



6 November 2008

Dr John Tamblyn
Chairman
Australian Energy Market Commission
PO Box A2449
SYDNEY SOUTH NSW 1255

**Victorian Jurisdictional Derogation
(Advanced Metering Infrastructure Roll Out)
Draft Rule Determination**

Dear Dr Tamblyn,

This letter forms a submission by Metropolis Metering Assets in regard to aforementioned Draft Rule Determination¹, and we reference some terms contained in its glossary².

Metropolis acknowledges the stated policy positions of both the Victorian Government and the MCE with regard to accelerated smart meter deployments. We also note that the AEMC ("the commission") has acknowledged that the derogation proposal does not satisfy the conditions of section 89 of the NEL, and has provisionally accepted the proposal on the basis of it satisfying the NEO, taking note of the MCE's Statement of Policy Principles³.

The commission has made a case for why distributors should be asked to perform a large scale rollout of AMI on an exclusive monopoly basis. However a key question in this derogation decision is how allowing retailers to be *responsible person* for advanced metering infrastructure on a contestable competitive basis, puts the distributor rollout at risk. This point in particular has not been effectively made, in our view.

Our submission will cover the following:

1. To respond to the commissions findings and indicate where we believe the case for the derogation is weaker than has been represented, continuing our view that the derogation should not proceed.

¹Australian Energy Market Commission, Draft Rule Determination, National Electricity Amendment (Victorian Jurisdictional Derogation, Advanced Metering Infrastructure Roll Out) Rule 2008, 25th September 2008.

²Ibid, p v.

³MCE, Statement of Policy Principles, published 14 June 2008 (SPP)

2. Allowing for the scenario where the commission determines to proceed with the derogation, to propose some reasonable exclusions to distributor exclusivity that would allow retailers to be *responsible person* for AMI metering in some circumstances.
3. To make some comments regarding the impact of the Minister's letter of September 2008, where daily meter reading functionality has been delayed to 2012.
4. To respond to the commissions suggestions for streamlining the transition back to competition following the rollout, and to make some further suggestions.
5. To question the short time frame between the publication of the commission's decision and the start date of the derogation, leaving little time for the industry to adjust to these major structural changes.

We will present the proposed exclusions first, and follow up with some more detailed comments on the determination.

Proposed Exclusions to Distributor Exclusivity

The proposed derogation is being considered to facilitate a controlled meter replacement program, that is, where plans are drawn up ahead of time for replacing meters on a large scale. The commission claims that this will lead to a faster, more reliable rollout, and feels that in order to achieve this, it must therefore prevent retailers from becoming *responsible person* for AMI metering.

What this derogation fails to adequately address are cases where small customers have a legitimate reason for wanting a smart meter sooner than would be possible under the planned rollout, or where the functionality required was above that which a distributor would provide with an AMI meter. This need has become more important now that daily meter reading capability won't be available to them until 2012 under the distributor rollout.

Given that smart meter services that satisfy the current functional specifications are available now from companies such as Metropolis, with full two-way communications, and including daily meter reading capability, we see no reason why customers in need of these services should be denied them for a period of up to five years, simply because they are "small" customers.

Examples of legitimate reasons for wanting a smart meter sooner are:

- A meter upgrade is required anyway for a solar PV installation.
- It is a new connection.
- A meter panel upgrade is required.
- For a small businesses customer, a retailer may make a valid business case for the extra features.
- A project is conceived where functionality required goes beyond the standard minimum functionality, and/or which the distributor is unable to provide immediately and/or at a cost similar to the contestable market.
- Gate metering on embedded networks. Here, the consumption will grow as the embedded sites come on line, so it may start below the threshold, and then move above it.
- National Solar Schools program. Smart meters are compulsory, but most schools fall below the 160MWh threshold.
- A customer with multiple NMIs where some are above and some below the threshold, who wants a consistent service across all sites.

- A customer with sites across multiple distribution areas who wants a consistent service across all sites.

There are many other examples.

We believe the simplest way to represent this would be to exclude cases where a customer has entered into a direct agreement with a retailer for specific services that require a meter upgrade, and has agreed to any costs associated with that upgrade. The retailer may then appoint itself as RP, as the rules currently allow, to allow them to choose an alternative Meter Provider (MPB) and Meter Data Provider (MDP) who can supply those services.

To deal with these cases, we propose an amendment to the definition of “relevant metering installation” which acknowledges and excludes these cases. A simple amendment to the definition would be to indicate that it applies only:

where no direct agreement exists between the customer and the *Market Participant* that the *Market Participant* be *responsible person* for the *metering installation*.

It should be clear that this agreement can be struck after the start date. This exclusion should continue to apply where a distributor has already installed a meter. It is reasonable to assume that a customer would only agree to cover the costs of such an action where the services supplied by the distributor were inadequate.

Similar concepts regarding customer agreements are currently in place for retailer transfers. While all transfers are currently driven through MSATS, retailers must have a written form of agreement on file. What we are proposing here is similar. The retailer would need a written agreement from a customer on file before appointing themselves as RP.

While we foresee that in the event of a distributor's AMI meter being replaced via this exclusion, that exit fees are likely to apply, it should be noted that it is the customer at the metering installation who would be bearing this cost. Customers, therefore, who are unhappy with the metering service of the distributor, will be penalised for choosing a better service from a competitor.

In addition to this, retailers may from time to time have requirements of a metering installation that go beyond the minimum functionality as supplied by the distributor. If such enhanced functionality cannot be supplied by a distributor, but can be supplied by another Metering Provider, then the retailer must be able to appoint itself as RP and appoint these other service providers.

Any metering activity by retailers using such exclusions will all be ad-hoc installations (which will therefore not materially affect large scale rollout plans). And by allowing us to install appropriate smart metering now, we will be avoiding the meter having to be replaced again when the distributor passes by their area.

We would like to make clear that the cases we list above as being valid for exclusion are all cases where Metropolis is either currently engaged, or has concrete proposals on the table.

In some cases, we have been asked to provide metering solutions for projects which would otherwise not proceed at all. One project in particular [REDACTED]

[REDACTED] The most sensible solution for them is to deal with a single metering services company who can provide a consistent solution that will work [REDACTED] across the country.

If they had to work within the distribution monopoly in Victoria, they would suddenly need to be dealing with the multiplicity of distributor solutions, and this would unnecessarily

complicate the project for them. In addition, manual reading would be impossible, so where there are no communications or daily reading capability, the project is not viable. Indications are that the project would simply not proceed without a company like Metropolis to be there to simplify the implementation for them.

This derogation would prevent us from installing AMI meters in any of these [REDACTED]

In addition we have hundreds of requests for smart meters for solar installations currently in our system, and we are being constantly contacted by more installers every week with even more. Consistent feedback is that we are competitive in price with the distributors non-smart solar metering solutions, and that we provide a better service both to the installer (who doesn't have to wait around for truck visits) and for the customers (who get the benefits of web-based displays of their metering data).

It is also important to note that this derogation is designed to be temporary, and that competition is expected to resume once the rollout has completed. In order for there to be effective competition after the rollout, there must be metering companies in existence with experience with residential smart metering. It would therefore be prudent to have some exclusions so that Metropolis, and other independent MPB businesses, are able to maintain their expertise in these areas, and engage in some degree of innovation.

Suggestions For Transition Back to Competition

Given that the central argument for this derogation appears to be that:

“A Distributor Led Rollout would provide more certain and timely delivery of the mass rollout providing greater certainty that all small customers would receive AMI during the mandated period.”⁴

It is suggested that the distributors be held to the proposed rollout periods. In other words, should distributors fail to complete the rollout within the timeframe, then retailers would be able to become responsible person for sites where no AMI smart meter had yet been installed.

Companies like Metropolis will need to have the certainty that these derogation periods will not be able to be endlessly extended should the distributors fail to meet the targets for installation. Distributors should not be rewarded for being slow.

To this end, we note that the end date is part of the proposed rule change, which we support.

The commission proposes the following measures to address the disadvantages of a distributor rollout:

“Such measures could include, for example:

- Requiring metering costs to be itemised separately on customers’ bills to ensure transparency and to enable customers to compare the cost of metering services after the mandate has expired;
- Adopting an accelerated depreciation of AMI for the purposes of cost recovery in order to avoid undue delays in the transition; and
- Following expiry of the mandate, promoting an environment which will facilitate competition in the provision and operation of smart meters and related services.

⁴Draft Rule Determination p37

- For example, exit fees proposed to be charged by distributors should be limited in amount to unrecovered direct costs only. Such fees should only be imposed for a limited period after the meters have been installed.”⁵

We are particularly supportive of the idea where following the mandate “an environment which will facilitate competition in the provision and operation of smart meters and related services” is promoted. One of the key factors in this is providing regulatory certainty to the industry and the investment community. There has been far too much tinkering with the rules over the last few years, and even the suggestion that a change in the rules is being considered has a serious impact on investors, and on enterprising companies and individuals to enter the market.

The unbundling of metering services charges is crucial for this as well. Victoria (to its credit) is to date the only state that has unbundled metering service charges from general distribution charges. Other states need to take this step as well.

Metropolis agrees that exit fees should be limited, and if possible completely eliminated. In addition, where retailers are installing AMI meters within the derogation period, under one of the exclusions suggested above, that excessive exit fees are not imposed which would render any such exclusion as meaningless. It would be reasonable to even promote exclusions to exit fees where a replacement of a distributor's AMI meter was caused by the distributor being unable to meet the metering needs of the retailer or customer. This would force the distributor to think carefully about the kind of metering solutions it deployed in the first place.

Metropolis also supports such an accelerated depreciation. We feel also that there needs to be transparency in the exit fees, so that the exit fees for any site can be easily known ahead of time.

In addition, if a site has a distributor's AMI meter in place, and as part of normal meter replacement, it is replaced with a new one, then the distributor ought not be able to reset the exit fee to a high level without approval of the retailer. Given that the retailers have no choice but to accept the distributor's meter during the derogation period, once the derogation period has ended, such a practice would diminish real competition, since exit fees would not be predictable.

It ought to be possible for the full cost recovery to come from the smeared charges to customers. It should be noted that distributors will be collecting these fees from the start of the rollout (in fact, they are still collecting fees approved for the cancelled IMRO as of 1 January 2006), and as such should have already covered the installation costs by the end date of the derogation.

It is important to note that we have not seen any costings from the distributors, nor any approved charges from the ESC. Without this information, it is difficult to assess the cost model being proposed.

When assessing the exit fee structure, it should also be noted that incumbent meter providers do not pay for meter removal. When a meter is replaced, the incoming meter provider removes the old meter and is responsible for its return to its owner. The Victorian Government's Cost Recovery Order includes removal costs in its description of the structure of exit fees⁶, which it shouldn't.

⁵Draft Rule Determination p40

⁶Order in Council, Victoria Government Gazette, 28 August 2007, No S 200, Section 14 (AMI Cost Recovery Order), section 7.2(a)

The exit fee structure also includes proportions of telecommunication and IT systems, as well as “a reasonable rate of return”, which seems excessive. These measures seem incompatible with the return to competition following the term of the derogation.

Metropolis charges no exit fees when its meters are removed. Exit fees in a normal competitive market are a significant disincentive to winning customers.

It should also be noted that once competition is restored, that distributors will still be collecting the metering charges where they still have meters.

Given that the structure of the cost recovery, including exit fees, is currently in the Victorian Government's Order in Council⁷, how does the AEMC propose to ensure that such measures are put in place ? We are not aware that the AEMC has the authority to enforce any such measures, in which case, if the commission feels that these measures are necessary for efficient market operation, than it may not be satisfying the NEO by approving the derogation.

We don't, however, believe that separately itemised metering charges on customers' bills is a good idea. Retailers should be able to bundle services and charge appropriately. Retail competition should ensure that retailers seek the best value metering services so that they can offer the best prices to their customers. Mandating itemisation in this way may lead to higher compliance costs in retail businesses. It should be noted that the *responsible person* appoints the metering service providers, not the customer directly.

We also feel that there is a case to create and enforce penalties where a meter is replaced in error. If a distributor, as part of the AMI rollout, accidentally replaces a meter where they are not the responsible person (presumably because they failed to properly consult MSATS about the existing MPB and MDA at the site), then this has a real financial impact on the incumbent meter provider. We have had a number of cases already where this has happened, and in many cases the meters have been damaged, or not returned at all, and there is significant administrative overhead to (a) figure out why we can no longer contact our meter and (b) arrange for another meter to be installed. During a large scale distributor rollout, there needs to be a strong disincentive for this kind of error.

Impact of Minister's September 2008 letter

In the Victorian Energy Minister's letter to the AEMC of September 2008, it is stated, in relation to both measurement and recording of half-hourly data, and remote reading, that:

“Initially, current service levels for Type 5 metering will apply. Note however that service-levels will be enhanced to daily delivery of data from 1 December 2012.”⁸

And in relation to daily remote collection of the previous day's energy data, where service levels are deemed only to start on 1 January 2012:

“It is anticipated that, once AMI technologies are proven at scale, that the service level for remote reading could be enhanced. It may be appropriate to schedule a review around the completion of the pilot phase to determine the timing of this enhancement.”⁹

Furthermore, in relation to remote connect and disconnect, the service level is stated to be:

⁷Order in Council, Victoria Government Gazette, 28 August 2007, No S 200, Section 14 (AMI Cost Recovery Order).

⁸Letter from Minister for Energy and Resources, the Hon Peter Batchelor MP, 6 September 2008, attachment p8

⁹Ibid.

“To be remotely performed on a best endeavours basis as soon as practicable by distributors”¹⁰

From this it is clear that the distributor's chosen technologies are unproven, and further development work needs to be done before they can be confident that the technology will work.

How then does this reduce project risk ? According to the Victorian Government's rollout schedule¹¹, by 1 January 2012, between 25% and 60% of the meters will have been rolled out. This equates to roughly 1 million meters (assuming 2.5 million in total, and a linear rate of installation between 30 June 2011 and 30 June 2012). This means that on 1 January 2012, the distributors will attempt to enable remote daily reading on 1 million installed meters.

Suppose that when this happens, problems are discovered that require meter replacement, or communication hardware replacement, for this functionality to work ? If adding the daily reading capability increases uncertainty now (because there are issues getting it to work) then this *increases* the risk that either (a) those 1 million meters will need to be replaced, or (b) daily reading will not be implemented at all.

This letter also references a March 2008 “expert internal review” document¹², and a draft cost submission to the ESC¹³. We request that these documents be released to stakeholders.

Timeframe for Industry Adjustment

The commission has linked the start date of the derogation to the Victorian Government's Order in Council, which would suggest a start date of 1st January 2009, and an end date of 31st December 2013.

Metropolis agrees in principle with the timeframe, and is particularly keen that the end date is no later than that specified. It is important for the industry to have certainty about when competition is to recommence.

However, the proposed changes are a significant change to current industry practice. Metropolis in particular has hundreds of planned residential meter installations for solar PV projects which will be at risk with such a tight deadline. We have meters on order and in stock for these projects, and would be seriously financially affected if in two months time these projects were not to continue.

In addition, we are currently involved with a number of special projects which involve “small” metering sites. We have invested significant time and effort into these projects, and need to be able to see them through to completion.

We request a reasonable delay to the start date of the derogation, with no effect on the end date.

If appropriate exclusions are granted which cover our current activities, then this need diminishes.

General Comments on the Commission's Findings

Scope of the analysis

Firstly, the commission states that:

¹⁰Ibid.

¹¹Ibid, attachment p1

¹²Ibid, attachment p5

¹³Ibid

“The Commission’s task has been to assess whether a mandated Distributor Led Rollout , as proposed by the Victorian Government, better satisfies the NEO when compared with the alternative of a mandated Retailer Led Rollout.”¹⁴

Metropolis believes that this is not a complete description of the task. The Commission ought also to be assessing whether the distributor led accelerated rollout actually requires a derogation to proceed at all.

It has been established, both in this report, and also in the MCE study, that economies of scale are not material to the argument, in other words, a near 100% density is not required in order for a large scale rollout to be effective. In addition, clauses already exist requiring distributors to first ascertain whether they are the responsible person for a site before proceeding with a meter exchange, since there may already be sites where the retailer is responsible person. So what disadvantage is there if some retailers engage in some degree of smart meter deployments ?

Metropolis believes that there is no significant disadvantage, and as such the proposed rollout could easily proceed without a derogation under a similar cost recovery arrangement as proposed by the ESC for the original IMRO (where there were also no exit fees).

This argument is strengthened by the fact that the distributor rollout will be without daily remote reading in the first instance. This will lead to a significant portion of the proposed benefits not being realised, as we will discuss further later.

Advantages of Distributor Led Rollout

The commission states that:

“A Distributor Led Rollout is more likely to deliver a universal platform for the benefits of AMI to be realised. Such benefits include:

- Avoided meter reading costs to distributors;
- Better information to distributors for network planning and managing supply outages;
- Remote de-energisation and re-energisation of connection points;
- Better information to retailers, including more accurate and fast delivery of consumption data, thus providing a platform for innovating new products and services to the mass market; and
- Wholesale market benefits such as demand side responsiveness and more accurate data for market settlement.”¹⁵

The first point to make is that the first four of these five points will only be realised with effective remote communications, which will not appear until 2012. The fifth point is also affected by manual (or infrequent) reading, as the data will be significantly delayed, requiring a significant amount of substitution and estimation of data. While remote de-energisation and re-energisation of connection points is still included in the immediate rollout, it has been noted that service-levels for this are only “best-endendeavours”¹⁶, and that retailers will not be immediately advised of the new status¹⁷, meaning that many of the retail benefits of this capability will not be realised.

¹⁴ Draft Rule Determination p36

¹⁵ Draft Rule Determination p37

¹⁶ Letter from Minister for Energy and Resources, the Hon Peter Batchelor MP, 6 September 2008, attachment p8

¹⁷ Ibid, attachment p3

Again, were retailers to have engaged in some degree of a meter rollout, these benefits would still be realised, and would be realised more quickly as communications, daily reading, and proper remote de-energisation and re-energisation would be available immediately.

Distributor Led Vs Retailer Led

The comparison that is being made is to compare distributor capability with retailer capability. This is, in our view, not a valid way to view the alternatives. Metering in the NEM is done by Meter Providers, in all cases. Meter Providers are accredited by NEMMCO to perform metering work, and accreditation is given for suitable metering types (ie. 1-7) according to the MP's relevant capability.

All Distributors (in Victoria and elsewhere) have Meter Provider Category B (MPB) accreditation. It is under this accreditation that distributors engage in metering activity, and it is this accreditation that ensures that they have the appropriate capability to do the work.

Some other companies also have MPB accreditation, and these companies are equally capable of doing metering work. Metropolis is one of these companies.

Metropolis feels that granting distribution companies a monopoly in metering will clearly lead to them using only their own in house meter provider to do metering work. Arguments that imply that companies such as Metropolis can compete for tenders issued by distributors fail to acknowledge this inherent conflict of interest. Metropolis is not a vendor of software, systems or meters, it, exactly like the distributors, is a service provider which buys and installs meters, and develops in-house software to read and deliver data and services for those meters.

Retailers have no metering accreditation, and under the NER are in fact, prevented from being MPB at sites for which they are a retailer. In practice, no retailer has any form of metering accreditation, and would not engage directly in any kind of metering activity. Any "retailer led" metering activity is therefore activity where other companies with MPB accreditation would be engaged by a retailer to perform metering work. This would include independent meter providers such as Metropolis, **and also distribution businesses** (as competitive meter providers, rather than monopoly meter providers).

When the commission states that:

"Under a Retailer Led Rollout, retailers would be likely to use a third party to roll out and operate smart meters on their behalf. Such third parties may not have any familiarity with the site or particular, more complex metering issues. Customers may not be aware whom they should contact if there are issues relating to the meter"¹⁸

it fails to acknowledge that these third parties are equally capable, and have access to the same site information as the distributors. When in doubt, customers should contact their retailer, who is their primary electricity contract, and the real owner of the customer relationship. Retailers are then able to pass on metering queries to the appropriate meter provider. There is no added complexity.

In fact, this is how it currently works. Retailer experience indicates that customers assume that they must contact their retailer for metering issues, and that customers perceive their relationship is with the retailer, not with the distributor. Attempting to re-educate customers to contact the distributor for metering issues unnecessarily complicates matters in the short term, and presents further issues in the longer term once competition has been restored.

From a customer perspective, it is far simpler for the retailer to always be the point of contact. The retailer can then forward any issues to the relevant service provider.

¹⁸Draft Rule Determination p38

The commission also states that:

“Further, the availability of independent metering service providers to own meters in a mandated rollout scenario may be limited and, accordingly, some retailers may be required to own the meters and related infrastructure to meet the rollout timetable requirements.”

This statement ignores the possibility of distributors providing metering services to retailers on a competitive basis. If we include distributors along with the independent meter providers then there is no shortage of service providers to meet the retailers' needs.

One would expect that when the market returns to competition after the expiration of the derogation, that the distributors would continue to offer metering services on a competitive basis. If the distributors are the experts that they are claimed to be in this area, then they oughtn't be afraid of competing with independent meter providers right from the start.

In addition, retailers are aware that if they were to own meters, and restrict access to them, they would find that new retailers would churn them. This is not in either retailer's long term interest, particularly when other ownership models (eg where the meter provider such as Metropolis owns the meter) would result in a lower cost of service due to the lower rate of churn. Market forces would quickly eliminate such protectionist behaviour by the retailers.

The commission also states that:

“Under a Retailer Led Rollout, while the large retailers may have comparable experience and capability to those of distributors, other retailers are likely to use third parties to roll out and operate smart meters on their behalf. Such third parties may not have familiarity with the site or particular issues associated with the network connection or the related metering requirements. This could cause delays in the rollout process and compromise the certainty and timeliness of the rollout.”¹⁹

Metropolis encounters and deals with these issues every day, and has to date not had any issues in dealing with it. We use experienced field staff who are often the same people who do the actual work for the distributors. It should be noted that the distributors subcontract a significant amount of this work, and these subcontractors are also available to us to use. Additionally, for an AIMRO, a higher proportion of work is likely to be done by subcontractors anyway.

Metropolis has been operating in the NEM since February 2007, and has installed and replaced meters at sites that cover a very wide range of circumstances: metropolitan, rural, single and three phase, new and old properties, solar installations. We are an experienced operator, and speculating about our capabilities in this way is outside the scope of the commission to assess, particularly in light of the fact that we were never approached or invited to comment on this capability. All Metering Providers have passed a rigorous accreditation process with NEMMCO, and would not be allowed to operate unless they had satisfied NEMMCO of its capability.

Site information is required to be kept up to date in MSATS, and this is the information we use when planning work at sites. This information is the same information that the distributors use. In our experience also, the distributors often also have little familiarity with sites anyway. Sometimes the data in MSATS is inaccurate or out of date because the distributor has failed to properly update it.

In its determination,

¹⁹Draft Rule Determination p20

“The Commission agrees that distributors have the experience and project management capability to co-ordinate and deliver large scale infrastructure and network equipment projects.”²⁰

It is clear, however, that before 2007 when the distributor engaged in technology trials co-ordinated by the Victorian Government that the distributors had little experience with smart metering.

Clearly (as Meter Providers) they know how to install meters but that is a small part of the knowledge set required for smart metering. They appear to have much less experience or know-how with the communications technologies. The Victorian trials of 2007 were largely unsuccessful. Very few of the projects produced any useful outcomes, and some were aborted before completion. We now know that they will not even be installing suitable communications infrastructure until 2012 because they are not confident of a large scale deployment. How can the commission be confident that such a project will be successfully completed when the distributors themselves don't have such confidence.

A large smart meter rollout program is a completely different kind of project to a large scale “dumb” meter rollout program.

Summary and Conclusions

Metropolis would prefer that the derogation not proceed at all. It seems that the distributors are struggling with this project, with continued delays, and reduction of scope as the project proceeds. In particular they acknowledge the unproven nature of the communications technologies, and we feel that it is unwise to risk a large scale installation project in advance of these technologies being finalised.

If the commission decides to continue with it's implementation of the proposed rule change, we request that appropriate exclusions be introduced to prevent legitimate customer and retailer needs from being road-blocked. We also request a period of adjustment to the new rules, as it has a significant impact on our business.

We note that the commission has commented that the exit fee structure needs to be such that the transition to competition is not impeded. We would like some clarity about how this will be ensured, given that this is currently controlled by Victorian legislation.

It is important that this rule change, if implemented, remain a temporary measure. Were the time frames to be extended, it would remove investor confidence in the competitive metering industry, and potentially render the derogation a de-facto permanent measure.

We look forward to the final determination,

Yours Sincerely

A handwritten signature in black ink, appearing to read 'Chris Boek', with a stylized, circular flourish at the end.

Chris Boek

Technical Director

²⁰Ibid