

7 May 2015

Emma Fishburn
Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

Lodged electronically: www.aemc.gov.au

Reference: ERC0175

Dear Ms Fishburn,

RE: National Electricity Amendment (Aligning Network and Retail Tariff Structures for Small Customers) Rule 2015 Consultation Paper

The Energy Retailers Association of Australia (ERAA) welcomes the opportunity to provide comments in response to the Australian Energy Market Commission's (AEMC) Consultation Paper (**the Consultation Paper**) on the COAG Energy Council's proposed rule Aligning Network and Retail Tariff Structures for Small Customers.

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

Some of our members' views differ on the application and nature of the principles outlined below in this submission. We encourage the AEMC to refer to our members' submissions for more detailed opinions on the merits of the proposed rule.

Obligation to make offer to small customers

The Energy Council's proposed rule change depends on the exercise of clause 22(1a) of the National Energy Retail Law (NERL), which allows jurisdictions to prescribe a particular standing offer tariff that must be offered by retailers to small customers with interval meters. In the ERAA's view, governments prescribing tariffs is inconsistent with the direction of policy reform in the National Electricity Market (NEM) towards deregulated and competitive markets that fosters consumer choice and encourages efficient investment decisions. As the AEMC has demonstrated in its 2014 Retail Competition Review, effective competition exists in most retail markets throughout the NEM, making government intervention in the setting of tariff structures unwarranted.

The ERAA believes open and competitive markets serve the best interests of consumers by encouraging retailers to develop products that meet consumer needs. Intervention in the market, through mandated standing offers by jurisdiction pursuant to clause 22(1a), would reduce competition between retailers and consequently lead to less choice for consumers. The ERAA does not support jurisdictions exercising their discretion under clause 22(1a) of the NERL as it represents an unnecessary and adverse intervention in competitive retail markets.



Under the existing legislation, while jurisdictions have the capacity to require retailers to offer a prescribed standing offer to customers, the same requirement does not apply to Distribution Network Service Providers (DNSPs). This means DNSPs may set network tariff structures that do not align with a retail tariff structure prescribed by a jurisdiction. This may occur should a jurisdiction prescribes a retail tariff that is inconsistent with a new cost reflective Distribution Network Pricing Arrangements (DNPA).

A point of competitive difference between retailers is their effectiveness in managing risks. In deregulated competitive markets the level of retailer innovation and variation in products is highest and customers have a greater choice in retail offerings. Where retailers are constrained in what products they are required to or can offer, their ability to manage risk becomes less efficient and more challenging. A misalignment between a prescribed retail standing offer and available DNSP tariff structures is one such example.

While the proposed rule would help mitigate this particular risk, it is addressing a symptom rather than the underlying risk trigger, specifically the market intervention of a Government mandated retail tariff structure.

Practical considerations

In considering the practical application of the proposed rule, the AEMC needs to consider how DNSPs would go about developing and making available the new tariff structure to retailers. The Tariff Structure Statement (TSS) process is about to be tested for the first time. The process of revising a TSS to include a new mandated distribution tariff for example could take a significant period of time. In order to mitigate the risk of misalignment of tariff structures, a jurisdiction would need to provide a minimum amount of notice to retailers and networks to allow consultative tariff development to occur.

The ERAA would be concerned if to address this issue, the AEMC considered condensing the tariff development and notification processes for the purposes of a jurisdictionally prescribed tariff. This would effectively replace one risk with another, the consequences of rushed tariff structure with limited opportunity for retailer and customer consultation, which could give rise to further implementation challenges for retailers. One of the objectives of the new DNPA is to provide sufficient notice to retailers of distribution tariffs and prices. Any amendment that would circumvent the new process would reintroduce the very risk that the proposed rule change sought to address.

It is also unclear how the DNSPs would manage the competing principles under the DNPA. Clause 6.16.5(a) of the National Electricity Rules sets out the network pricing objective which states:

the tariffs that a Distribution Network Service Provider charges in respect of its provision of direct control services to a retail customer should reflect the Distribution Network Service Provider's efficient costs of providing those services to the retail customer.

The pricing principles that support this objective include a requirement for each tariff to “be based on the long run marginal cost of providing the service”.ⁱ To the extent the jurisdictionally prescribed retail tariff is inconsistent with that principle, it is unclear how the DNSP could meet both that principle and the one that requires a “tariff to comply with the Rules and all applicable regulatory instruments”.ⁱⁱ Should this rule change proceed, the ERAA would be seeking guidance in the draft determination on how the DNSP and the AER would manage this potential conflict.

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

Yours sincerely,



Cameron O'Reilly
CEO
Energy Retailers Association of Australia

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- ⁱ National Electricity Rules clause 6.18.5(f)
ⁱⁱ National Electricity Rules clause 6.18.5(j).