications to the treatment of confidential and private information of making a change to the current access arrangements, and service providers' access to NMI Standing Data.

The Commission considers that the provision of information contained in the NMI Standing Data allows the retail market to function efficiently and it is also necessary for retail competition. This is because, NMI Standing Data is used by retailers to enable customer transfers, billing and settlements. Retailers can also use the information to provide accurate quotes to potential customers.

The Commission notes the concerns expressed by stakeholders with regards to consumer protection. NMI Standing Data is classified as 'confidential information' under the NER which means that registered participants are subject to confidentiality obligations when handling and providing access to this information. Separately, NMI Standing Data may contain information that is considered 'personal information' under privacy legislation (for example, the 'address' field with other information may allow for the identity of an individual to be determined). The Commission considers that, to the extent NMI Standing Data contains personal information; retailers should be subject to any applicable provisions under privacy legislation in accessing and using NMI Standing Data.

With respect to service providers having access to NMI Standing Data, the Commission notes that it is common industry practice for businesses (including retailers) to use authorised service providers for the delivery of energy services to consumers. In performing these functions, retailers' service providers are acting on

behalf of retailers under contract. Under these circumstances, the Commission considers that it is appropriate to authorise retailers to disclose to their service providers NMI Standing Data or the means to gain electronic access to that data.

3.2 Key features of the rule as made

The Commission has made a rule that takes into consideration the consumer protection concerns raised by stakeholders while allowing retailers and their service providers to obtain NMI Standing Data. The rule as made includes the following:

- it entitles all retailers access to NMI Standing Data;³⁶
- in entitling retailers to NMI Standing Data, the Commission has not excluded any applicable requirements of privacy legislation.³⁷ Retailers are entitled to access NMI Standing Data only after first doing whatever may be required or otherwise necessary under any applicable privacy legislation; and
- it authorises retailers to disclose to their service providers NMI Standing Data or the means to directly gain electronic access to that data, for the purposes of providing services in connection with the sale of electricity by the retailer.

The rule as made differs from the draft rule, in that it clarifies that retailers can disclose NMI Standing Data to their service providers, or authorises retailers to provide their service providers the means to directly gain electronic access to that data. The Commission made this change in response to stakeholders' concerns with respect to the interpretation of the draft rule. The Commission's policy intent in making the rule as made is the same as that expressed in the draft determination, in that it will allow retailers' service providers to obtain NMI Standing Data so that they can undertake their relevant market functions.

A retailer is currently already entitled to NMI Standing Data if the retailer falls within one of the categories of permitted persons set out in rule 7.7(a) of the NER. For example, if a retailer has a financial interest in the customer's metering installation, then the retailer is entitled to NMI Standing Data.

Because NMI Standing Data is 'confidential information' under the NER the retailer when handling that information is required to comply with the confidentiality obligations set out under rule 8.6 of the NER. These obligations require retailers to:

- keep NMI Standing Data confidential (clause 8.6.1(a));

³⁶ Retailers who are the FRMP already have access to NMI Standing Data under rule 7.7(a) of the NER. For the purposes of this final rule determination we refer to retailers to describe retailers in all jurisdictions. We note that the defined term "retailers" in the NER only applies in jurisdictions that have applied NERL as a law of their jurisdiction.

³⁷ Privacy legislation means the Privacy Act 1988 (Cth) and any State privacy laws that apply to participants in the NEM.

- only use or reproduce NMI Standing Data for the purpose for which it was disclosed or another purpose contemplated by the NER (clause 8.6.1(b)(2));
- not permit unauthorised persons to have access to the data (clause 8.6.1(b)(3));
- not disclose NMI Standing Data to any persons except as permitted by the NER (clause 8.6.1(b)(1));
- use all reasonable endeavours to prevent unauthorised access to NMI Standing Data (clause 8.6.1(c)(1));
- ensure that any person to whom it discloses NMI Standing Data observes the confidentiality obligations of rule 8.6 of the NER (clause 8.6.1(c)(2)); and
- prior to disclosure of NMI Standing Data, inform the proposed recipient of the confidentiality of the information and take appropriate precautions to ensure that the proposed recipient keeps the data confidential (clause 8.6.3).

In making the rule, the Commission has not formed a view as to whether NMI Standing Data contains ‘personal information’ under privacy legislation. Rather, the Commission considers that the consideration of whether or not NMI Standing Data is ‘personal information’ is a decision the retailer is required to make in order to ensure its legal compliance obligations are met. In entitling retailers to NMI Standing Data under the draft rule, the Commission has sought to ensure that privacy legislation applies to retailers with respect to NMI Standing Data.³⁸

The rule as made makes the following amendments to the rules:

- new rule 7.7(a1) which provides that a retailer is entitled to NMI Standing Data after having first done whatever may be required or otherwise necessary under any applicable privacy legislation;
- an amendment to rule 7.10 that clarifies that information provided under a scheme for an NMI standing data schedule as referred to in clause 3.13.12A of the NER is also ‘confidential information’;
- new clause 8.6.2(b1) which provides that retailers may disclose to their service providers NMI Standing Data or the means to directly gain electronic access to that data, for the purposes of providing services in connection with the retailer’s sale of electricity to end users; and
- consequential amendment to clause 8.6.3 for new clause 8.6.2(b1) of the NER.

³⁸ Under privacy legislation, consent to collection or disclosure of personal information may not be required if a law (such as a rule made under the NEL) authorises such collection or disclosure. The Commission does not consider that the rule as made should override any requirements retailers may have under privacy legislation to obtain such consent for the collection or disclosure of NMI Standing Data.

The rule as made also provides for a transitional provision that enables AEMO to amend its MSATS procedures to reflect the rule as made under a simplified consultation procedure.

The Commission considers that AEMO's MSATS procedures may need to be updated to reflect the rule as made. This is to ensure that there is consistency between AEMO's procedures, the entitlements to NMI Standing Data under rule 7.7(a) of the NER and permitted disclosures by retailers under clause 8.6.2 of the NER. It is noted that AEMO can update these procedures at any time by following the rules consultation procedures.³⁹ However, the Commission considers that where AEMO is updating its MSATS procedures to reflect this rule change some consultation on the underlying issue has already occurred. In this case, the full rules consultation procedure would not be necessary. Under the transitional provisions of the rule as made, AEMO may make changes to its MSATS procedures without having to comply with the NER's consultation procedures up to 10 months from the commencement date of the rule as made provided it complies with the simplified consultation process set out in the transitional rule. The Commission also notes that should AEMO wish to change any other aspects of the MSATS procedures, it will have to follow the rules consultation procedures.

In responding to stakeholders' views that the exemption to the confidentiality obligations as set out in the rules should be extended to include all relevant information that service providers of all registered participants may require, the Commission considers that this matter is beyond the scope of this rule change because it does not relate to the issues raised in the rule change request. The Commission notes that the problem that the rule change request sought to address was retailers and their service providers accessing NMI Standing Data. This was identified as a problem because it was considered that there were ambiguities and uncertainty under the NER with regards to retailers' and their service providers' access to NMI Standing Data and NMI Standing Data is required for customer acquisition activities.

3.2.1 Benefits

The Commission considers that allowing retailers' access to NMI Standing Data will provide certainty to retailers in performing their market functions and providing appropriate services to consumers. Also, allowing retailers to disclose NMI Standing Data to their service providers under the confidentiality provisions of the NER, will enable current business practices of retailers using authorised service providers to continue. By removing uncertainty, the rule as made should allow retailers to avoid compliance risk and associated costs of changing their business model. By encouraging efficient business practices, the rule as made promotes retail competition which benefits consumers by facilitating the provision of accurate information to allow them to decide which retail offer best suits them.

³⁹ Clause 7.2.8(b) of the NER.

The Commission considers that consumers will benefit through clearer consumer protection provisions. This is achieved by making retailer access to NMI Standing Data subject to provisions under the applicable privacy legislation.

3.2.2 Potential costs

The Commission considers that there would be minimal costs associated with implementing the rule as made. The rule as made requires retailers to comply with the applicable privacy legislation. However, as retailers (and their service providers) should already be complying with the applicable privacy legislation, any additional costs to them resulting from the rule as made should be limited.

The Commission considers that any potential costs are likely to be outweighed by the potential benefits of the rule change.

3.3 Civil Penalties

The rule as made does not amend any clauses that are currently classified as civil penalty provisions under the NEL or National Electricity (South Australia) Regulations. The Commission does not propose to recommend to the SCER that the additional clause in the rule as made be classified as a civil penalty provision.

4 Commission's assessment approach

This chapter describes the analytical framework that the Commission has applied to assess the rule change request in accordance with the requirements set out in the NEL (and explained in chapter 2). To assess this rule change, the Commission has considered and focussed on the following issues:

- Purpose and use of NMI Standing Data, including the:
 - conditions under which market participants require NMI Standing Data and the minimum information required to fulfil their market functions; and
 - data that can be accessed taking into account AEMO's data management systems.
- Who has access to NMI Standing Data. This includes:
 - those who have access under current provisions, such as:
 - registered participants with a financial interest in the metering installation or the energy measured by that metering installation; and
 - financially responsible market participants (FRMP).
 - those who have access under current practices, such as retailers and retailers' service providers. The efficiency benefits of retailers having access to information to undertake a wide range of services on behalf of consumers and the extent to which the provision of such information promotes the efficient operation of retail markets and facilitates retail competition.
- Confidentiality and privacy issues. This includes:
 - existing arrangements for the treatment of confidential information and personal information, including AEMO's existing procedures;
 - stakeholder concerns with respect to consumer protection; and
 - improvements that can be made to protect personal information by making it explicit that retailer access to NMI Standing Data is subject to compliance with requirements under the applicable privacy legislation.
- Service providers accessing NMI Standing Data. This includes:
 - current practices of businesses (including retailers) to use contractors and service providers for the delivery of electricity services to consumers; and

- allowing retailers' service providers to obtain NMI Standing Data by permitting retailers to disclose to their service providers NMI Standing Data or the means to directly gain electronic access to that data.

The Commission has focussed on this set of issues because these issues relate to conditions under which retailers require NMI Standing Data, the efficient operation of retail market and competition, the requirements with respect to the treatment of confidential and personal information and the clarity and transparency of existing NER arrangements.

In addition to the above considerations, the Commission's analysis has also involved consultations with stakeholders and AEMO and reviewing previous policy views of the SCER particularly in relation to the National Energy Customer Framework (NECF).

5 Access to NMI Standing Data

This chapter discusses the purpose and use of NMI Standing Data, who has access to NMI Standing Data and confidentiality and privacy issues that may arise from accessing the standing data. The current arrangements, the proponent's and stakeholders' view and the Commission's analysis and conclusion are set out under each issue.

5.1 Purpose and use of NMI Standing Data

5.1.1 Current arrangements

As discussed in chapter 1, NMI Standing Data as defined in the NER, is information related to a connection point (that is, the point where the supply of electricity for consumption occurs). The NMI Standing Data relates to the physical properties of metering installations and includes, but is not limited to information on: applicable network tariff, consumption threshold bands, loss factors, physical location and other data related to the physical properties of the metering installation at the connection point.

NMI Standing Data is used:

- by retailers for customer acquisition activities, such as to obtain accurate details of the customer's network and metering installation charges;
- by retailers for customer transfers, to verify customer transfer date as the next meter read date or some other date;
- by the Retailer of Last Resort (RoLR), in the event of the current retailer default for transfer to the RoLR.

NMI Standing Data does not contain consumption data from a consumers metering installation. A list of NMI Standing Data items that are returned in a NMI discovery is contained in Appendix B. The NER allows AEMO to add items to the list of NMI Standing Data items that is returned in a NMI discovery.

AEMO's procedures set out how NMI Standing Data information is stored and maintained and how access is provided to parties who are entitled to access it. Further, for those jurisdictions that apply the NERL as a law of their jurisdiction, the NER provides for AEMO to develop and publish a scheme for a NMI Standing Data under clause 3.13.12A. The scheme must include provisions dealing with the rights of persons to access NMI Standing Data. AEMO's published schedule allows for, among other things, registered participants (including all retailers)⁴⁰ to access the NMI Standing

⁴⁰ Includes retailers (who are registered participants in the NEM) which are seeking to be the retailer for a consumer's supply point (that is, not a consumer's financially responsible market participant (FRMP)).

Data for the purposes of providing a retail customer with a quotation or proposal and entering a change of retailer request into the MSATS database.⁴¹ This appears to be inconsistent with the list of persons who are entitled to such access under rule 7.7(a) of the NER.

5.1.2 Rule proponent's view

As outlined in chapter 1, EA highlighted that NMI Standing Data contains information required for retailers to undertake certain market functions in relation to the sale and supply of electricity on behalf of a consumer, including, but not limited to consumer transfers, billing and settlements and consumer acquisitions.⁴²

In its proposal, EA indicated that consumers, in order to make appropriate decisions regarding their choice of retailer or product, require information regarding their tariffs. Also, retailers require information related to a consumer's NMI in order for them to accurately quote consumers for the supply of electricity. Further, EA noted that in the NEM, relevant information contained in the NMI Standing Data could be accessed by retailers through the NMI Standing Data schedule as a mechanism to facilitate retail competition.⁴³

5.1.3 Stakeholders' views on the consultation paper

Generally stakeholder submissions to the consultation paper recognised that there is certain information that is required for market participants to undertake relevant market functions and related services.⁴⁴

Retailer submissions noted that information required by retailers to fulfil market functions and comply with responsibilities in relation to the sale and supply of electricity should, at a minimum, include access to NMI Standing Data provided through MSATS. It was noted that NMI Standing Data information is required for:

- classification of customers, based on consumption bands;
- to determine the applicable network tariff to accurately bill customers and engage on potential tariff changes;
- to determine the physical location and other information about metering installation required to engage with consumers on upgrades or change of supplier (that is, when a customer moves out of the premises); and
- undertake consumer transfer processes and back office functions such as network settlement requirements.

⁴¹ AEMO, 2012, www.aemo.com.au/en/Electricity/Retail.../0620-0027.pdf.ashx

⁴² EnergyAustralia rule change request to the AEMC, EA, 15 November 2012, p.4.

⁴³ EnergyAustralia rule change request to the AEMC, EA, 15 November 2012, p.1.

⁴⁴ Issues raised in submissions received on the first round of consultation are summarised in Appendix A.1.

Retailers considered that NMI Standing Data information is also needed at the consumer acquisition stage to ensure the customer meter is correctly identified and the applicable/accurate tariffs are provided to the consumer.

Overall, retailers considered that NMI Standing Data information is necessary at the acquisition stage and during the life of a consumer contract. This ultimately avoids errors in customer switching and transfers, incorrect quoting of offers, and future billing/contract errors.

Networks NSW submitted that while access to NMI Standing Data information may enable retailers to select customers and areas to target, it excludes metering data and retail tariff information which underpins customer behaviour in switching retail suppliers. Networks NSW considered that a customer's ability to choose its retail supplier is not compromised by a retail price offering and that, consumers are free to choose any retail supplier irrespective of the retail offer. It submitted that while the accuracy of pricing of the retail offer is a significant concern for a retailer supplier, the customer is free to choose whether to accept or reject that retail offer irrespective of whether the offer accurately reflects the costs to a retail supplier. Networks NSW also submitted that the shifting of retail price risk from the retailer to the customer does not enhance customer choice or promote competition in the NEM.⁴⁵

5.1.4 Stakeholders' views on the draft determination

Stakeholder submissions on the draft rule determination made no comment on the purpose or use of NMI Standing Data.⁴⁶

5.1.5 Commission analysis and conclusion

The Commission understands that NMI Standing Data provides necessary information on connection points to the market. The provision of this information allows the retail market to function and is required for retail competition and RoLR. Retailers can use the information to provide accurate quotes to potential customers.

The Commission considers that the provision of accurate information to the consumer at the stage of customer acquisition or transfer enables the consumer to make an informed decision about their choice of retailer supplier. In this regard, the Commission does not agree with Networks NSW that the retail price risk will shift from the retailer to the customer if the proposed rule change is made. Rather, the Commission considers that the customer that will be in a better position to decide which retail offer is best suited to them.

With respect to Networks NSW submission that NMI Standing Data should include information on metering data and retail tariffs, the Commission noted in the draft determination that the NER specifies the type of information that is included in NMI

⁴⁵ Networks NSW, submission, 22 April 2013, pp.2-3.

⁴⁶ Issues raised in submissions received on the second round of consultation are summarised in Appendix A.2.

Standing Data. This does not include metering data or other details of the consumer's consumption (such as, retail tariffs).⁴⁷ The Commission does not consider it has been provided with reasons to amend the definition of NMI Standing Data at this time.

5.2 Who has access to NMI Standing Data

5.2.1 Current arrangements

Currently, the NER provides for the parties who are entitled to access NMI Standing Data. Rule 7.7(a) of the NER sets out the registered participants that are entitled to access NMI Standing Data; this includes but is not limited to:⁴⁸

- registered participants with a financial interest in the metering installation or the energy measured by that metering installation; and
- financially responsible market participants (FRMP) in accordance with the meter churn procedures in the NER.⁴⁹

Rule 7.7(a) of the NER does not entitle retailers that do not fall into one of these categories above to NMI Standing Data.

Clause 3.13.12A of the NER establishes the NMI Standing Data schedule which applies in those jurisdictions that have applied the NERL as a law of that jurisdiction.⁵⁰ The Commission understands the purpose of this schedule is to authorise registered participants to access NMI Standing Data for the purpose of retail competition. The Commission also understands that the NEM wide NMI Standing Data schedule developed by AEMO under clause 3.13.12A allows for, among other things, retailers to access the NMI Standing Data for the purposes of providing a retail customer with a quotation or proposal and entering a change of retailer request into the MSATS database.⁵¹ The NEM NMI Standing Data schedule was intended to replace certain jurisdictional arrangements relating to NMI Standing Data provided under clause 3.13.12 which applies in those jurisdictions that have not applied the NERL as a law of that jurisdiction.

In practice, through the MSATS procedures (including the NMI Standing Data schedule under clause 3.13.12A of the NER), the Commission understands that retailers who are not the FRMP have accessed NMI Standing Data.

⁴⁷ "NMI Standing Data" is defined in Chapter 10 of the NER.

⁴⁸ Other parties entitled (in accordance with the NER) include: authorised metering and metering data providers; network service providers; the Australian Energy Market Operator (AEMO); the Australian Energy Regulator (AER); and the relevant jurisdictional regulators and energy Ombudsman.

⁴⁹ Clause 7.3.4(j) of the NER.

⁵⁰ Under this clause, AEMO is required to develop and publish a National Energy Market (NEM) wide NMI Standing Data schedule.

⁵¹ AEMO, 2012, www.aemo.com.au/en/Electricity/Retail.../0620-0027.pdf.ashx

5.2.2 Rule proponent's view

As outlined in chapter 1, EA is concerned that, as a consequence of the AER's compliance bulletin, the existing provisions in the NER are ambiguous and may be inconsistent regarding retailers (and their authorised service providers) ability to access NMI Standing Data.⁵² Specifically, EA indicated that there is industry uncertainty regarding:

- retailers' entitlement access to NMI Standing Data relating to customers for which they are not the FRMP; and
- retailer authorised service providers that are undertaking certain activities/services under contract on behalf of a retailer.

With respect to retailers who are seeking potential customers, EA is concerned that the AER's strict interpretation of rule 7.7(a) in its compliance bulletin may imply that there is no basis within the NER for retailers that are not a consumer's FRMP or do not have a financial interest in the metering installation to access NMI Standing Data. Given this, EA considers that there may be inconsistency in the NER between rule 7.7(a) and clause 3.13.12 which needs to be addressed to avoid confusion and any potential compliance risks.⁵³

Retailer authorised service providers accessing NMI Standing Data is discussed in chapter 6.

5.2.3 Stakeholders' views on the consultation paper

Generally stakeholder submissions to the consultation paper were supportive of the need to address any ambiguity that exists within the NER around access to NMI Standing Data.⁵⁴

Retailer submissions noted that the current wording in the NER is not clear as to whether retailers that do not have a financial interest or are not FRMP at the time of accessing the NMI Standing Data are currently able to access that data under the NER. Retailers considered that the policy intent has always been that retailers with a possible future financial interest in the NMI should be able to, through the NMI discovery process, be able to access the standing data for the purposes of quoting. It was noted that clause 3.13.12 contemplates access through the NMI Standing Data schedule and it was considered that rule 7.7(a) be amended to explicitly allow this use by retailers and avoid unnecessary confusion.⁵⁵

52 EnergyAustralia rule change request to the AEMC, EA, 15 November 2012.

53 EnergyAustralia rule change request to the AEMC, EA, 15 November 2012, p.3.

54 Issues raised in submissions received on the first round of consultation are summarised in Appendix A.1.

55 Australian Power & Gas, submission, 24 April 2013, p.2.

Simply Energy submitted that if retailers (or their service providers) cannot access NMI Standing Data, then it will severely curtail retail competition. It considered that rule 7.7(a) needs to be amended to accommodate customer acquisition activities.⁵⁶

United Energy suggested that EA's proposed rule 7.7(a) be amended to cater for registered participants more broadly than just for retailers. That is, the proposed rule 7.7(a) be amended so that registered participants and/or their service providers should be entitled to have access to NMI Standing Data. It submitted that as a matter of principle, a registered participant should be able to deliver the customer network and retail services in a cost effective manner while still ensuring privacy.⁵⁷

As noted above in section 5.2.2, retailer authorised service providers accessing NMI Standing Data is discussed in chapter 6.

5.2.4 Stakeholders' views on the draft determination

Stakeholder submissions to the consultation paper were supportive of the draft rule with respect to providing entitlement for retailers to access NMI Standing Data.⁵⁸

Issues related to service providers accessing NMI Standing Data are discussed in chapter 6.

5.2.5 Commission analysis and conclusion

As noted above the Commission considers that access to certain information is a key condition for facilitating efficient electricity market outcomes. Hence, regulatory frameworks should provide transparency and certainty of the conditions that apply for accessing information and the type of information that can be accessed. This is so that parties are able to undertake their relevant electricity market functions and provide the appropriate services on behalf of consumers. Clarity of the NER provisions and obligations also ensures that any unnecessary compliance risks and costs to parties are avoided.

In the draft determination, the Commission noted that the NMI Standing Data is important for registered participants (including all retailers) to fulfil their electricity market obligations. For example, it is important for retailers to access NMI Standing Data to facilitate customer transfer and acquisition. The Commission also noted that as a result of full retail competition and concerns relating to barriers to entry, arrangements were put in place so that retailers could access certain information on a consumer's behalf. This included the provision in clause 3.13.12A of the NER in regards to the scheme for a NMI Standing Data schedule.

⁵⁶ Simply Energy, submission, 26 April 2013, p.3.

⁵⁷ United Energy, submission, 26 April 2013, p.2.

⁵⁸ Issues raised in submissions received on the second round of consultation are summarised in Appendix A.2.

Given this, the Commission considers that the NER should be amended to clarify the appropriate obligations and improve the transparency and certainty of existing provisions and arrangements.

The Commission's rule as made provides that retailers are entitled to access to NMI Standing Data. The rule as made entitles retailers to NMI Standing Data under new rule 7.7(a1). By clarifying and establishing entitlement of retailers to NMI Standing Data, the Commission considers that the rule as made supports certainty and predictability with regards to the entitlement and access to NMI Standing Data. This reduces the existing uncertainty and risks for retailers to use the information to fulfil their electricity market functions under the NER.

The rule as made also removes the ambiguity and inconsistency in the NER. This is likely to lead to transparent market arrangements and reduced compliance risk and costs.

As a result, the Commission considers that the rule as made is likely to facilitate electricity retail competition, reduce barriers to entry and promote efficient market outcomes which are likely to be in the long term interests of consumers of electricity.

In responding to United Energy's suggested amendment to rule 7.7(a) of the NER, as discussed in section 5.2.3, to broaden the entitlement to NMI Standing Data to all registered participants, the Commission noted in the draft determination that the rule already allows the following registered participant's access to NMI Standing Data:

- registered participants with a financial interest in the metering installation or the energy measured at that metering installation;
- metering providers who have an agreement to service the metering installation;
- FRMPs in accordance with meter churn procedures;
- network service providers or providers associated with the connection point;
- FRMPs upon request by their customers for information relating to the customers' metering installation; and
- metering data providers who have been engaged to provide metering data services for the customers' metering installation.

The Commission considered that the other registered participants who require access to NMI Standing Data are already captured by rule 7.7(a).

As noted above, service providers accessing NMI Standing Data is discussed in chapter 6.

5.3 Confidentiality and privacy issues

5.3.1 Current arrangements

Under clause 7.10 of the NER, NMI Standing Data is classified as 'confidential information'. Confidentiality provisions under the NER include an obligation that requires registered participants not to disclose confidential information unless otherwise permitted under the NER. These provisions carry civil penalties.⁵⁹

Under the *Privacy Act*⁶⁰ 'personal information' is currently defined as information or opinion (including information or an opinion which is part of a database) about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion. This is irrespective of whether the information or opinion is true or not, and whether it is recorded in a material form or not.

All registered participants and authorised parties must comply with AEMO's MSATS procedures in order to access NMI Standing Data. Under the MSATS procedures, AEMO currently requires retailers that are seeking to access NMI Standing Data for consumer transfers, quoting and acquisition purposes to obtain informed consent from the consumer.

5.3.2 Rule proponent's view

In its proposal, EA referred to confidentiality and privacy issues in response to the AER's compliance bulletin. EA submitted that these potential issues are mitigated by the fact that any party accessing MSATS data would be bound by privacy and consumer legislation within their commercial agreements. These parties are subject to the requirements set in jurisdictional customer protection framework, Australian Consumer Law (ACL) and potentially the NECF.⁶¹

5.3.3 Stakeholders' views on the consultation paper

The Consumer Action Law Centre (Consumer Action) raised concerns with regards to consumer protection in its submission. Consumer Action submitted that it was concerned that some aspects of energy market reform are proceeding without the consumer protections required to ensure the efficacy of those reforms keeping pace. It also expressed concern that the consumer protections that apply to third parties are not on par with those that apply to registered market participants such as retailers.⁶²

Consumer Action recommended that any party accessing information from the NMI Standing Data be subject to the full suite of consumer protections available under

⁵⁹ Clause 8.6.1(b) of the NER.

⁶⁰ *Privacy Act 1988* (Commonwealth). Note that definitions of 'personal information' in State privacy laws are substantially similar.

⁶¹ EnergyAustralia rule change request to the AEMC, EA, 15 November 2012, p.4.

⁶² The Consumer Action Law Centre, Consumer Action, submission, 26 April 2013, p.1.

energy specific legislation. Specifically, it recommended that the AEMC should proceed with amending the NECF to regulate third parties who provide energy services. Consumer Action submitted that this amendment should proceed before other reforms that enable more information be provided to third parties.⁶³

Retailers were generally of the view that additional consumer protections and obligations should not be placed on retailers or their service providers, and that the current consumer protections will adequately protect consumers if the proposed rule change is made. Australian Power & Gas (APG) submitted that retailers have always operated on the basis that as registered participants and licenced entities, retailers are liable for any breaches under the NECF, the NER, the ACL and jurisdictional laws and regulations.

Confidentiality issues and concerns that were raised by stakeholders in relation to retailers' service providers are discussed in chapter 6.

5.3.4 Stakeholders' views on the draft determination

Stakeholder submissions on the draft rule determination made no comment on confidentiality and privacy issues associated with this rule change proposal.⁶⁴

5.3.5 Commission analysis and conclusion

In the draft determination, the Commission noted the concerns raised by stakeholders in the first round of submissions with regards to consumer protection. It acknowledged that consumer protections are important to safeguard consumers against the misuse of confidential and private information. In this respect, the Commission noted that NMI Standing Data is classified as 'confidential information' under the NER.⁶⁵ This means that registered participants are subject to confidentiality obligations when handling and providing access to this information.⁶⁶ The Commission also noted that AEMO is subject to obligations for the protection of confidential information under provisions in the NEL.

The Commission understands that under current arrangements for accessing NMI Standing Data, AEMO's procedures require retailers to obtain 'explicit informed consent'⁶⁷ from consumers in order to access NMI Standing Data.

In the first round of submissions, some stakeholders were concerned that retailers (and/or their service providers) would use information contained in NMI Standing

⁶³ The Consumer Action Law Centre, Consumer Action, submission, 26 April 2013, pp.2-3.

⁶⁴ Issues raised in submissions received on the second round of consultation are summarised in Appendix A.2.

⁶⁵ Rule 7.10 of the NER.

⁶⁶ Clause 8.6.1 of the NER.

⁶⁷ Explicit informed consent is not defined in the NER, however it is defined in the National Energy Retail Rules.

Data to target consumers.⁶⁸ The Commission has been informed by some retailers that retailers do not use NMI Standing Data to target customers when marketing. Rather they use information such as demographic data at the postcode level to plan their marketing strategies. The Commission notes that MSATS does not retain this type of data.

In the draft determination, the Commission also noted that some information contained in NMI Standing Data may be considered as personal information under the privacy legislation. The address field in the NMI Standing Data, while not information 'about an individual', can be used with other information to identify an individual. However, it is likely that a retailer would already have obtained this information from the customer prior to initiating NMI discovery.

The Commission considers that retailers should be subject to privacy legislation in accessing and using NMI Standing Data. Therefore, the rule as made entitles retailers to NMI Standing Data subject to anything that may be required or otherwise necessary under any applicable privacy legislation (including if appropriate making relevant disclosures or obtaining relevant consent(s)). The Commission does not consider it appropriate for specific provisions to be included in the NER that would require retailers to obtain consent from consumers in order to access NMI Standing Data provided that retailers are required to comply with any applicable privacy legislation before accessing the data. This is because consumer consent requirements for collection and disclosure of personal information are contained within privacy legislation.

The Commission considers that the benefits of this approach are that:

- to the extent that NMI Standing Data is 'personal information', retailers will be required to comply with privacy legislation;
- there is limited implementation costs on retailers as they should already have processes in place that enables them to comply with privacy laws and the NER's confidentiality obligations; and
- if privacy law changes, then the NER provisions would still be relevant.

The rule as made is also consistent with the provisions under which distribution network service providers (DNSPs) treat NMI Standing Data. That is, in providing NMI Standing Data to AEMO under clause 3.13.12(f) of the NER, DNSPs are to ensure that they meet any relevant requirements under privacy legislation.

The rule as made also makes amendment to rule 7.10 of the NER that clarifies that information included under a scheme for an NMI Standing Data schedule as referred to in clause 3.13.12A of the NER, is classified as 'confidential information' under the NER. The Commission considers that this amendment is required for clarity and improving transparency and consistency in the NER with regards to confidential information.

⁶⁸ Networks NSW, submission, 22 April 2013, pp.2-3.

The Commission's consideration on confidentiality concerns with respect to retailers' service providers is discussed in chapter 6.

6 Service providers accessing NMI Standing Data

This chapter discusses service providers accessing NMI Standing Data. It outlines the current arrangements for service providers to access NMI Standing Data, the proponent's and stakeholders' view on formalising these arrangements in the proposed rule change and the Commission's analysis and conclusion. The Commission notes that access to NMI Standing Data by third parties acting on their own behalf or on behalf of consumers will be addressed in a separate rule change on third party access to data arising from the AEMC's PoC review.

6.1 Current arrangements

It is standard practice for businesses to use service providers including contractors and agents. This is the case for retailers and other registered participants, who often use contractors and service providers in the delivery of electricity services to consumers. These commercial arrangements are made on a contractual basis outside the NER and do not affect the responsibility of the retailer to meet its obligations under the NER.

6.2 Rule proponent's view

As outlined in chapters 1 and 5, EA is concerned that the existing provisions in the NER are ambiguous and may be inconsistent regarding retailers' (and their authorised service providers') ability to access NMI Standing Data.⁶⁹ EA indicated that the AER's compliance bulletin has resulted in industry uncertainty in whether retailers' authorised service providers are able to undertake certain activities/services under contract on behalf of a retailer.

EA submitted that it is common industry practice for retailers to engage service providers to market to customers, and as part of that engagement provide access to MSATS for the purposes of conducting NMI discoveries to enable accurate quoting to customers. This practice is particularly critical in Victoria where the number of available network tariffs will increase with the introduction of flexible pricing under the Advanced Meter Infrastructure (AMI) program. EA submitted that there will be greater reliance on access to MSATS in order for retailers and their service providers to provide accurate pricing as other jurisdictions move to roll out AMI tariffs.⁷⁰

EA also submitted that it is widespread industry practice for retailers to engage service providers to provide back office functions, which may require access to MSATS. It submitted that it is critical for such retailers to be able to maintain MSATS access for their contracted back office providers for effective operation of their businesses and providing services to their customers.⁷¹

⁶⁹ EnergyAustralia rule change request to the AEMC, EA, 15 November 2012.

⁷⁰ EnergyAustralia rule change request to the AEMC, EA, 15 November 2012, p.2.

⁷¹ EnergyAustralia rule change request to the AEMC, EA, 15 November 2012, p.3.

EA noted that until the AER's compliance bulletin it was assumed that the lack of an express provision preventing MSATS access to retailers' service providers, coupled with provisions in AEMO's MSATS introduction guide implied approval for retailers' service providers to access MSATS. It submitted that based on this understanding, the practice of providing MSATS access to service providers under strict compliance undertakings has become common place and underpins the business model of many retailers.⁷²

EA further submitted that as its rule change proposal seeks to reinforce the existing industry practice of using authorised service providers, the overwhelming benefit of the proposed rule change comes in the form of avoided costs arising from retailers changing their business models resulting from the AER's interpretation of the NER. It submitted that should the proposed rule change be rejected then this will have a detrimental impact on competition and choice in the market as a result of consumers being unable to access relevant information.⁷³

6.3 Stakeholders' views on the consultation paper

Retailer submissions to the consultation paper were supportive of the proposed amendments to the NER that will provide clarity and certainty for retailers' service providers accessing NMI Standing Data.⁷⁴ This is particularly where the retailers' business models rely on using authorised service providers for the delivery of efficient energy services to consumers. Retailers submitted that through their contractual arrangements with their authorised service providers they are able to assume the compliance risks associated with any misconduct on the part of the third party. As such, retailers argued because they are liable for any breaches of confidentiality,⁷⁵ it will always be in their interests to mitigate to the extent possible those risks through their commercial arrangements with these third parties and to actively monitor the third parties compliance with the retailers' obligations.⁷⁶

Several stakeholders raised concerns with regards to third party access and consumer protection. The Consumer Action Law Centre (Consumer Action) was particularly concerned that third parties entering the marketplace would not be required to abide by energy consumer protections, such as the NECF. It submitted that without direct obligations to do so, the misuse or misrepresentation of data by third parties may be much more difficult to address. Consumer Action recommended that the AEMC: should consider the practical difficulties associated with ensuring third parties acting

⁷² EnergyAustralia rule change request to the AEMC, EA, 15 November 2012, p.3.

⁷³ EnergyAustralia rule change request to the AEMC, EA, 15 November 2012, p.4.

⁷⁴ AGL, submission, 24 April 2013, p.1; Alinta Energy, submission, 26 April 2013, pp.1-2; Australian Power & Gas, submission, 24 April 2013, p.1; Energy Retailers Association of Australia, ERAA, submission, 26 April 2013, p.1; Lumo Energy, submission, 26 April 2013, p.1; Momentum Energy, submission, 26 April 2013, p.1; Origin Energy, submission, 26 April 2013, p.1; Red Energy, submission, 26 April 2013, p.1; and Simply Energy, submission, 26 April 2013, p.1.

⁷⁵ Under the NECF, the NER and the Australian Consumer Law.

⁷⁶ Issues raised in submissions received on the first round of consultation are summarised in Appendix A.1. raised in submissions are summarised in Appendix A.1.

on behalf of retailers comply with energy market rules; and before proceeding with this rule change, it should consider amending the NECF so that it governs third parties providing energy services.⁷⁷

Networks NSW submitted that third parties accessing NMI Standing Data should be appropriately authorised (such as by explicit informed consent of the customer), accredited and registered with AEMO and that sufficient safeguards relating to both confidentiality and privacy are established.⁷⁸

Bid Energy submitted that the AEMC should consider extending the scope of the proposed rule change to include consumer third party service providers. It considers that providing NMI Standing Data access to such parties would simplify existing processes whereby these parties currently source customer data from individual retailers and distributors.⁷⁹

In its submission, United Energy suggested that the exceptions in the NER that apply to the treatment of confidential information by registered participants be extended to cover service providers of the registered participant. This, it considers would avoid doubt and ensure consistency with AEMO's MSATS introduction guideline.⁸⁰

6.4 Stakeholders' views on the draft determination

While stakeholder submissions on the draft rule determination were generally supportive of the intent of the draft rule, they raised a number of concerns with the draft rule with respect to service providers accessing NMI Standing Data.⁸¹ These concerns are outlined below.

6.4.1 Retailer service providers' ability to directly access NMI Standing Data

Stakeholders were concerned that the draft rule amendment to clause 8.6.2 of the NER which authorised retailers to disclose NMI Standing Data to their service providers, could be interpreted to mean that retailers' service providers would not have direct access to NMI Standing Data. They submitted that this would result in retailers having to access the information then disclosing it to their service providers. That is, the retailer would act as a 'middle man' to pass on the extracted data to their service providers. It was argued that this interpretation would not be consistent with current practices nor the intent of the draft rule. In order to address this concern, stakeholders suggested an alternative amendment to the draft rule that would allow the use,

⁷⁷ The Consumer Action Law Centre, Consumer Action, submission, 26 April 2013, p.3.

⁷⁸ Networks NSW, submission, 22 April 2013, p.5.

⁷⁹ Bid Energy, submission, 16 March 2013, p.1.

⁸⁰ United Energy, submission, 26 April 2013, p.3.

⁸¹ Issues raised in submissions received on the second round of consultation are summarised in Appendix A.2.

disclosure and reproduction of relevant confidential information by service providers.⁸²

Two stakeholders sought clarification on whether MSATS login information is permitted to be disclosed and provided to retailers' service providers under the proposed rule.⁸³

6.4.2 Inclusion of all relevant information

Stakeholders submitted that the draft rule amendment to clause 8.6.2 should be extended to include all relevant confidential information that a service provider of a registered participant may require for the purposes of providing services in connection with the supply or sale of electricity to end users.⁸⁴

It was argued that the proposed rule would limit retailers' service providers to only accessing NMI Standing Data rather than accessing all relevant information. By doing so, it was argued that service providers would be unable to resolve many simple billing enquiries as they would be unable to access the metering data of the retailer's customers.⁸⁵

United Energy submitted that the disclosure of information and the provision of advice referred to in clause 8.6.2(b) relates to all types of confidential information including business to business (B2B) data,⁸⁶ meter register and metering/energy data.⁸⁷

In order to address this concern, stakeholders suggested an alternative amendment to the draft rule that would include disclose and access to all relevant confidential information by service providers.⁸⁸

⁸² AGL, submission, 19 September 2013, p.1; Alinta Energy, submission, 19 September 2013, p.1; EnergyAustralia, EA, submission, 19 September 2013, p.2; Energy Retailers Association of Australia, ERAA, submission, 19 September 2013, p.2; Momentum Energy, submission, 19 September 2013, p.1; and Simply Energy, submission, 19 September 2013, p.1.

⁸³ Alinta Energy, submission, 19 September 2013, p.2; and Energy Action, submission, 19 September 2013, p.2.

⁸⁴ AGL, submission, 19 September 2013, p.1; EnergyAustralia, EA, submission, 19 September 2013, pp.1-2; Energy Retailers Association of Australia, ERAA, submission, 19 September 2013, p.1; Lumo Energy, submission, 19 September 2013, p.1; Momentum Energy, submission, 19 September 2013, p.1; Origin Energy, submission, 19 September 2013, p.1; Simply Energy, submission, 19 September 2013, p.1; and United Energy, submission, 19 September 2013, p.1.

⁸⁵ AGL, submission, 19 September 2013, p.1; EnergyAustralia, EA, submission, 19 September 2013, p.1; Energy Retailers Association of Australia, ERAA, submission, 19 September 2013, p.1; and Simply Energy, submission, 19 September 2013, p.1;

⁸⁶ Data relating to an end-user or the supply to an end-user that is communicated between local retailers, market customers and distribution network service providers (Chapter 10 of the NER).

⁸⁷ United Energy, submission, 19 September 2013, p.1.

⁸⁸ AGL, submission, 19 September 2013, p.1; EnergyAustralia, EA, submission, 19 September 2013, p.2; Energy Retailers Association of Australia, ERAA, submission, 19 September 2013, p.2; Simply Energy, submission, 19 September 2013, p.1; and United Energy, submission, 19 September 2013, p.2.

6.4.3 Service providers of all registered participants

Some stakeholders submitted that service providers of all registered participants should be included in the proposed amendment to clause 8.6.2. They argued that it is standard industry practice for businesses to use service providers to provide for the delivery of electricity network or supply services to end users.⁸⁹ United Energy considered that service providers of registered participants (including local network service providers (LNSPs) require access to information that would assist them in the provision of these services.⁹⁰

United Energy considered that to better deal with the uncertainty created by the AER's compliance bulletin, the confidentiality provisions should relate to service providers of all registered participants. It argued that to do otherwise would create significant uncertainty and additional costs to consumers.⁹¹

In order to address this concern, stakeholders suggested an alternative amendment to the draft rule that would allow disclosure and access to confidential information by service providers of all registered participants.⁹²

6.5 Commission analysis and conclusion

6.5.1 Actions of service providers

As, noted in chapter 5, the Commission considers that access to certain information is a key condition for facilitating efficient electricity market outcomes. Hence, regulatory frameworks should provide transparency and certainty of the conditions that apply for accessing information and the type of information that can be accessed. This is so that parties are able to undertake their relevant market functions and provide the appropriate services on behalf of consumers. Clarity of the NER provisions and obligations also ensures that any unnecessary compliance risks and costs to parties are avoided.

It is common industry practice for retailers to use authorised service providers for the delivery of electricity services to consumers. In performing these functions, the retailer's service provider is acting on behalf of the retailer under contract to fulfil certain of the retailer's market obligations in the sale and supply of electricity. It is under these circumstances that the retailer's service provider requires access to NMI Standing Data to facilitate customer acquisition, transfer and billing activities.

⁸⁹ EnergyAustralia, EA, submission, 19 September 2013, p.2; and United Energy, submission, 19 September 2013, p.1

⁹⁰ United Energy, submission, 19 September 2013, p.1.

⁹¹ United Energy, submission, 19 September 2013, pp.1-2.

⁹² AGL, submission, 19 September 2013, p.1; EnergyAustralia, EA, submission, 19 September 2013, p.2; Energy Retailers Association of Australia, ERAA, submission, 19 September 2013, p.2; Momentum Energy, submission, 19 September 2013, p.1; Simply Energy, submission, 19 September 2013, p.1; and United Energy, submission, 19 September 2013, p.2.

6.5.2 Amendments to the confidentiality provisions

As discussed in chapter 5, information related to NMI Standing Data is classified as confidential information under the NER.⁹³ This means that registered participants are subject to confidentiality obligations when handling and providing access to this information.⁹⁴ In the draft rule determination, the Commission noted that the AER considered that retailers by providing their service providers with passwords to MSATS and thereby access to NMI Standing Data may not be complying with their confidentiality obligations under the NER.⁹⁵

The Commission also noted that under the current provisions of the NER registered participants are subject to confidentiality obligations when handling and providing access to information that is classified as confidential under the NER.⁹⁶ There are also provisions in the NER that provide exceptions to these confidentiality obligations that allow disclosure of confidential information to third parties.⁹⁷ This includes disclosure of confidential information to an employee and advisers (including legal, other professional, auditor and other consultants) of a registered participant.⁹⁸

The Commission considered that the current exception provisions under clause 8.6.2(b) of the NER, would not allow retailers to disclose NMI Standing Data to their service providers in connection with the sale of electricity. The Commission did not consider that a service provider in providing these services is providing 'advice' to the retailer which is a condition of disclosure under the exemption in clause 8.6.2(b) of the NER. In addition, retailers who are not the FRMP are unlikely to have contracts in place with the providers of that information under which the provider consents to the disclosure of that information allowing them to disclose under clause 8.6.2(c) of the NER.

However, for the reasons discussed above, the Commission considers that it would be appropriate to authorise retailers to disclose NMI Standing Data to service providers. The rule as made inserts a new clause 8.6.2(b1) which adds an exemption to the confidentiality obligations under the NER that allows retailers to disclose NMI Standing Data to their service providers or the means to directly access that information. The rule as made also makes minor amendment to clause 8.6.3 of the NER as a consequence of the insertion of clause 8.6.2(b1).

By allowing retailers to disclose NMI Standing Data to their service providers, the Commission considers that the compliance risk faced by retailers in relation to the AER's compliance bulletin should be removed. It will also mean that retailers will not be required to change their business model in order to comply with the NER, and

⁹³ Rule 7.10 of the NER.

⁹⁴ Clause 8.6.1 of the NER.

⁹⁵ AER, 2012, Compliance Bulletin No. 8: Confidentiality requirements for energy, metering and NMI Standing Data, p.9.

⁹⁶ Clause 8.6.1 of the NER.

⁹⁷ Clause 8.6.2 of the NER.

⁹⁸ Clause 8.6.2(b) of the NER.

therefore will avoid any associated costs which would ultimately be passed onto the consumer.

In response to Bid Energy's suggestion that the scope of the rule change should be extended to include consumer third party service providers, the Commission notes that this matter is subject to the broader energy market reform proposal. The Commission also notes this issue will be considered in the upcoming rule change request regarding amendments to the NER for consumer (and their service providers) access to energy and metering (consumption) data⁹⁹ and the proposed SCER consideration of a framework governing non-retailers and regulated network services who provide energy services to residential and small business consumers.¹⁰⁰

6.5.3 Service providers' ability to directly access NMI Standing Data

In response to stakeholders concerns that the draft rule was unclear, the Commission has decided to make further amendment to the new clause 8.6.2(b1). Stakeholders were concerned that the draft rule could be interpreted in such a way that would not allow for retailers' service providers to directly access NMI Standing Data.

The intention of the Commission when making draft rule was that retailers would be able to disclose NMI Standing Data to their service providers either by giving them the data or the means to obtain the data. The rule as made clarifies that retailers will be permitted to disclose to their service providers NMI Standing Data or the means to directly gain electronic access to that data. The practical effect of this is that retailers will be able to provide direct access to NMI Standing Data to their service providers in accordance with any requirements under AEMO's MSATS procedures, in connection with the retailers' sale of electricity to consumers.

6.5.4 Inclusion of all relevant information

In response to stakeholder submissions with regards to the inclusion of all relevant information in clause 8.6.2(b1), the Commission considers that this issue is beyond the scope of the this rule change.

The Commission notes this rule change has considered the issue of retailers and their service providers accessing NMI Standing Data. Problems regarding access to other information were not identified in the rule change request.

With respect to stakeholders concerns that the draft rule did not allow service providers to access customers' information for the purposes of ongoing customer management, the Commission notes that in such a circumstance the retailer is the FRMP and has a contractual relationship with the customer. The Commission notes that in these circumstances where there is a contractual relationship between a retailer

⁹⁹ Australian Energy Market Commission, Power of Choice review - giving consumers options in the way they use electricity, final report, AEMC, 30 November 2012, Chapter 3.

¹⁰⁰ Australian Energy Market Commission, Power of Choice review - giving consumers options in the way they use electricity, final report, AEMC, 30 November 2012, pp.39-46.

(the FRMP) and a customer, under the sale of energy contract, the contract should permit the disclosure of information to the retailer's service provider. For example, the model terms and conditions for standard retail contracts in the National Energy Retail Rules (NERR), contemplates that service providers may perform retailers' obligations under the contract.¹⁰¹

The Commission considers that the rule as made addresses how a retailer can get access to the NMI Standing Data that it needs to gain a customer. Once a retailer is in a contractual relationship with a customer, it will be able to disclose confidential information to its service providers provided it has the consent of the persons who provided the relevant information (for example, the LNSP, the Metering Data Provider and the customer). Under clause 8.6.2(c) of the NER, a registered participant can disclose confidential information if the person that provided the information consents to the disclosure.

6.5.5 Service providers of all registered participants

In response to United Energy and EnergyAustralia's views with regards to providing exemption to service providers of all registered participants in clause 8.6.2(b1), the Commission considers that this issue is beyond the scope of this rule change.

The Commission notes that EA's rule change request sought to address the issue of retailers and their service providers accessing NMI Standing Data. That is, the problem that was sought to be addressed was retailers and their service providers accessing NMI Standing Data for the purposes of customer acquisition activities. The problem identified was not service providers of all registered participants accessing confidential information.

The Commission considers that clause 8.6.2(c) of the NER should permit LNSPs to disclose information to their service providers because, in most cases, the LNSPs will have provided the data under the rules. Under the rules, LNSPs are responsible for allocating a NMI to each connection point.¹⁰² Also, under AEMO's MSATS procedures LNSPs are responsible for providing and updating NMI Standing Data as well as correcting the data for any erroneous errors and verifying the data.¹⁰³

The Commission notes that it is a different situation for service providers of retailers who are not the FRMP of a customer, where the NMI Standing Data for that customer has not been provided by the retailer and the retailer may not have a contractual relationship with the provider of that information. In this case, the retailer requires a specific exemption from the confidentiality provisions in order for them to disclose NMI Standing Data to its service provider.

¹⁰¹ Clause 23.1, Schedule 1 of the NERR.

¹⁰² Clause 7.3.1(e) of the NER.

¹⁰³ AEMO, MSATS procedures: CATS procedure principles and obligations, version 3.7, 15 May 2013, pp.26-27 & 177.

In discussions with the Commission, United Energy has raised a separate issue of a service provider of an LNSP requiring access to a customer's metering data that has been provided by a Metering Data Provider (MDP) who is not the LNSP, for the purposes of network billing. In this case, the MDP can choose to disclose information under the rules because it has provided the information (that is, the metering data).¹⁰⁴

The Commission considers that this is a separate issue to the issues raised in the rule change request, because it relates to metering data rather than NMI Standing Data. For this reason the Commission considers that this issue is beyond the scope of this rule change.

¹⁰⁴ Clause 8.6.2(c) of the NER.

Abbreviations

ACL	Australian Consumer Law
AEMO	Australian Energy Market Operator
AEMC	Australian Energy Market Commission
AER	Australian Energy Regulator
B2B	Business to Business
CATS	Consumer Administration and Transfer Solution
Commission	See AEMC
DNSP	distribution network service provider
DSP	demand side participation
EA	EnergyAustralia
FRMP	financially responsible market participant
LNSP	local network service provider
MDM	Metering Data Management System
MDP	metering data provider
MSATS	Market Settlement and Transfer Solution
NECF	National Energy Customer Framework
NEL	National Electricity Law
NEM	National Energy Market
NEO	National Electricity Objective
NER	National Electricity Rules
NERL	National Energy Retail Law
NERR	National Energy Retail Rules
NMI	National Metering Identifier

PoC	Power of Choice
RoLR	Retailer of Last Resort
SCER	Standing Council on Energy and Resources
WIGS	Wholesale, Interconnectors, Generator and Sample

A Summary of issues raised in submissions

A.1 First round of consultation

Stakeholder	Issue	AEMC Response
AGL	<p>AGL supports the rule change proposal. It considered that amendment to the rules will promote clarity and enable retailer service providers to access NMI Standing Data. This is for the purposes of customer acquisition, billing, settlements, and customer transfers. It noted that as part of normal business practices, retailers may engage a range of third party service providers to conduct and complete sales processes.</p> <p>AGL submitted that if access was removed it may have a major impact on retailers' sales process. NMI Standing Data is used to ensure that a retailer can efficient quote a customer with correct rate and correct terms and conditions. It considered that for quoting purposes, at a minimum access to NMI Standing Data and the relevant data elements is required. This is because there is a need to verify customers NMI Standing Data to correctly identify a customer's address and NMI to ensure transfers and consumer is linked to the correct premises.</p> <p>AGL noted that were access to NMI Standing Data was to be removed, there would likely to be an increase in erroneous transfers and misquoting of customers parallel with an increase in customer and ombudsman complaints.</p>	<p>The Commission noted AGL's support for the proposed rule change.</p> <p>The Commission considered that the rule as made will provide clarity in the NER with respect to the ability of retailers and their service providers to obtain NMI Standing Data.</p>
Alinta Energy	<p>Alinta Energy (Alinta) supports the rule change proposal. It supported the need to address any ambiguity that exists within the NER around access to NMI Standing Data.</p> <p>Alinta submitted that it has in place contractual arrangements with a leading energy industry outsourced service provider who provides a number of</p>	<p>The Commission noted Alinta's support for the proposed rule change.</p> <p>The Commission considered that the rule as made will provide clarity in the NER with respect to the ability of retailers and their service</p>

Stakeholder	Issue	AEMC Response
	<p>generally required retail services. It noted that while service providers of retailers are not directly licensed or authorised under regulatory frameworks, their conduct is still subject to the same standards and requirements as prescribed in jurisdictional customer protection regulations, the Australian Consumer Law (ACL) and potentially the National Energy Customer Framework (NECF). This requirement is based on the legal principle of agency, which prescribes that a principal will be liable for the actions of its service provider as long as the service provider acts within the scope of the agency agreement.</p> <p>Alinta noted the recommendations of the Power of choice review and considered that the success of a number of customer choice energy efficiency programs hinge on the ability of service providers ability to access consumer data, including NMI Standing Data.</p>	<p>providers to obtain NMI Standing Data.</p> <p>The Commission noted Alinta's views on the legal principle of agency that retailers are liable for actions undertaken by their service providers.</p> <p>With respect to consumer protection, the Commission considered that the rule as made addresses this issue by making access to NMI Standing Data by retailers subject to the requirements of any applicable privacy legislation.</p>
Australian Power & Gas	<p>Australian Power & Gas (APG) supports the rule change proposal. It considered that the rule change proposal is consistent with the NEO as it will create regulatory certainty for market participants. This is important as the NER informs stakeholders of their rights and compliance obligations and effects the commercial decisions made by market participants. It also submitted that the rule change proposal contributes to the NEO with respect to price by ensuring that retailers are not required to make significant changes to their existing business models to maintain the same level of service provided to consumers at present. Loss of a retailer resulting from financial instability caused by changes to their existing business model, or the imposition of significant costs would have a damaging effect on market competition and electricity prices.</p> <p>APG submitted that for the minimum information required for retailers to fulfil their market responsibilities in relation to sale and supply of electricity, they require access to the data contained in NMI Standing Data and otherwise provided through MSATS. A retailer requires information in relation to the applicable network tariff to accurately bill a customer, and engage with the customer on potential tariff changes. Further, to comply with their obligations on the classification of customers based on consumption bands, retailers are</p>	<p>The Commission noted APG's support for the proposed rule change.</p> <p>The Commission considered that the rule as made will provide clarity in the NER with respect to the ability of retailers and their service providers to obtain NMI Standing Data.</p> <p>The Commission noted APG's views on the legal principle of agency that retailers are liable for actions undertaken by their service providers.</p> <p>With respect to consumer protection, the Commission considered that the rule as made addresses this issue by making access to NMI Standing Data by retailers subject to the requirements of any applicable privacy legislation.</p>

Stakeholder	Issue	AEMC Response
	<p>required to have access to this information both at the acquisition stage and during the life of a consumer's contract. Physical location and other information about a metering installation is required for a retailer to engage with a consumer on upgrades to an installation (through the distributor) or a change of supplier. Other uses of this information include transfer and network settlement processes.</p> <p>APG submitted that in undertaking consumer acquisitions, retailers access NMI Standing Data to ensure that the customer meter is correctly identified and to avoid errors of transfer, incorrect quoting of offers and errors in future billing.</p> <p>APG considered that the current wording in the NER is ambiguous and should be clarified to more accurately reflect what retailers consider is the policy intent of rule 7.7(a). It believes that the policy intent is that retailers with a possible future financial interest in the NMI should be able to, through the NMI discovery process, access the NMI Standing Data for the purposes of quoting. This is a clear reference to clause 3.13.12 which contemplates access through the NMI Standing Data schedule.</p> <p>With respect to consumer protection, APG submitted that third party providers are independently required under privacy laws and confidentiality agreements with their respective retailers to maintain the confidentiality of customer data, including MNI Standing Data. It noted that retailers are liable for any breaches under the NECF, the NER, the (ACL) and jurisdictional laws and regulations. It submitted that retailers assume compliance risk and liabilities that may eventuate through improper actions by contracted third party service providers.</p> <p>APG considered that the AER's compliance bulletin highlighted that there are possible contrary interpretations of the rules and accordingly the NER should be amended to create certainty.</p>	
Bid Energy	Bid Energy does not support the rule change proposal. Bid Energy considered that the proposed rule change be extended to include any customer appointed service provider and not be solely directed to providing access to retailers'	The Commission noted the issues raised by Bid Energy. The issue of consumer authorised service providers and access to data will be

Stakeholder	Issue	AEMC Response
	<p>service providers. In addition it considered that any such access must have the explicit informed consent of the customer.</p> <p>Bid Energy noted that the same information that is required by retailers is also required by consumer service providers for them to be able to source accurate contract offers from retailers. It highlighted the responses it has had from industry participants in order to illustrate how difficult it is to obtain information on customer data.</p> <p>Bid Energy considered that customer service providers should be provided access to NMI Standing Data in order to simplify and standardise data collection on behalf of consumers. It submitted that the proposed rule change should be amended to support customer or customer appointed third party access to MSATS creating a standard process for all interested parties rather than a special process for some retailers.</p>	<p>considered under the SCER Power of Choice review rule change request and the proposed SCER consideration of a framework governing non-retailers and regulated network services who provide energy services to residential and small business consumers.</p> <p>With respect to consumer protection, the Commission considered that the rule as made addresses this issue by making access to NMI Standing Data by retailers subject to the requirements of any applicable privacy legislation.</p>
Consumer Action Law Centre	<p>The Consumer Action Law Centre (Consumer Action) does not support the rule change proposal. Consumer Action was concerned that some aspects of energy market reform are proceeding without the consumer protections required to ensure the efficacy of those reforms. It considered that the consumer protections that apply to third parties are not on a par with those that apply to registered market participants such as retailers.</p> <p>Consumer Action submitted that it is essential it is made clear what role retailer service providers will play in the market, what reason they or the non-financially responsible retailer will need this information (or any other information) to fulfil their function and that it is in long-term interests of consumers.</p> <p>Consumer Action noted that under the National Energy Retail Law and the Energy Retail Code in Victoria, any service provider operating on the retailer's behalf must abide by the regulations and that ultimately the retailer is responsible for the relationship with the customer. Despite this, Consumer Action was concerned about both the incentives on third parties to comply with consumer protections, and the ability of retailers to ensure its third parties</p>	<p>The Commission noted the concerns raised by Consumer Action with respect to consumer protection. The Commission considered that the rule as made addresses these concerns by making access to NMI Standing Data subject to the requirements of any applicable privacy legislation.</p> <p>With respect to Consumer Action's recommendation of the AEMC amending the NECF, the Commission considered that this is beyond the scope of this rule change. The Commission noted that the proposed SCER consideration of a framework that governs non-retailers and regulated network services who provide energy services to residential and small business consumers.</p>

Stakeholder	Issue	AEMC Response
	<p>comply with those protections (that is, as evidenced by door-to-door marketing).</p> <p>It recommended that any party accessing data from the NMI be subject to the full suite of consumer protections available under energy specific legislation. That is, the AEMC should proceed with amending the NECF so that it governs third parties providing energy services before proceeding with this rule change.</p>	
EnergyAustralia	<p>EnergyAustralia (EA) made a submission in support of its rule change proposal. EA submitted that the development and maintenance of a set of rules which appropriately balance consumer protections with flexibility to allow industry to innovate and operate under the most efficient arrangements is pivotal in delivering optimal outcomes to consumers. It considered that prior to the AER's compliance bulletin, the relationships that had developed under the rules were evidence that this balance had been appropriately struck. EA also considered that if the processes that underpin these arrangements are prohibited, then the costs resulting from the requirement of retailers to in-source all sales activities or find alternative solutions will be passed on to the consumer.</p> <p>EA submitted that retailers use NMI Standing Data at various stages of the customer life cycle. EA noted that initially a retailer (or their service provider) will require sufficient information to determine a prospective customer's connection characteristics and network tariff in order to provide them with an appropriate quote. Following the initial contact with the customer, retailers require ongoing access to NMI Standing Data for the purposes on registration of customers and ongoing management (dealing with network tariff changes, connection of distributed generation etc) and potentially for dispute resolution. EA submitted that the entire suite of information currently available provides a complete snapshot of the metering installation and reduces the potential for user error and increases speed and efficiency in searching for relevant data.</p> <p>With regards retailer service providers, EA submitted that there is range of activities that retailers outsource to service providers. It considered that any alternative mechanism to allow retailer service providers access to NMI Standing Data would essentially equate to retailers having to replicate the</p>	<p>The Commission noted the comments made by EA.</p> <p>The Commission considered that the rule as made will provide clarity in the NER with respect to the ability of retailers and their service providers to obtain NMI Standing Data. It also considered that the rule as made will provide certainty to retailers and should allow retailers to avoid compliance risk and associated costs of changing their business model.</p> <p>The Commission noted EA's views on the legal principle of agency that retailers are liable for actions undertaken by their service providers.</p>

Stakeholder	Issue	AEMC Response
	<p>relevant aspect of MSATS which would be of considerable cost to industry.</p> <p>EA noted that the concept of agent and principle is widely recognised across many markets and institutions, not just the energy industry. It submitted that many businesses will outsource aspects of their operations that may or may not be core business to third parties that are able to perform these functions more efficiently. These arrangements are generally governed by contracts which penalise the agent for poor or non-compliant performance. Given existing arrangements and protections, EA does not consider that retailer agents should face additional obligations.</p> <p>EA also submitted that retailers bear the risk of enforcement action if their service providers are found to be acting improperly. In contracting with agents to undertake activities requiring access to NMI Standing Data, EA considered that it was liable for any compliance breaches by its service provider.</p> <p>EA also considered that contracting out of customer acquisition or related activities to organisations with specialist skills provides considerable benefits in terms of efficiency and the standard or service provided to customers which outweigh the potential for issues arising from the AER's inability to directly enforce regulatory requirements on retailers' service providers.</p>	
Energy Retailers Association of Australia	<p>Energy Retailers Association of Australia (ERAA) supports the rule change proposal. ERAA submitted that proposed rule will provide clarity on access to NMI Standing Data and allow industry and consumers to continue to benefit from the efficiencies of current practices.</p> <p>ERAA submitted that it does not consider that the AER's interpretation of rule 7.7(a) of the NER is consistent with the intent of the rules. It supports the interpretation of its members that third parties are able to access NMI Standing Data if they are a service provider of a registered participant.</p> <p>ERAA noted that retailers as registered participants are liable for breaches under the NECF or jurisdictional consumer protection schemes, whereas third</p>	<p>The Commission noted the ERAA's support for the proposed rule change.</p> <p>The Commission considered that the rule as made will provide clarity in the NER with respect to the ability of retailers and their service providers to obtain NMI Standing Data.</p> <p>The Commission noted ERAA's views on the legal principle of agency that retailers are liable for actions undertaken by their service providers.</p>

Stakeholder	Issue	AEMC Response
	<p>parties are not. It submitted that when contracting with service providers, retailers assume the compliance risk and potential liabilities through commercial arrangements. This, ERAA submitted, provides a strong incentive for retailers to ensure that their service providers are compliant.</p>	
Lumo Energy	<p>Lumo Energy (Lumo) supports the rule change proposal. Lumo submitted that it supports a mechanism which allows service providers of a retailer to access NMI Standing Data where the appropriate contractual arrangements exist to ensure compliance.</p> <p>Lumo submitted that the key purpose of the NMI Standing Data is to confirm active metering configurations and network tariffs. This ensures that retailer's pricing offers to consumers are directly correlated to the consumer's metering configuration and network tariff. It also reduces the rate of transfer and ongoing billing errors when entering customer's details into the retailer's customer management system. Lumo submitted that NMI Standing Data ensures data validation and allows for robust quality assurance.</p> <p>Lumo considered that the existing provisions in the NER are ambiguous with regards to retailers accessing NMI Standing Data for the purposes of providing accurate quotes to consumers. It noted that the majority of retailer's general business practice is to utilise the NMI Standing Data to adequately perform the functions of a retailer. It considered that the proposed rule will remove this existing ambiguity.</p> <p>Lumo also considered that the existing regulatory regime is clear in that a service provider of a retailer is deemed to be a representative of the retailer and that the retailer by extension is unable to limit their liability.</p>	<p>The Commission noted Lumo's support for the proposed rule change.</p> <p>The Commission considered that the rule as made will provide clarity in the NER with respect to the ability of retailers and their service providers to obtain NMI Standing Data.</p> <p>The Commission noted Lumo's views on the legal principle of agency that retailers are liable for actions undertaken by their service providers.</p>
Momentum Energy	<p>Momentum Energy (Momentum) supports the rule change proposal. Momentum submitted while it does not consider the AER's interpretation of rule 7.7(a) of the NER is consistent with the intent of the rules, it nevertheless believes the proposed rule change will remove any ambiguity.</p>	<p>The Commission noted Momentum's support for the proposed rule change. The Commission considered that the rule as made will provide clarity in the NER with respect to the ability of retailers and their service providers to obtain NMI</p>

Stakeholder	Issue	AEMC Response
	<p>With regards retailer service providers, Momentum considers that it is incumbent on retailers to assure themselves that their service providers are complying with the rules and are liable for any breaches under the NECF or jurisdictional consumer protection schemes committed by their service providers.</p>	<p>Standing Data.</p> <p>The Commission noted Momentum's views on the legal principle of agency that retailers are liable for actions undertaken by their service providers.</p>
<p>Networks NSW</p>	<p>Networks NSW does not support the rule change proposal.</p> <p>Networks NSW does not consider that rule 7.7(a) and clause 3.13.12 of the NER are ambiguous with respect to the ability of retailers accessing NMI Standing Data for the purposes of providing accurate quotes to consumers.</p> <p>Networks NSW is concerned that the access and use of NMI Standing Data by unauthorised persons is likely to result in the trawling of consumers' personal information. It submitted that while access to NMI Standing Data may enable retailers to select customers and areas to target, it excludes metering data and retail tariff information which underpins customer behaviour in switching retail suppliers. Networks NSW considered that a customer's ability to choose its retail supplier is not compromised by a retail price offering and that consumers are free to choose any retail supplier irrespective of the retail offer. It submitted that while the accuracy of pricing of the retail offer is a significant concern for a retailer supplier, the customer is free to choose whether to accept or reject that retail offer irrespective of whether the offer accurately reflects the costs to a retail supplier. Networks NSW also submitted that the shifting of retail price risk from the retailer to the customer does not enhance customer choice or promote competition in the NEM.</p> <p>Networks NSW submitted that should the NER be amended to provide for third parties accessing NMI Standing Data, then these parties should be appropriately authorised (such as by explicit informed consent of the customer), accredited and registered with AEMO and that sufficient safeguards relating to both confidentiality and privacy are established.</p>	<p>The Commission noted the comments made by Networks NSW.</p> <p>The Commission considered that the rule as made will provide clarity in the NER with respect to the ability of retailers and their service providers to obtain NMI Standing Data.</p> <p>The Commission noted that metering data or other details of the consumer's consumption (such as retail tariffs) is not included in NMI Standing Data as specified under the NER.</p> <p>The Commission does not agree with Networks NSW that the retail price risk will shift from the retailer to the customer if the proposed rule change is made. Rather, the Commission considered that the customer will be in a better position to decide which retail offer is best suited to them.</p> <p>With respect to consumer protection, the Commission considered that the rule as made addresses this issue by making access to NMI Standing Data by retailers subject to the requirements of any applicable privacy</p>

Stakeholder	Issue	AEMC Response
		legislation.
Origin Energy	<p>Origin Energy (Origin) supports the rule change proposal. Origin submitted that the current NER provisions might be considered ambiguous given the AER's interpretation of the rules. It considers that the proposed rule change addresses this ambiguity. It also considers that the proposed rule change provides continued support for the existing retailer/service provider arrangements where the service provider is acting on behalf of the retailer.</p> <p>Origin also submitted that it agreed with the view that third parties acting on behalf of retailers are subject to significantly more stringent requirements with respect to privacy and data security than any third party acting independently. It does not consider that additional consumer protections and obligations should be placed on retailers or their service providers where these service providers are undertaking consumer acquisition activities on behalf of retailers. It noted that retailer service providers are already required to support consumer protection obligations when acting on behalf of retailers.</p>	<p>The Commission noted Origin's support for the proposed rule change.</p> <p>The Commission considered that the rule as made will provide clarity in the NER with respect to the ability of retailers and their service providers to obtain NMI Standing Data.</p> <p>With respect to consumer protection, the Commission considered that the rule as made addresses this issue by making access to NMI Standing Data by retailers subject to the requirements of any applicable privacy legislation.</p>
Red Energy	<p>Red Energy supports the rule change proposal. Red Energy submitted that the proposed rule change will provide clarity on the issue of access to NMI Standing Data and it will allow industry and consumers to continue to benefit from the efficiencies of current practices.</p> <p>Red Energy submitted that it supports retailers' service providers being able to access NMI Standing Data. It understands that this is common practice amongst retailers and that it is supported in principle where the action of the service provider is deemed to have been undertaken by the retailer.</p> <p>Red Energy also submitted that access to NMI Standing Data allows retailers and their service providers to provide accurate pricing information to prospective or new customers. It also allows retailers to efficiently and effectively manage customer data. It considered that removing these efficiencies would result in increased costs being passed on to consumers.</p>	<p>The Commission noted Red Energy's support for the proposed rule change.</p> <p>The Commission considered that the rule as made will provide clarity in the NER with respect to the ability of retailers and their service providers to obtain NMI Standing Data.</p> <p>The Commission noted Red Energy's views on the legal principle of agency that retailers are liable for actions undertaken by their service providers.</p>

Stakeholder	Issue	AEMC Response
	<p>Red Energy noted that retailers as registered participants are liable for breaches under the NECF or jurisdictional consumer protection schemes, whereas third parties are not. It submitted that when contracting with service providers, retailers assume the compliance risk and potential liabilities through commercial arrangements. It also submitted that retailers have commercial and legal incentives to ensure that the rules are observed.</p>	
<p>Serviceworks</p>	<p>Serviceworks supports the rule change proposal. It supports the need to address the ambiguity that exists within the NER around access to NMI Standing Data. Serviceworks considers that the proposed rule change will ensure the continuation of benefits and efficiencies are maintained with existing retailer business practices, while also ensuring ongoing compliance with confidentiality obligations.</p>	<p>The Commission noted Serviceworks' support for the proposed rule change. The Commission considered that the rule as made will provide clarity in the NER with respect to the ability of retailers and their service providers to obtain NMI Standing Data.</p>
<p>Simply Energy</p>	<p>Simply Energy supports the rule change proposal. It submitted that failure to implement the proposed rule change will have a dramatic impact on how it conducts its business. Simply Energy submitted that it would have to bring in all of the functions that are currently outsourced which would significantly increase its costs and reducing its retail competitiveness. It considered that this outcome would not be in the long term interests of consumers.</p> <p>Simply Energy noted that retailers require access to the NMI Standing Data to be able to undertake their market functions. It submitted that NMI Standing Data was formulated so that it provided the data that distributors and retailers needed to undertake their responsibilities.</p> <p>Simply Energy submitted that to win a customer from another retailer, a retailer (or its service provider) must be able to accurately quote the customer. However, pricing the supply of energy services for a customer relies on the information contained within the NMI Standing Data. For example, a retailer needs to know the type of customer they are, the network tariff the customer is on and whether they have a solar installation or controlled load requirement.</p>	<p>The Commission noted Simply Energy's support for the proposed rule change.</p> <p>The Commission considered that the rule as made will provide clarity in the NER with respect to the ability of retailers and their service providers to obtain NMI Standing Data.</p> <p>The Commission noted Simply Energy's views on the legal principle of agency that retailers are liable for actions undertaken by their service providers.</p>

Stakeholder	Issue	AEMC Response
	Simply Energy does not consider there is a need for additional consumer protections. It submitted that it confuses retailer contractual arrangements with their agents and blurs the accountability for meeting the obligations imposed by regulation. If both parties are subject to requirements under regulation it could become difficult to determine who is at fault should an incident occur, and thus who should be held accountable. There is clear and unambiguous accountability for compliance where retailers are solely responsible for the obligations under national regulation.	
United Energy	<p>United Energy supports the rule change proposal. However, United Energy considered that the proposed rule be amended to cater for registered participants more broadly than just for retailers. That is, the proposed rule 7.7(a)10 be amended so that registered participants and/or their service providers should be entitled to have access to NMI Standing Data. It submitted that as a matter of principle, a registered participant should be able to deliver the customer network and retail services in a cost effective manner while still ensuring privacy.</p> <p>United Energy also suggested that the exceptions in the NER that apply to the treatment of confidential information by registered participants be extended to cover service providers of the registered participant. This, it considers would avoid doubt and ensure consistency with AEMO's MSATS introduction guideline.</p>	<p>The Commission noted United Energy's suggested amendments to the proposed rule. The Commission considered that there is no need to make amendments that cater for registered participants more broadly than just for retailers. This is because registered participants who require access to NMI Standing Data are already captured by rule 7.7(a) of the NER.</p> <p>The Commission noted that the rule as made amends the confidentiality obligations of the NER, by adding an exception that permits retailers to disclose NMI Standing Data to their service providers.</p>

A.2 Second round of consultation

Stakeholder	Issue	AEMC response
AGL, Alinta Energy, Energy Action,	Stakeholders were concerned that the draft rule amendment to clause 8.6.2(b) of the NER, could be interpreted to mean that service providers of retailers	The Commission notes that the rule as made, clarifies that retailers will be permitted to disclose

Stakeholder	Issue	AEMC response
EnergyAustralia, Energy Retailers Association of Australia, Lumo Energy, Momentum Energy, Origin Energy, and Simply Energy	<p>would not have direct access to NMI Standing Data. This would mean that retailers would have to effectively act as a 'middle man' and pass on the extracted data to their service providers. It was argued that this interpretation would not be consistent with current practices nor the intent of the draft rule.</p> <p>Alinta Energy and Energy Action sought clarification on whether MSATS login information is permitted to be disclosed and provided to retailers' service providers under the proposed rule.</p>	to their service providers NMI Standing Data or the means to directly gain electronic access to that data. The practical effect of this is that retailers will be able to provide direct access to NMI Standing Data to their service providers in accordance with AEMO's MSATS procedures.
AGL, EnergyAustralia, Energy Retailers Association of Australia, Lumo Energy, Momentum Energy, Origin Energy, Simply Energy and United Energy	<p>Stakeholders submitted that the draft rule amendment to clause 8.6.2(b) should be extended to include all relevant confidential information that a service provider of a registered participant may require.</p> <p>It was argued that the proposed rule would limit retailers' service providers to only accessing NMI Standing Data rather than accessing all relevant information. By only accessing NMI Standing Data, service providers would be unable to resolve many simple billing enquiries as they would be unable to access the metering data of the retailer's customers.</p>	The Commission considers that this issue is beyond the scope of this rule change. The Commission's consideration of this issue is discussed in section 6.5.4 of this final determination.
EnergyAustralia and United Energy	Stakeholders submitted that service providers of all registered participants should be included in the proposed amendment to clause 8.6.2(b). It argued that it is standard industry practice for businesses to use service providers to provide for the delivery of electricity network or supply services to end users. It considered that service providers of registered participants (including local network service providers (LNSPs) require access to information that would assist them in the provision of these services.	The Commission considers that this issue is beyond the scope of this rule change. The Commission's consideration of this issue is discussed in section 6.5.5 of this final determination.

B List of NMI standing data items returned in a NMI discovery

Extracted from AEMO's 'CATS Procedure Principles and Obligations V3.7 Final Determination

Figure B.1

Table 44-C – Common NMI standing data items returned to a FRMP or LNSP in all Jurisdictions for a stage 2 search / request

MSATS Name	Description of data items returned on a successful data access request
NMI	a 10 digit national metering identifier.
TNI Code	a 4 character code representing the transmission node identifier.
DLF Code	a 4 character code representing the distribution loss factor.
NMI Classification Code	refer to clause 4.9.
Embedded Network Parent	a 10 character code representing the name of the parent for any associated embedded network.
Embedded Network Child	a 10 character code representing the name of the child for any associated embedded network.
Meter Serial Number	the meter serial number of the meter associated with the next scheduled read date and network tariff code details provided (see items below).
Next Scheduled Read Date	the next scheduled read date in date format.
Register ID	the register id of the register that the network tariff code and network tariff code additional information refers to.
Network Tariff Code	a 10 character code representing the network tariff.
Network Tariff Code Additional Information	Additional text to supplement the network tariff code if this is a complex network tariff code.
Feeder Class	A15 character long field in varchar format for logical grouping of NMIs based on the DNSPs distribution feeder.
Customer Classification Code	A code that defines the consumer class as defined in the National Energy Retail Regulations, or in over-riding jurisdictional instruments.
Customer Threshold Code	A code that defines the consumption threshold as defined in the National Energy Retail Regulations, or in over-riding jurisdictional instruments.
LNSP	an 8 character code representing the identity of the Local Network Service Provider.
MDP	an 8 character code representing the identity of the Metering Data Provider (Category D).
MPB	an 8 character code representing the identity of the Metering Provider (Category B).

MSATS Name	Description of data items returned on a successful data access request
MPC	an 8 character code representing the identity of the Metering Data Provider (Category C).
Address	This includes all address fields, which comprise DPID, flat number, flat type, floor number, floor type, house number, house number suffix, location description, lot number, street name, street suffix, street type, unstructured address1, unstructured address2, unstructured address3, postcode, locality, and state.
Jurisdiction	A 3 character code that identifies the jurisdiction in which the NMI is located.
NMI Status Code	refer to clause 4.11
Suffix	a 2 character code representing the NMI datastream.
Profile Name	a 10 character code representing the name of the profile
Metering Installation Code	refer to clause 4.12.
Average Daily Load	NUMBER (10). The electrical energy delivered through a connection point or metering point over an extended period normalised to a "per day" basis (kWh).
Meter Status	A single character code to denote the status of the meter within the NEM.
Register Status	A single character lookup code to indicate if register is active.
Stream Status Code	Code used to indicate the status of the suffix. This value must correspond to a valid Stream Status Code in the MSATS_Codes_Values_table.
Datastream Type	Indicates the type of data that the datastream will report includes interval and basic. This value must be 'I' (interval), 'C' (basic) or 'P' (profile).
Unit of Measure	VARCHAR2(5) Code to identify the Unit of Measure (UOM) for data held in this register.
Time Of Day	VARCHAR2(10) Industry developed Codes to identify the time validity of register contents.
Multiplier	NUMBER (13,5) Multiplier required to take a register value and turn it into a value representing billable energy.
Dial Format	NUMBER (4,2) Describes the register display format. First number is the number of digits to the left of the decimal place, and the second number is the number of digits to the right of the decimal place.
Controlled Load	Indicates whether the energy recorded by this register is created under a controlled load regime. Controlled Load field will have "No" if register does not relate to a controlled load, it should contain a description of the controlled load regime.
ActCumInd (Actual/Cumulative Indicator)	Actual/Subtractive Indicator. Actual implies volume of energy actually metered between two dates. Cumulative indicates two meter readings are required to determine the consumption between those two read dates. For an interval meter, ActCumInd is normally = A.
MeterRead Type	Code indicating how the meter is read. Refer to 'Standing data for MSATS' document for further details.