



Australian Energy Market Commission

RULE DETERMINATION

National Electricity Amendment (Victorian Jurisdictional Derogation - Advanced Metering Infrastructure) Rule 2013

Rule Proponent

Minister for Energy and Resources (Victoria)

28 November 2013

For and on behalf of the Australian Energy Market Commission

**RULE
CHANGE**

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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

The Australian Energy Market Commission (AEMC) has determined to make changes to the National Electricity Rules (NER) by way of a jurisdictional derogation.¹ The Victorian Government requested a rule change that would extend for up to three years in Victoria the effect of an existing derogation from some of the metering provisions in chapter 7 of the NER. The Commission has determined that it should make the rule proposed by the Victorian Government, with some minor amendments relating to the commencement date, triggers for expiry and definitions. The rule as made is in the same form as the draft rule.

The existing derogation, which is set out in rule 9.9B, was put in place to allow the rollout of advanced metering infrastructure (AMI) in Victoria. It makes distribution businesses exclusively responsible for metering services² for Victorian small electricity customers,³ meaning that retailers are prevented from providing these services. Distribution businesses also control access to the related services that are enabled by AMI meters.⁴ The existing derogation will expire on 31 December 2013.

If the derogation is not extended, the metering rules that are currently derogated away from in Victoria would come into force. This would mean that - nominally at least - retailers would be able to provide metering services to small customers, and would also control access to the related services that are enabled by AMI meters. The Victorian Government argues that for retailer provision of metering services to occur in practice, while at the same time realising the expected benefits of the Victorian AMI program, a number of processes and systems would need to be developed.

It is intended that many of these processes and systems will be established as part of the national framework for competition in metering and related services for residential and small business customers – see section 1.4.3 below. However, the national framework will not be established before the current derogation expires.

The Victorian Government has stated its concern that, without a national framework in place, allowing retailers to become responsible for small customer metering services in Victoria from January 2014 would have a number of detrimental impacts. These relate to a possible loss of benefits from Victoria's AMI program, the lack of adequate customer protection arrangements and the costs of establishing specific Victorian arrangements to accommodate contestable metering services.

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- 1 A jurisdictional derogation modifies the application of the rules in a participating jurisdiction. The AEMC can make a jurisdictional derogation at the request of the jurisdiction's Minister but must have regard to certain other matters, as well as the normal rule making test – see section 2.5.2.
 - 2 Throughout, *metering services* means providing, installing and maintaining the metering installation and providing data management services.
 - 3 Customers at connection points where the consumption is less than 160 MWh per annum. In practice, residential and small business customers.
 - 4 Throughout, *related services* means services that are enabled by the functionality of advanced meters, such as remote de-energisation and direct load control.

The Victorian Government therefore sought a new derogation that would preserve distribution business exclusivity for small customer metering services for a maximum of three years, or until national arrangements for competition in metering and related services are implemented.

The Commission received a number of stakeholder submissions in relation to the rule change. The Victorian electricity distribution businesses, the Energy Networks Association and the Consumer Utilities Advocacy Centre were supportive of the rule change. They generally agreed that existing frameworks for retailer provision of small customer metering services would not be adequate in the Victorian context and that the incremental benefits of allowing retailer provision of small customer metering services would be low.

Submissions from retailers and Metropolis, a metering services provider, were not supportive of the rule change. They generally argued that the existing frameworks are either sufficient or that commercial arrangements could be developed to address any remaining issues.

Having carefully considered stakeholder submissions, the Commission is satisfied that making the rule will, or is likely to, be in the long term interests of consumers because:

- It is uncertain whether existing systems and processes would be able to accommodate retailers becoming responsible for small customer metering sites where AMI has been installed, which might limit consumer benefits from the existing investment and would create costs and additional risks.
- There is not currently a clear and viable framework for commercial contestability in AMI metering and related services that would apply in Victoria. In the absence of such a framework, expiry of the existing derogation is unlikely to result in significantly better third party access to AMI meters or more competitive provision of metering and related services.
- The incremental benefits of allowing retailers to provide small customer metering services in Victoria are likely to be low over the period until a national framework for competition in metering and related services is established.
- The costs of establishing a Victorian-specific framework for commercial contestability are likely to outweigh the incremental benefits of doing so. These costs could include possible detrimental impacts on the development of a national solution if Victorian-specific arrangements are developed. It is therefore likely to be in the interests of consumers for Victoria to wait until the national framework is established and to transition to competition in both metering and related services then.

Our assessment that there are limited incremental benefits from allowing retailer provision of small customer metering services in Victoria applies only to the short term. It is therefore appropriate that the jurisdictional derogation be limited to three years' maximum duration. If arrangements have not been made within that time for

the orderly transfer of Victoria to the national framework, then the establishment of Victorian-specific arrangements should be reconsidered.

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1 Victorian Government's rule change request

1.1 The rule change request

On 18 June 2013, the Honourable Nicholas Kotsiras MP, Minister for Energy and Resources (Victoria) requested the Australian Energy Market Commission (Commission) to make a jurisdictional derogation regarding meters installed under the Advanced Metering Infrastructure program in Victoria.⁵ The rule change request seeks to extend the effect of an existing derogation from some of the metering provisions in chapter 7 of the NER.

The existing derogation, which is set out in rule 9.9B, was put in place to allow the rollout of advanced metering infrastructure in Victoria. It makes distribution businesses exclusively responsible for metering services for Victorian small electricity customers, meaning that retailers are prevented from providing these services. As a consequence, distributors also control access to the related services that are enabled by AMI meters.

The existing derogation will expire on 31 December 2013.

1.2 Rationale for the rule change request

If the derogation is not extended, the metering rules that are currently derogated away from in Victoria would come into force. This would mean that - nominally at least - retailers would be able to provide metering services to small customers, and would also control access to the related services that are enabled by AMI meters. The Victorian Government argues that for retailer provision of metering services to occur in practice, while at the same time realising the expected benefits of the Victorian AMI program, a number of processes and systems would need to be developed.

It is intended that many of these processes and systems will be established as part of the national framework for competition in metering and related services for residential and small business customers - see section 1.4.3 below. However, the national framework will not be established before the current derogation expires.

The Victorian Government has stated its concern that, without the new national framework in place, allowing retailers to become responsible for small customer metering services in Victoria from January 2014 would have a number of detrimental impacts. These relate to a possible loss of benefits from the Victorian AMI program, the lack of adequate customer protection arrangements and the costs of establishing specific Victorian arrangements to accommodate contestable metering services. These

⁵ A jurisdictional derogation modifies the application of the rules in a participating jurisdiction. The AEMC can make a jurisdictional derogation at the request of the jurisdiction's Minister but must have regard to certain other matters, as well as the normal rule making test - see section 2.5.2.

impacts are detailed in the Victorian Government's rule change request,⁶ and summarised in Appendix A.

The Victorian Government is therefore seeking a new derogation that would preserve distribution business exclusivity for small customer metering services for another three years, or until national arrangements for competition in metering and related services are implemented.

1.3 Solution proposed in the rule change request

The effect of making a new jurisdictional derogation consistent with the rule change request would be:

- Distribution businesses would continue to have the exclusive right to act as the responsible person for AMI meters for Victorian small electricity customers.
- AMI meters would continue to be designated as type 5 or type 6 metering installations. In the absence of the derogation, AMI meters could be classified as type 4 metering installations if they can be remotely read.⁷ Retailers can elect to be the responsible person for type 4 meters.
- To make clear that retailers are not responsible for costs associated with AMI meters at their connection points, to the extent that these costs can be recovered by distribution businesses in accordance with the AMI cost recovery order.⁸
- For the purposes of the rules, the metering data performance standards for market settlement for AMI meters would continue to be those that apply to manually read meters, despite these meters being remotely read. However, distribution businesses would be required to meet the Minimum AMI Service Levels Specification (Victoria) which governs the standards for remote collection of metering data.
- The derogation would continue until the rules are amended to provide a national framework for competition in metering and related services for residential and small business customers. If the rules are not so amended by 31 December 2016, the derogation would expire.

⁶ Minister for Energy and Resources (Victoria), AMI Rule Change Request (Jurisdictional Derogation - Victoria), 18 June 2013, pp. 5-23.

⁷ There is some doubt as to how the NER would apply in this case.

⁸ See section 1.4.1 below.

1.4 Relevant background

1.4.1 Victorian arrangements for advanced metering infrastructure

The rule change request describes the legislative framework for the mandatory rollout of AMI to Victorian small customers.⁹ Victorian Orders in Council:

- oblige the Victorian electricity distribution businesses to replace existing meters with AMI metering by the end of 2013;
- provide for the regulation of cost recovery by distribution businesses with regard to the costs of providing AMI metering and services; and
- specify minimum functionality for AMI meters and associated service requirements.

Cost recovery for the AMI program would not be affected by the derogation's expiry, or its renewal. Clause 11.17.6 of the NER prevents AMI metering services from being regulated under a distribution determination for as long as they are regulated under the AMI Order in Council. Clause 11.17.6 is not subject to the existing derogation or to the rule change request.

1.4.2 Existing NER framework for retailer provision of metering services

Chapter 7 of the NER uses the concept of responsible person to determine responsibility for the provision of metering services. The responsible person at a metering site is responsible for:

- providing, installing and maintaining the metering installation; and
- providing the related data management services.

Throughout this document, *metering services* means these services.

Under the NER, a retailer may elect to be the responsible person for a type 4 metering installation (a remotely read interval meter for a small customer). The retailer can contract with third party metering providers and metering data providers to provide metering services. The retailer can also request the local distribution business to act as the responsible person.

Retailer provision of metering services can be thought of as contestable, in that retailers can choose their metering services providers. However, for consumers their choice of metering services provider is bundled with their choice of retailer. There is currently no framework for consumers to choose their metering services provider directly.

⁹ Minister for Energy and Resources (Victoria), *AMI Rule Change Request (Jurisdictional Derogation - Victoria)*, 18 June 2013, pp. 1-2.

Advanced meters also enable other services, not directly related to the measurement of energy, such as direct load control and remote de-energisation and re-energisation. Throughout this document these services are referred to as *related services*. There is currently no framework in the NER for the provision of related services. By implication, the responsible person at a metering site also controls access to the related services. Again, there is currently no framework for consumers to directly control access to the related services for a meter at their site.

In the absence of the derogation, this is the framework that would apply in Victoria. To the extent that AMI meters were reclassified as type 4 metering installations, retailers could elect to be the responsible person, and become responsible for providing metering services. By implication, they would then also control access to the related services.

Expiry of the derogation would not, under the current frameworks, create a situation where third parties could compete to provide metering and related services directly to consumers. For that to occur would require the type of framework that is described in the following section.

1.4.3 Development of a new national framework

The Standing Council on Energy and Resources (SCER) has agreed to progress a number of rule changes in response to the AEMC's Power of Choice review.¹⁰ The Victorian Government indicates its in-principle support for the national framework in the rule change request.¹¹

The objective of the review, which concluded in November 2012, was to ensure that the community's demand for electricity services is met by the lowest cost combination of demand and supply side options. The review identified opportunities through better information, education, 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 and to respond to consumers' choices.

The AEMC's recommendations included:

- introducing a framework in the NER that provides for competition in metering and related services for residential and small business consumers;
- clarifying consumers' ability to access their energy consumption data; and

¹⁰ AEMC, *Power of Choice Review - giving consumers options in the way they use electricity*, Final Report, 30 November 2012, Sydney.

¹¹ Minister for Energy and Resources (Victoria), *AMI Rule Change Request (Jurisdictional Derogation - Victoria)*, 18 June 2013, p. 1.

- undertaking a review of the framework for open access and common communication standards needed to support contestability in demand side participation services enabled by smart meters.

The framework would unbundle the provision of retail electricity from the provision of metering services, giving consumers choice in metering capability that is independent of their choice of retailer. It would also create a framework where third parties could compete to offer related services directly to consumers.

SCER has requested that we undertake the open access and communications standards review. The terms of reference for the review are available on our website. SCER has requested rule changes to expand competition in metering and related services and to improve consumers' access to their energy consumption data. The rule change proposals are available on the energy market reform area of the SCER website.¹²

National smart meter consumer protections are also being implemented. SCER is developing amendments to the National Energy Retail Rules that relate to:

- supply capacity control;
- direct load control; and
- customer billing.

Other consumer protections, which relate to other forms of regulation, are also being progressed. They include protections related to:

- pricing; and
- third party service provider accreditation.

1.5 Relevant strategic priority

This rule determination does not relate directly to the AEMC's proposed strategic priorities.¹³

1.6 Commencement of rule making process

On 4 July 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 Commission staff identifying specific issues or questions for

¹² www.scer.gov.au/workstreams/energy-market-reform

¹³ Australian Energy Market Commission, *Strategic Priorities for Energy Market Development*, Discussion Paper, 2013.

consultation was also published with the rule change request.¹⁴ Submissions closed on 1 August 2013.

The Commission received eight submissions on the rule change request as part of the first round of consultation. They are available on the AEMC website.¹⁵ A summary of the issues raised in submissions and the Commission's response to each issue is contained in Appendix B.1.

1.7 Publication of draft rule determination and draft rule

On 19 September 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).¹⁶ The draft rule determination included a draft rule (draft rule).

Submissions on the draft rule determination closed on 31 October 2013. The Commission received four submissions on the draft rule determination. They are available on the AEMC website.¹⁷ A summary of the issues raised in submissions, and the Commission's response to each issue, is contained in Appendix B.2.

¹⁴ AEMC, *Victorian Jurisdictional Derogation, Advanced Metering Infrastructure*, Consultation Paper, 4 July 2013, pp. 4-9. Subsequent references to the Consultation Paper mean this document.

¹⁵ www.aemc.gov.au

¹⁶ AEMC, *Victorian Jurisdictional Derogation, Advanced Metering Infrastructure*, Draft Rule Determination, 19 September 2013. Subsequent references to the Draft Rule Determination mean this document.

¹⁷ 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 the Minister for Energy and Resources (Victoria). In accordance with section 103 of the NEL the Commission has determined to make, with amendments, the rule proposed by the rule proponent.¹⁸

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

The *National Electricity Amendment (Victorian Jurisdictional Derogation - Advanced Metering Infrastructure) Rule 2013 No [7]* (rule as made) is published with this final rule determination. The rule as made commences on 1 January 2014. The rule as made is different from the rule proposed by the rule proponent. 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 requirements under sections 89 and 91(3) of the NEL relating to jurisdictional derogations;
- the rule change request;
- the Ministerial Council on Energy (MCE) Statement of Policy Principles that is set out in section 2.5.1;¹⁹
- submissions received during the 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 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 the matters set

¹⁸ 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.

¹⁹ Under section 33 of the NEL the AEMC must have regard to any relevant MCE statement of policy principles in making a rule.

out in section 34 of the NEL as it relates to the activities of persons participating in the national electricity market or involved in the operation of the national electricity system (section 34(1)(a)(iii) of the NEL).

Further, the rule as made falls within the matters set out in schedule 1 to the NEL as it relates to:

Item 32 Procedures and related systems for the electronic exchange or transfer of information that relates to consumers of electricity, the provision of metering services and connection to the national electricity system, and requiring compliance with such procedures and use of such related systems.

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 the rule change request, having regard to the relevant Ministerial Council on Energy Statement of Policy Principles, the Commission considers that the relevant aspects of the NEO are efficient investment in, and efficient operation and use of, electricity services.²⁰

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

- There is not currently a clear and viable framework for commercial contestability in AMI metering and related services that would apply in Victoria. In the absence of such a framework, expiry of the existing derogation might limit consumer benefits from the existing investment, without creating benefits from better third party access to related services.

²⁰ 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.

- The incremental benefits of allowing retailers to provide small customer metering services in Victoria are likely to be low over the period until a national framework for competition in metering and related services is established.
- The costs of establishing a Victorian-specific framework for commercial contestability are likely to outweigh the incremental benefits of doing so. These costs could include possible detrimental impacts on the development of a national solution if Victorian-specific arrangements are developed. It is therefore likely to be in the interests of consumers for Victoria to wait until the national framework is established and to transition to competition in both metering and related services then.

Our assessment that there are limited incremental benefits from allowing retailer provision of small customer metering services in Victoria applies only to the short term. It is therefore appropriate that the jurisdictional derogation be limited to three years' duration. If arrangements have not been made by that time for the orderly transfer of Victoria to the national framework then the establishment of Victorian-specific arrangements should be reconsidered.

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 Australian Energy Market Operator (AEMO)'s declared network functions. We consider the test to be satisfied because the rule as made does not affect AEMO's declared network functions.

2.5 Other requirements under the NEL

In applying the rule making test in section 88 of the NEL, the Commission has had regard to:

- the relevant Ministerial Council of Energy Statement of Policy Principles as required under section 33 of the NEL; and
- the matters as required under section 89 of the NEL as the rule change request is a request for a jurisdictional derogation.

2.5.1 Statement of Policy Principles

In June 2008, the Ministerial Council of Energy published a Statement of Policy Principles to guide the AEMC's consideration of rule changes relating to the national framework for smart meters.²¹ The Statement sets out the following four principles:

1. To promote competitive retail markets and maximise the benefits of a large scale accelerated rollout of smart meters to residential and other small customers, there should be a national minimum functionality supported by a national regulatory framework for smart meters.

²¹ Ministerial Council on Energy, Statement of Policy Principles, 14 June 2008.

2. To maximise the net benefits of a mandated rollout of smart meters in a timely manner and capture the operational benefits for distribution network service providers, distribution network service providers will be legislatively obliged to roll out smart meters to some or all residential and other small customers in those jurisdictions where a mandated rollout will take place.
3. A distribution network service provider who is obliged to roll out smart meters should have exclusivity over meter provision and responsibility for related metering data provision in respect of the customers covered by the mandate during the period in which the distribution network service provider must complete that mandate.
4. The regulatory framework for distribution network tariffs, consistent with the revenue and pricing principles, should ensure that distribution network service providers:
 - (a) are able to recover in a transparent manner the costs directly resulting from meeting the mandated service standards for smart meters and the costs of their existing investment which has been stranded by any mandatory rollout; and
 - (b) promptly pass on cost efficiencies resulting from the installation of smart meters to tariff classes affected by the costs of a smart meter rollout.

The Statement of Policy Principles was put in place to support a consistent national framework for advanced metering.

The Commission has had regard to the Statement of Policy Principles and considers the following aspects of the rule as made to be broadly consistent with the Statement of Policy Principles:

- The rule as made preserves distribution business exclusivity for smart meters until such time as a national regulatory framework, including a national minimum functionality, is established.
- The rule as made does not affect the Victorian regulatory arrangements for distribution businesses' recovery of costs related to smart meters. In making the existing jurisdictional derogation, we found that the Victorian cost recovery arrangements are consistent with the Statement of Policy Principles.²²

We note that the period during which the Victorian electricity distribution businesses are required to complete the rollout of AMI ends on 31 December 2013. In this respect, the third policy principle - which relates distributor exclusivity to the mandated rollout period - is not definitive.

²² AEMC, *Victorian Jurisdictional Derogation, Advanced Metering Infrastructure Roll Out, Rule Determination*, 29 January 2009, Sydney, pp. 17-19.

Stakeholder views

In its second round submission, Origin Energy expressed a number of views in relation to the Statement of Policy Principles and whether making the derogation would be consistent with it:²³

1. The current Statement of Policy Principles may not be the most appropriate reference point to test the proposed rule change. It was drafted at a time when a mandated deployment of smart meters led by distribution service providers was considered the most likely approach. It has since become clear that further jurisdictional-based mandates for the deployment of smart meters are unlikely.
2. The Victorian rollout does not meet the conditions described in the first principle:
 - it has its own functional specification, rather than meeting a national minimum functionality; and
 - it is not supported by a general regulatory framework for smart meters.
3. With regard to the second principle, expiry of the derogation will not result in any material impact on operational benefits for distribution networks.
4. With regard to the third principle, the current jurisdictional derogation should expire as planned at the end of 2013.
5. The existing Victorian regulatory framework for AMI supports the fourth principle and the expiry of the derogation should have no impact upon this.

Origin Energy was the only stakeholder that commented on this matter.

Conclusion

Regarding each of the issues that Origin Energy raised:

1. We note that SCER is removing from the NEL the ability of a jurisdictional minister to mandate a distributor-led rollout of smart meters. It is likely that SCER will reconsider the current Statement in light of this revised policy on mandated rollouts. However, we are legally required to have regard to the current Statement of Policy Principles.
2. Making a new derogation preserves distributor exclusivity until such time as a national regulatory framework, including a national minimum functionality, is established. The Victorian Government indicated in its rule change request that Victorian-specific processes and systems would need to be developed to accommodate retailer provision of metering services while preserving the benefits of the Victorian AMI program, if the effect of the existing derogation is not extended. There is no certainty that these arrangements would be consistent

²³ Origin Energy, submission on the Draft Rule Determination, pp. 4-5.

with the national framework. Therefore the Commission concludes that making a new derogation is more likely to be consistent with the first principle.

3. A competitive environment could allow network operational benefits to be realised - so long as retailer or third-party provided meters met the existing AMI functionality specification, and access to the meter's data and functionality were made available to distribution businesses. But we consider that new systems and processes would be required, including rules to allow distribution businesses to access operational data and a means of prioritising commands sent to the meter by multiple parties. We conclude in sections 5.3 and 6.3 of this determination that the costs of establishing such systems and processes are likely to outweigh the incremental benefits of contestable provision of metering services in the short term.
4. Although the third principle dictates distributor exclusivity during a mandated rollout period, it is not definitive that distributor exclusivity should end with the expiry of the mandated rollout period.
5. In 2009, when making the existing derogation, the Commission found the Victorian cost recovery arrangements for the AMI program to be consistent with the fourth principle. These arrangements are independent of the derogation; ie neither making a new derogation nor allowing the existing derogation to expire would affect them. Therefore the fourth principle does lend itself to either making or not making a new derogation.

2.5.2 Considerations in making a jurisdictional derogation

Section 89 of the NEL requires the AEMC in making a jurisdictional derogation to have regard to whether:

- “(a) the derogation provides for the orderly transfer of the regulation of the electricity industry in a participating jurisdiction under jurisdictional electricity legislation to the regulation of that industry under the national electricity legislation; or
- (b) the derogation continues existing regulatory arrangements applying to the electricity industry in a participating jurisdiction and the Minister of the participating jurisdiction requesting the derogation has notified, in writing, the AEMC that he or she considers it necessary and appropriate that the existing regulatory arrangements continue; or
- (c) the derogation is necessary to exempt, on an ongoing basis, generating, transmission or distribution systems or other facilities owned, controlled or operated in the participating jurisdiction to which the derogation relates from complying with technical standards relating to connection to the national electricity system set

out in the Rules because those systems or facilities, by reason of their design or construction, are unable to comply with those standards.”

The Commission, having had regard to section 89 of the NEL, considers that the rule as made is consistent with paragraph (a), because it envisages the orderly transfer of the Victorian arrangements for small customer metering to the national framework for competition in metering and related services, once that is implemented.

The Commission considers that the rule as made is consistent with paragraph (b), because it continues the existing arrangements for Victorian small customer metering. The Victorian Minister has written to us that he considers this to be necessary and appropriate.

The Commission considers that paragraph (c) is not relevant to the rule as made.

Stakeholder views

In its second round submission, Origin Energy gives the following reasons for why it considers that the proposed rule does not satisfy sections 89(a) or (b):²⁴

1. Origin contests that “envisaging” the orderly transfer of regulation is not equivalent to providing for the orderly transfer of regulation, in relation to and as set out in section 89(a). It is the failure to provide for transition that has resulted in the perceived need to extend the current derogation.
2. With respect to clause 89(b), the rule change request simply extends arrangements of the existing derogation, which itself was a deviation from existing regulatory arrangements (ie chapter 7 of the NER).

Origin Energy was the only stakeholder that commented on this matter.

Conclusion

Regarding each of the issues that Origin Energy raised:

1. It is the Commission's view that allowing the derogation to expire would make it less likely that Victoria would transition to regulation under the national arrangements.

The Victorian Government, in its rule change request, indicated that it would need to establish its own arrangements for retailer provision of small customer metering services in the absence of the derogation. These arrangements would be necessary to address the inadequacies of the existing rules framework with respect to the Victorian AMI rollout. There is no certainty that these arrangements would be consistent with the national framework, once that is established.

²⁴ Origin Energy, submission on the Draft Rule Determination, p. 5.

Making a new derogation provides time for a national framework to be established and for the Victorian Government, market agencies and industry participants to devise a path for Victoria to migrate its small customer metering arrangements to that framework. It is therefore the Commission's view that making a new derogation provides the best opportunity for national consistency to be achieved in this area. Nevertheless, willingness and effort on the part of all these entities will be required if the transition is to be successful.

2. The existing regulatory arrangements in Victoria are a combination of the Victorian Orders in Council and the existing jurisdictional derogation. Making a new derogation continues the effect of the existing regulatory arrangements.

3 Commission's reasons

The Commission has analysed the rule change request and assessed the issues that arise. For the reasons set out below, the Commission has determined to make a rule. Our analysis of the proposed rule is also set out below.

3.1 Assessment of issues

As discussed in the rationale for the rule change request in section 1.2, if the existing jurisdictional derogation is not extended, retailers would - nominally at least - be able to provide metering services to small customers, and would also control access to the related services that are enabled by AMI meters. The Victorian Government has stated its concern that the existing frameworks for the contestable provision of metering services are not adequate, and if applied in Victoria would lead to the loss of benefits from the Victorian AMI program.

The Commission is satisfied that the rule is required because:

- There is not currently a clear and viable framework for commercial contestability in AMI metering and related services that would apply in Victoria. AMI meters have recently been deployed to the majority of small customers in Victoria, meaning that they provide a high degree of functionality and assets are near the beginning of their lives. The framework for contestability needs to allow the benefits of that investment to be realised. It needs to enable competition in meter-related services, as well as competition to provide the meters themselves. In the absence of such a framework, expiry of the existing derogation could result in uncertainty about the ability of systems and processes to apply after a change in responsible person, which might limit consumer benefits from the existing investment, without creating significantly better third party access to AMI meters or more competitive provision of metering and related services.
- A national framework for competition in small customer metering and related services is being progressed in response to the Power of Choice review.²⁵ The framework will establish a minimum agreed functionality for meters, open access and common communication standards, certainty over rights to use the related services enabled by the meter and a metering coordinator role to protect investments in metering, thereby addressing the risk of inefficient meter replacement when customers switch retailer.
- Although SCER has agreed to progress the Power of Choice recommendations, and to progress smart meter customer protections, the details of how these frameworks will be implemented will not be resolved in time for Victoria to adopt them when the current derogation expires. Victoria would therefore need to establish its own specific arrangements for competition in metering and related services and its own customer protections, if the current derogation

²⁵ The framework is being progressed through a review and rule changes - see section 1.4.3.

lapses. This would result in an inefficient duplication of costs that are being incurred through the national process. It would also be likely to create an undesirable divergence from national arrangements, increasing costs for retailers and providers of metering and related services that compete in multiple jurisdictions.

- Alternatively, Victoria could adopt an interim set of arrangements and then migrate to the national frameworks for competition in small customer metering and related services and for customer protections once they are implemented. However, this would also result in a duplication of costs. There would also be likely negative impacts on consumer confidence and engagement of having multiple arrangements in a relatively short period of time.
- The costs of establishing a Victorian-specific framework for commercial contestability are likely to outweigh the incremental benefits of introducing metering competition in Victoria, which are likely to be low over the near term. These costs could include possible detrimental impacts on the development of a national solution if Victorian-specific arrangements are developed. It is therefore likely to be in the interests of consumers for Victoria to wait until the national framework is established and to transition to competition in both metering and related services then.
- Implementation of the national framework for competition in metering and related services for residential and small business customers, along with regulatory arrangements to achieve the orderly transfer of Victorian arrangements to that framework, is an appropriate trigger for the expiry of a new jurisdictional derogation. Our assessment that there are limited incremental benefits from allowing retailer provision of small customer metering services in Victoria applies only to the short term. It is therefore appropriate to have an alternative expiry date of 31 December 2016 that would apply if arrangements have not been made by that time for the orderly transfer of Victoria to the national framework. The establishment of Victorian-specific arrangements should be reconsidered in that event.

3.2 Assessment of rule

The rule as made is in the same form as the draft rule.

The key features of the rule as made are consistent with the rule proposed by the Victorian Government - see section 1.3 - with the following changes:

- The rule as made omits clause 9.9C.2 of the proposed rule, which refers to the commencement date of the rule. The rule as made commences on 1 January 2014, such that it takes effect immediately upon expiry of rule 9.9B, which will then be omitted from the NER.
- The rule as made amends the expiry date set out in clause 9.9C.3 of the proposed rule. The change recognises that the orderly transfer of Victorian metering

arrangements to a new national framework may require legislative arrangements that lie outside the NER.

- The rule as made does not include clause 9.9C.1(b) of the proposed rule.

Clause 9.9C.1(b) of the proposed rule provides that in “clause 9.9C and for the purposes of the definition of relevant metering installation, and notwithstanding anything contrary in clause 7.3.1(b) or in the definition of metering installation, the components of a metering installation and the definition of metering installation are taken to include a meter.” The Commission understands that this provision was included in the rule change request because of a concern that clause 7.3.1(b) of the NER, interpreted in a literal way, could be construed such that a metering installation does not, or may not, include a meter.

The Commission does not consider clause 9.9C.1(b) to be required because we consider that a meter is a permitted, and in many cases, required component of a metering installation under Chapter 7 of the NER. The Commission’s view is based on its interpretation of clause 7.3.1(b) and the definition of metering installation in the context of the provisions of Chapter 7 as a whole, having regard to the required functionality of metering installations under clause 7.3.1(a) and 7.3.4 and schedule 7.2 and the purpose of the rules relating to metering installations and the measurement and recording of electrical energy.

We expect that the rule change that establishes a framework for competition in metering and related services for residential and small business customers will also remove this derogation from the NER. This is because, on commencement of that framework, the preconditions for expiry of the derogation under clause 9.9C.2 should be satisfied.

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 SCER that any of the clauses of the rule 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).

In assessing the rule change request against the National Electricity Objective, we have considered the likely long term costs and benefits of making the rule compared to the counterfactual of not making the proposed change to the NER.

We have assessed the likely costs, benefits and efficiency impacts of:

- (A) not making the proposed rule, allowing retailers to elect to be the responsible person for AMI meters, and therefore introducing competition in small customer metering services in Victoria; and
- (B) making the proposed rule, and therefore continuing distribution business exclusivity for AMI meters until a national framework for competition in small customer metering and related services is established.

In assessing this rule change request, the Commission has considered the following issues:

- the adequacy of existing frameworks for competition in small customer metering and related services, and therefore the likely impacts of allowing the existing derogation to lapse, including impacts on consumer confidence and engagement;
- the incremental benefits of introducing small customer metering competition in Victoria before a national framework is established, including impacts on innovation in metering and related services; and
- the appropriate duration of a new derogation.

5 Adequacy of existing frameworks for small customer metering competition

The adequacy of existing frameworks for competition in small customer metering and related services is relevant to:

- whether allowing the existing derogation to lapse would be expected to result in a loss of benefits from the Victorian AMI program or result in benefits from competition; and
- whether there would be a need to establish Victorian-specific arrangements for small customer metering competition, and therefore costs incurred.

5.1 Rule Proponent's view

The Victorian Government has stated its concern that the current frameworks would not adequately support small customer metering competition in Victoria. The rule change request identifies a number of possible detrimental impacts from introducing metering competition in Victoria under the current frameworks, including:²⁶

- Inefficiencies arising from the use in a mass market context of business-to-business processes that have been designed for a small volume of transactions.
- The inability of some systems and processes to support a changed responsibility for the provision for metering services. For example, business-to-business processes relating to remote re-energisation and de-energisation would need to be modified. They assume that the distribution business, not the retailer, is responsible for the service
- The possibility of inefficient meter replacement, if a retailer elects to replace a functioning AMI meter.
- Possible barriers to retailer competition, depending on how charges for a retailer-provided meter are handled in retailers' contracts with customers.
- Possible adverse effects on reliability of supply, without systems and processes in place for handling meter faults between retailers and distributors.
- A lack of appropriate customer protection arrangements.
- A possible loss of benefits from the AMI program, if a retailer elects to be responsible for a small customer metering site and is unable to continue to provide the same level of service as the distribution business would have. The potential loss of benefits relate to:

²⁶ Minister for Energy and Resources (Victoria), *AMI Rule Change Request (Jurisdictional Derogation - Victoria)*, 18 June 2013, pp. 6-12.

- remote de-energisation and re-energisation, if systems and processes are not in place for retailers to provide this service;
- network operational efficiency, if retailer-provided meters do not support efficient network operation through the provision of data and functionality to distribution businesses; and
- flexible pricing, if the introduction of metering competition at the same time as flexible pricing compromises the ability of retailers and consumers to understand and benefit from innovative tariffs.

The Victorian Government therefore considers that, without a national framework in place, Victorian-specific arrangements would need to be developed to support contestable metering services. This would:

- inefficiently duplicate an equivalent national process;
- divert Victorian resources away from the national process; and
- result in a likely and undesirable divergence between the Victorian and national arrangements for contestable metering services.

5.2 Stakeholder views

5.2.1 Consumer advocacy group

First round of consultation

The Consumer Utilities Advocacy Centre Ltd (CUAC) supports the rule change request for a new jurisdictional derogation. CUAC agrees with the Victorian Government that the introduction of metering contestability within the current frameworks could have a number of detrimental impacts, in particular:²⁷

- loss of benefits anticipated to flow from the AMI rollout;
- absence of adequate consumer protections to support metering contestability;
- additional costs arising from developing Victorian specific protections to support contestability in advance of a national smart meter framework; and
- additional layers of complexity and likely confusion for consumers at a time where other changes such as flexible pricing are also being introduced.

CUAC is of the view that, before any decision is made regarding the introduction of metering contestability, it is critical that a cost benefit assessment (including risk) is undertaken to gauge the likely extent of any additional costs to consumers.

²⁷ Consumer Utilities Advocacy Centre Ltd, submission on the Consultation Paper, pp. 1-3.

CUAC notes that Victorian consumers have been paying for the mandated AMI rollout since September 2009, and will continue to do so for some time. It is only recently that some consumers have realised benefits. More benefit realisation will occur over time. Introducing metering contestability before these benefits are realised has the potential to generate substantial confusion and dissatisfaction among consumers.

CUAC considers that introducing metering competition at the same time as flexible pricing, for which a public communications campaign is currently underway, has the potential to add further complexity at a time when consumers are coming to terms with significant changes, and this may affect consumer confidence in the market.

Competition in metering services opens up the possibility of third parties, such as businesses providing energy management services, to be involved in providing a range of service to consumers. Such businesses fall outside the Australian Energy Regulator (AER) framework for retailer authorisation or exemption and outside the Victorian licensing and exemptions framework. CUAC is of the view that regulatory provisions regarding third party meter service provision should be addressed prior to opening up metering services competition.

5.2.2 Victorian electricity distribution businesses and Energy Networks Association

First round of consultation

In a joint submission, the Victorian electricity distribution businesses state their concern that allowing the existing derogation to lapse would introduce metering competition in Victoria in a disorderly way, exposing customers to service performance and safety risks.²⁸ The distribution businesses concur with many of the issues raised by the Victorian Government, as regards the adequacy of the existing frameworks for metering contestability.

The Victorian electricity distribution businesses note nine previously identified gaps in the current regulatory framework, businesses systems and processes that would need to be addressed to support competition in the provision of AMI services. These gaps were identified during the Victorian Department of Primary Industries' consultation with industry and consumer groups on transitional arrangements for the expiry of the Victorian AMI derogation:²⁹

1. Arrangements to enable remote re-energisation and de-energisation services to be provided in respect of retailer-provided AMI meters.
2. Arrangements to ensure efficient restoration of customer supply where the supply interruption involves faults with retailer-provided AMI meters.

²⁸ Joint submission on the AEMC's Consultation Paper by the Victorian electricity distribution businesses: Jemena, CitiPower, Powercor Australia, SP AusNet, United Energy.

²⁹ Victorian electricity distribution businesses, joint submission on the Consultation Paper, pp. 5-6.

3. Arrangements to facilitate distributor access to meter services and data outputs from retailer-provided AMI meters to realise AMI-enabled network service improvements.
4. Development of a means to distinguish in the market's systems AMI meters installed as type 4 meters from type 4 meters that are not AMI meters.
5. Arrangements to minimise meter churn in respect of retailer-provided AMI meters.
6. Clarifying that retailer-provided AMI meters must comply with the Victorian Minimum AMI Functionality Specification.
7. Ensuring that the Victorian Minimum AMI Service Levels Specification applies to retailer-provided AMI meters.
8. New connections framework that provides an efficient means of determining the party responsible for metering.
9. Clarifying that metering installed for small customers must be AMI meters.

The Victorian electricity distribution businesses identify seven performance issues that would arise from the competitive provision of AMI services under the current frameworks, given the previously identified gaps:³⁰

1. Possible risks to customer and network safety where retailers remotely de-energise or re-energise meters. Protocols need to be established to ensure that parties can discharge their obligations, where responsibility for services has altered, while ensuring that network and customer safety is not compromised. This includes the treatment of special needs customers, such as those on life support.
2. The loss of network benefits if measures are not in place to maintain service capability irrespective of meter ownership. In a contestable environment, distributors would need to obtain data from retailer provided meters within operational timeframes. However, the NER would treat the provision of such data as an additional data service, to be provided at the discretion of the retailer's meter data provider. The distributor would not have the right of access to AMI data that is required to support the expected network operation benefits of the AMI rollout.
3. A lack of regulatory and business solutions for restoring supply following an outage where metering ownership has changed.
4. The increased cost of legacy distribution services, in cases where retailer-provided meters are unable to support the automated services provided

³⁰ Victorian electricity distribution businesses, joint submission on the Consultation Paper, pp. 9-14 and 17.

by AMI. The average cost of manual services will increase as truck and crew costs are spread over a smaller volume of geographically dispersed sites.

5. Possible barriers to retail competition, if retail contracts require customers to change their meters if they switch retailer. The problem would be exacerbated by the use of the current business-to-business processes for changing meter provider and meter data provider. Those processes are designed for low-volume transactions, and would not be suited to the mass market.
6. The need for new customer protection arrangements to accommodate metering competition. Customers should be well informed of the different service levels, metering charges, terms and conditions offered by different service providers. Arrangements are needed to make metering contracts transferable between retailers, to safeguard against inefficient meter replacement when customers switch retailer. A consumer education campaign should explain the benefits for metering competition, while minimising confusion with other initiatives such as the introduction of flexible pricing
7. A lack of an agreed industry process for new connections in a competitive environment to coordinate third party meter installation, service connection and initial energisation. Connections could therefore be delayed or additional costs incurred with multiple site visits required to effect a connection.

The Victorian electricity distribution businesses therefore consider that, if the existing derogation were allowed to lapse, the industry would face the choice of:³¹

- Designing and implementing Victorian-specific arrangements to support metering competition, independent of the national arrangements; or
- Operating with current systems and processes until the national arrangements are implemented.

The Victorian electricity distribution businesses consider that:

- The first of these options would result in an inefficient duplication of effort, and also the development of solutions "on the run", as systems and processes cannot be in place by 31 December 2013.
- The second option would expose customers and industry to the risk of chaotic and undesirable outcomes, and the costs of resolving customer issues.

With regard to the second option, the Victorian electricity distribution businesses consider it imprudent to assume that there would be a low volume of retailer-provided meters in a competitive environment in Victoria, and that the consequent risks and impacts would be manageable.³²

³¹ Victorian electricity distribution businesses, joint submission on the Consultation Paper, pp. 2-3.

³² Victorian electricity distribution businesses, joint submission on the Consultation Paper, p. 19.

- Even if the volume of retailer-provided meters was low, the impacts on particular customers may be high if business processes and information flows are not properly developed. Such impacts are costly to resolve, and as the AMI rollout demonstrates, only a few negative customer experiences can lead to a general loss of consumer confidence.
- Planning for low volumes but incurring high volumes of retailer-provided meters would expose customers to significant performance risks.

The Victorian electricity distribution businesses consider that customers will be better served by a move to metering competition in the context of nationally agreed arrangements, and therefore support the proposed new derogation.

The Energy Networks Association supports the Victorian electricity distribution businesses' submission.³³ The Energy Networks Association considers that the proposed rule sensibly seeks to ensure an efficient transition by Victoria to a national framework for contestable metering services without unnecessary risk, expenditure or confusion for Victorian consumers.

Second round of consultation

The Energy Networks Association endorses the AEMC's view that there is not currently a clear and viable framework for commercial contestability in AMI metering and related services in Victoria. In the absence of such a framework, expiry of the existing derogation might limit consumer benefits from the existing investment, without creating benefits from better third party access to related services.³⁴

The Victorian electricity distribution businesses agree with the Commission that:

- The current arrangements in Victoria lack critical features for supporting effective competition in the provision of AMI meters.³⁵
- A framework for contestability needs to be developed if the benefits from the substantial investment already made in AMI meters are to be realised. If competition were introduced in the absence of such a framework, then limited, if any, efficiency benefits would be achieved.³⁶

The Victorian electricity distribution businesses submit that allowing the existing derogation to expire would advance a model of competition that is contrary to the design set out in the Commission's Power of Choice report and that is not in the long term interests of consumers.³⁷

³³ Energy Networks Association, submission on the Consultation Paper , p. 1.

³⁴ Energy Networks Association, submission on the Draft Rule Determination, p. 1.

³⁵ Victorian electricity distribution businesses, joint submission on the Draft Rule Determination, p. 1.

³⁶ Victorian electricity distribution businesses, joint submission on the Draft Rule Determination, p. 5.

³⁷ Victorian electricity distribution businesses, joint submission on the Draft Rule Determination, p. 6.

The Victorian distribution businesses agree with the Commission that it would be inefficient to develop Victorian-specific arrangements to introduce competition in the provision of AMI meters. In particular, there would be an inefficient duplication of effort in developing arrangements in Victoria and nationally. Additional resources would be required to achieve convergence if the Victorian arrangements did not precisely mirror the national arrangements. Furthermore, the necessary changes to establish Victorian-specific arrangements could not be developed in time to facilitate competition from 31 December 2013.³⁸

The Victorian distribution businesses question whether industry players would devote the necessary resources to develop arrangements for Victoria, in the knowledge that these arrangements would ultimately need to transition to the national regime.³⁹

5.2.3 Retailers

First round of consultation

Retailers do not support the making of a new derogation.⁴⁰ Allowing the derogation to lapse would align Victoria with other jurisdictions, where contestability applies for type 3 and type 4 meters.⁴¹

While retailers' preferred option is for the derogation to expire, the Energy Retailers Association of Australia (ERAA) also proposes a transitional option to address the operational and compliance impacts of reclassifying AMI meters from type 5 to type 4 meters.⁴² Origin Energy proposes a similar solution.⁴³ Retailers express disappointment that transitional measures have not already been developed to address these matters, which retailers do not consider to be significant.⁴⁴

The ERAA's transitional option:

- allows the distributor exclusivity provision of the derogation to expire on 31 December 2013;
- preserves the minimum necessary technical elements of the derogation, eg the classification of AMI meters as type 5;

³⁸ Victorian electricity distribution businesses, joint submission on the Draft Rule Determination, p. 7.

³⁹ Victorian electricity distribution businesses, joint submission on the Draft Rule Determination, p. 7.

⁴⁰ Energy Retailers Association of Australia, submission on the Consultation Paper, p. 3; Origin Energy, submission on the Consultation Paper, p. 1; AGL, submission on the Consultation Paper, p. 2; Momentum Energy, submission on the Consultation Paper, p. 2.

⁴¹ Origin Energy, submission on the Consultation Paper, p. 1.

⁴² Energy Retailers Association of Australia, submission on the Consultation Paper, pp. 3-4.

⁴³ Origin Energy, submission on the Consultation Paper, p. 1.

⁴⁴ Energy Retailers Association of Australia, submission on the Consultation Paper, pp. 3-4; Origin Energy, submission so the Consultation Paper, p. 1; Momentum Energy, submission on the Consultation Paper, p. 2.

- allows competition in metering to develop through the existing business-to-business processes that exist in the type 4 metering market; and
- introduces a no-reversion policy which could be an industry agreement that installed metering is not to be replaced with less technically capable metering.

The option is intended to introduce competitive tension into distributor-retailer negotiations over metering services, by opening the metering market to competition. It would provide retailers with the choice of maintaining the existing type 5 AMI meter, or replacing it with a type 4 meter – in particular where distribution businesses do not meet service standards. It would allow existing AMI meters to transition to the national framework for competition in metering services, once that is implemented.⁴⁵

The Victorian Government, in the rule change request, identified the impacts of allowing metering competition within the current regulatory frameworks. Retailers argue that the majority of these issues are not material, can be managed through commercial arrangements between market participants, or can be addressed in a fairly short timeframe.⁴⁶ Any risks that relate to significant meter replacement in a competitive environment are based on an implausible assumption and should be discounted accordingly.⁴⁷

- Business-to-business processes. The ERAA acknowledges that some processes would need to be developed to cater for the competitive environment, but argues that there would be no need to automate the existing processes, given minimal likely meter replacement.⁴⁸ Existing processes already support the competitive provision of metering services by third party meter providers and data providers. Therefore there would not be a requirement to develop new processes.⁴⁹
- Inefficient development of Victorian-specific processes and systems. The current rules, systems and business-to-business processes already cater for the competitive provision of metering outside Victoria, and in Victoria for grandfathered type 4 meters at small customer sites. Given minimal likely meter replacement, competitive provision would only apply to new meters, for which existing processes would suffice within the transitional option proposed by the ERAA.⁵⁰

45 Energy Retailers Association of Australia, submission on the Consultation Paper, pp. 3-4.

46 Energy Retailers Association of Australia, submission on the Consultation Paper, p. 6; Origin Energy, submission on the Consultation Paper, p. 2; AGL, submission on the Consultation Paper, p. 2; Momentum Energy, submission on the Consultation Paper, p. 2.

47 Origin Energy, submission on the Consultation Paper, p. 4; Momentum Energy, submission on the Consultation Paper, p. 2.

48 Energy Retailers Association of Australia, submission on the Consultation Paper, p. 6.

49 Origin Energy, submission on the Consultation Paper, p. 5; AGL, submission on the Consultation Paper, p. 2.

50 Energy Retailers Association of Australia, submission on the Consultation Paper, p. 9.

- Inefficient meter replacement and barriers to retail competition. Retailers argue that it is highly unlikely that metering competition would lead to material replacement of AMI meters.⁵¹ The ERAA argues that it is a misconception that customers would be required to change their meters if they switch retailer; commercial arrangements between retailers and meter providers cater for customer switching.⁵² Origin's commercial experience is that third party metering for small customers does not act as a barrier to retail competition, and does not result in significant meter replacement when customers change their retailer.⁵³
- Adverse impacts on customer reliability. Meter failure is extremely rare: by early March 2013, only one AMI meter had failed after installation in Victoria. Industry agreements could allow third party meter providers to respond to meter faults.⁵⁴
- Lack of appropriate customer protections. The ERAA argues that in a competitive environment, retailers will have a strong incentive to inform customers of the benefits of the products and services that are enabled by advanced meters.⁵⁵ AGL observes that existing customer protections do not require amendment to allow contestable metering within Victoria. The Marketing Code and Retail Code require a retailer, prior to entering a market, to provide the customer with relevant information and documentation, and to obtain explicit informed consent.⁵⁶
- Loss of benefits from the AMI program.
 - Remote de-energisation and re-energisation. The ERAA considers that retailers are able to comply with the Energy Safe Victoria-approved process for safe remote de-energisation and re-energisation, including the treatment of customers with life support arrangements. The ERAA disagrees with an interpretation of regulations which implies that only distribution businesses have the right to perform remote services.⁵⁷
 - Network operational efficiencies. The ERAA considers that network operational efficiencies would not be threatened given minimal likely meter replacement. Furthermore, any meters installed by retailers would need to meet the Victorian Minimum AMI Functionality Specification. Retailers would offer network services enabled by these meters to distributors on commercial terms, allowing network benefits still to be

51 Energy Retailers Association of Australia, submission on the Consultation Paper, p. 6; Origin Energy, submission on the Consultation Paper, p. 2; AGL, submission on the Consultation Paper, p. 2; Momentum Energy, submission on the Consultation Paper, p. 2.

52 Energy Retailers Association of Australia, submission on the Consultation Paper, pp. 7-8.

53 Origin Energy, submission on the Consultation Paper, p. 2.

54 Energy Retailers Association of Australia, submission on the Consultation Paper, pp. 9-10.

55 Energy Retailers Association of Australia, submission on the Consultation Paper, p. 10.

56 AGL, submission on the Consultation Paper, p. 3.

57 Energy Retailers Association of Australia, submission on the Consultation Paper, pp. 10-12.

realised. The ERAA cites technical advice that distribution businesses would be able to access sufficient information to enable reliable fault detection, even where the distribution business cannot access a retailer-provided meter directly.⁵⁸

- Benefits from flexible pricing. Retailers argue that consumer confidence in flexible pricing is unlikely to be affected by metering contestability.⁵⁹ Customers that are most likely to accept a competitive metering services offer will be sophisticated enough to distinguish between flexible pricing issues and benefits associated with an alternative meter provider.⁶⁰

Origin believes that relying on the national process as a means to transition Victoria to competition in small customer metering services is unlikely to resolve the issues raised in the rule change request by 2017, even if they were material. Origin predicts that there will be a perceived need to further extend the derogation at that time.⁶¹ AGL believes that commercial arrangements can be developed between distribution businesses and retailers in Victoria to manage existing AMI meters, and this will be the most efficient means to transition Victoria to a contestable metering environment.⁶² Momentum is of the view the contestable metering environment will take time to develop, and for that to happen in an effective way the derogation should not be extended.⁶³

Second round of consultation

AGL and Origin Energy both submit that the perceived gaps in the existing frameworks, should the existing derogation lapse, would not require Victorian-specific arrangements.

AGL argues that competitive metering and the commercial delivery of services can be based on the establishment of commercial arrangements between distributors and retailers in Victoria for the management of installed AMI meters. AGL considers that this is the most cost efficient way of transitioning to a contestable metering environment.⁶⁴

Origin argues that the existing frameworks are either sufficient or that industry would find practical solutions:

- The existing chapter 7 provisions and market frameworks are adequate to support the contestable provision of meters to small customers for the relatively

58 Energy Retailers Association of Australia, submission on the Consultation Paper, pp. 12-13.

59 Energy Retailers Association of Australia, submission on the Consultation Paper, p. 10.

60 Origin Energy, submission on the Consultation Paper, p. 5.

61 Origin Energy, submission on the Consultation Paper, p. 2.

62 AGL, submission on the Consultation Paper, p. 3.

63 Momentum Energy, submission on the Consultation Paper, p. 2.

64 AGL, submission on the Draft Rule Determination, p. 1.

limited number of non-distributor meters likely to be installed between the expiry of the existing jurisdictional derogation and the implementation of a national framework. Origin has not experienced business-to-business or systems impact from its deployment of several thousand remotely read type 4 meters for the Adelaide Solar Cities project in the past five years.⁶⁵

- Any contestable meter would comply with the AMI Functionality Specification in Origin's view. Distributors would negotiate access to third party meters to realise AMI-enabled network service improvements.⁶⁶

Origin also argues that commercial incentives would be sufficient to manage perceived risks relating to meter churn and customer protections:

- Commercial drivers will minimise the possibility of inefficient meter churn on change of retailer. Meter churn is minimised and managed by stakeholders in New Zealand, in a similar commercial environment and market structure to the NEM.⁶⁷
- The deployment of a limited number of smart meters commercially is unlikely to confuse consumers with respect to flexible pricing. The Victorian Energy Retail Code has already undergone significant amendment adding consumer protections for customers with smart meters; Origin does not consider that further Victorian-specific regulation is required.⁶⁸

Both AGL and Origin submit that allowing the derogation to expire would promote customer choice of metering provider and related services.⁶⁹

5.2.4 Third party metering services provider

First round of consultation

Metropolis disagrees with the Victorian Government's assessment of the adequacy of the existing frameworks for metering services competition, and addresses each area of identified impact.⁷⁰

- Barriers to retail competition. Industry processes are designed so that a meter change is never required to facilitate a customer transfer. Metropolis has installed thousands of residential smart meters (type 4) and customers have subsequently freely transferred between retailers. A retailer may choose to nominate a new

⁶⁵ Origin Energy, submission on the Draft Rule Determination, pp. 3, 6, 7.

⁶⁶ Origin Energy, submission on the Draft Rule Determination, pp. 8-9.

⁶⁷ Origin Energy, submission on the Draft Rule Determination, p. 3.

⁶⁸ Origin Energy, submission on the Draft Rule Determination, p. 8.

⁶⁹ AGL, submission on the Draft Rule Determination, p. 1; Origin Energy, submission on the Draft Rule Determination, pp. 2, 6.

⁷⁰ Metropolis, submission on the Consultation Paper, pp. 1-8.

metering services provider when transferring a customer, but there is nothing in the rules or processes that requires them to do so.

- Business-to-business processes. Processes are already automated and require no manual intervention. The same processes are used for large electricity customers as for residential customers and work well in volume. Processes that assume the distribution business has service responsibility do not require modification. The business-to-business hub is not compulsory, and the industry supports and encourages alternative processes and systems. For example, Metropolis allows retailers to communicate directly with its meters to initiate a remote de-energisation or re-energisation, without using the existing business-to-business processes, and while complying with Energy Save Victoria's safety standards.
- Adverse impacts on customer reliability. Meter faults do not cause disruptions to customers' supply. If a smart meter fails, only the quality of metering data is affected. The customer does not experience an outage.
- Customer protection arrangements. Retailers and third party metering services providers have a vested interest in the customer relationship and the technology, and therefore an interest in delivering service and price innovations to customers.
- Impact on flexible pricing. Metering services competition is likely to enhance the uptake of flexible pricing by making metering services available at a lower charge. Metropolis cites an annual \$43 saving, comparing its equivalent service offering to the regulated charge for AMI metering services in Jemena's area. Metering charges are "unbundled" from distribution use of system charges in Victoria, meaning that the distribution business can no longer charge the retailer for metering services if the retailer appoints an alternative metering services provider. Therefore retailers can pass on any savings to their customers.
- Impact on network operation. Meters for which retailers are responsible support efficient network operation. The NER and AEMO service levels require contestable metering services to provide data to each distribution business, with daily delivery of data to each participant through the market's system. Metropolis's residential meters conform to the Victorian functionality requirements, and offer additional capabilities. Distribution businesses can subscribe to the use of these functions.

5.3 Conclusion

5.3.1 Existing frameworks are not adequate

We note the argument that retailer provision of metering services is already possible under the existing rules. When a retailer elects to be responsible for a remotely read interval meter, metering services are often provided contestably by third parties. This

was the case in Victoria before the existing derogation was made, and in other jurisdictions currently. However, we consider that these frameworks do not provide a basis for markets to make efficient investment and operational decisions - which led us to the recommendations we made in the Power of Choice for a new national framework.

In addition, the deployment of advanced metering infrastructure in Victoria means that the framework for competition should build on the benefits of that program, while enabling new investment in metering and related services where that is efficient.

We would be particularly concerned at the possibility of replacement of AMI meters if a retailer elects to be responsible for a small customer metering site, given that these meters have a high degree of functionality and assets are near the beginning of their lives. It is likely to be efficient to replace such meters only if the additional benefits, through additional functionality for example, exceeded the cost of two meters - the existing one and the new one.

Retailers have argued that - in a commercial environment - they will only replace an AMI meter in the circumstances just described: they must be able to demonstrate a net positive benefit to the consumer. Retailers have also noted that this is unlikely to be the case, and note that the exit fee payable to distribution businesses would act as a barrier to the inefficient replacement of meters.

We agree with retailers that inefficient meter replacement is unlikely to occur if the cost of the meter is the only consideration.

However, retailers have stated that their aim in seeking competition is not to replace and own meters, but to exercise "competitive tension": to secure access to existing meters on better terms and conditions, in order to offer consumers new products and services.

It is of concern if retailers are finding it difficult to access the advanced metering infrastructure in Victoria. We note that in some cases distributors are working with retailers to deliver related services to consumers, such as in-home displays.⁷¹ But retailers also note their limited ability to influence the delivery of these services, and the terms and conditions under which they are delivered.⁷² This may have resulted in a focus on control of the meter as a means of addressing access difficulties. But we do not consider that allowing retailers to threaten to replace AMI meters is the right way to achieve efficient access.

In fact, the risk of meter replacement - and therefore uncertainty of returns on investment - could be one of the factors that are limiting the competitive provision of advanced metering and related services to small customers in the jurisdictions outside Victoria within the current regulatory framework.

⁷¹ For example, Origin Energy notes distributors' willingness to engage with retailers around the delivery of related services. Origin Energy, submission on the Consultation Paper, p. 10.

⁷² Origin Energy, submission on the Consultation Paper, p. 10.

We consider that a framework for competition in metering and related services needs to provide, at a minimum:

- arrangements for open access and common communication standards, including the basis for charging for access, to promote competition and innovation in related services that does not depend on meter ownership;
- certainty over rights to use the related services enabled by the meter, including the ability to prioritise commands sent to the meter;
- arrangements to prevent inefficient replacement of meters - both when consumers switch retailers, and when retailers can elect to be responsible for small customer metering sites in Victoria; and
- arrangements for the transfer from distribution businesses to retailers of existing contracts for meter provider and meter data provider services.⁷³

Because current arrangements lack these features, allowing the existing derogation to lapse and relying on existing frameworks would be likely to result in inefficient outcomes. It would be unlikely to achieve significantly better third party access to AMI meters or more competitive provision of meters and related services.⁷⁴ It would be likely to result in uncertainty about the ability of existing systems and processes to accommodate a change in responsible person, creating costs and additional risks.

Retailers and Metropolis have argued that the perceived gaps in the existing frameworks, should the existing derogation lapse, would not require Victorian-specific arrangements. Origin argues that the existing frameworks are either sufficient or that industry would find practical solutions, for example to questions relating to access and interoperability. AGL also argues that commercial arrangements between distributors and retailers in Victoria could be established for the management of installed AMI meters. Origin argues that commercial incentives would be sufficient to manage perceived risks relating to meter churn and customer protections.

The Commission acknowledges that retailer provision of remotely read interval meters for small customers is possible under the existing NER framework in jurisdictions other than Victoria. However, Victoria differs from the other jurisdictions because it has had a distributor-led mass rollout of AMI to small customers, creating a different starting point. Systems and processes have been developed on that basis, and a change in responsible person for AMI meters - from distribution business to retailer - would create a number of issues that would need to be addressed. The Victorian Government, in its review of the AMI rollout, found that the program would deliver an expected

⁷³ The first and second of these points fall within the terms of reference for the review of open access and common communication standards - see section 1.4.3. The third and fourth of these points will fall within the rule change request for competition in metering that we expect to receive later this year.

⁷⁴ Retailer responsibility for providing meter services does not create third party access - see section 1.4.2.

level of benefits to consumers. Whether retailer-provision of small customer meters would allow those benefits to be realised raises additional issues.

From the evidence that has been presented by the Victorian Government and in stakeholder submissions, the Commission is not confident that these issues could be managed through commercial arrangements on an ad hoc basis. There is uncertainty regarding the ability of systems and processes to accommodate a change in responsible person, where the existing AMI meter remains in place, with consequent uncertainty about the ability of parties to carry out their responsibilities. The list of issues that would need to be addressed includes:

- how AMI meters would be flagged within the market's systems, if they became type 4 rather than deemed type 5 meters;
- the ability of business-to-business processes to accommodate a change in responsible person and a change in metering type from type 5 to type 4;
- the ability of retailers to communicate with distribution business meters; and
- how responsibility for AMI sites would be determined upon expiry of the derogation. If it were the intention that service provision remain with the distributor, except in cases where the retailer actively elected to become responsible, then some means of deeming retailers to have accepted an offer from distribution businesses to act as the responsible person for AMI sites would appear necessary.

We conclude that there would be a sufficient risk of disruption to the market that these issues should be resolved before allowing retailers to become responsible for AMI sites.

Moreover, in the case where a retailer elected to become responsible for a small customer metering site and provided a meter, the Commission concludes that additional issues would need to be resolved, including:

- whether retailer-provided meters would be required to provide the same functionality and services as would have been provided under the Victorian AMI program, and if so how this would be achieved;
- whether distributors would need access to operational data from retailer-provided meters in order to realise network operational benefits, and if so how this would be achieved; and
- arrangements to ensure that retailer meter provision did not become a barrier to customers switching their retailer.

We consider the example of the possible loss of network benefits to be illustrative. We agree that a competitive environment could allow network operational benefits to be realised - so long as retailer or third-party provided meters met the existing AMI functionality specification, and access to the meter's data and functionality was made available to distribution businesses. But we consider that new systems and processes

would be required, including rules to allow distribution businesses to access operational data and a means of prioritising commands sent to the meter by multiple parties.

Retailers have argued that contestable provision of metering services is unlikely to result in meter churn on change of retailer, and so will not create a barrier to retail competition. For example, Origin cites New Zealand as an example of a similar commercial environment and market structure to the NEM where commercial drivers lead stakeholders to manage and minimise meter churn.⁷⁵ We are cautious about drawing on the New Zealand example as an analogue for the Victorian situation. We are not confident that in this situation the commercial incentives would lead retailers to make arrangements between themselves and their metering services providers for transfer of metering contracts on change of retailer.

Furthermore, the Commission does not underestimate the need for building consumer awareness and confidence when changing consumer-facing regulations, such as those relating to metering arrangements and flexible pricing, and for having appropriate consumer protection arrangements.

5.3.2 Victorian-specific arrangements for competition would need to be established

The inadequacy of existing frameworks for small customer metering competition leads us to conclude that an alternative framework would need to be established in Victoria if the existing derogation lapses.

A national framework for competition in small customer metering and related services is being progressed in response to the Power of Choice review. The framework will establish minimum agreed functionality for meters, open access and common communication standards, certainty over rights to use the non-metering control functions included in the meter and a metering coordinator role to protect investments in metering, thereby addressing the risk of inefficient meter replacement when customers switch retailer.

SCER has agreed to progress the Power of Choice recommendations, and the Victorian Government has stated its in-principle support. However, the details of how the recommendations will be implemented will not be resolved in time for Victoria to adopt that framework when the current derogation expires.

The Victorian Government, in its rule change request, indicated that Victoria would therefore need to establish its own specific arrangements for metering competition, if the current derogation lapses. This would result in a duplication of costs that are being incurred through the national process. It could create an undesirable divergence from national arrangements, increasing costs for retailers and providers of metering and related services that compete in multiple jurisdictions. It could also have detrimental impacts on the development of a national process. If industry sinks resources into

⁷⁵ Origin Energy, submission on the Draft Rule Determination, p. 3.

developing a Victorian solution, then there may be reluctance to develop a new set of national arrangements on a different set of principles, consistent with the Power of Choice recommendations. Development of Victorian-specific arrangements may also divert resources from the national process.

Alternatively, Victoria could adopt an interim set of arrangements and then migrate to the national framework for competition in small customer metering and related services once that is implemented. However, this would again result in a duplication of costs. There would also be likely negative impacts on consumer confidence and engagement of having multiple arrangements in a relatively short period of time.

In either case - establishing enduring or interim Victorian arrangements - there would be:

- the direct costs of establishing arrangements to meet the minimum requirements described in section 5.3.1; and
- indirect costs, such as the impacts on the cost of business for service providers and on the development of a national solution of having divergence from national arrangements, or on consumer confidence from having multiple arrangements.

Incurring those costs could, nonetheless, be efficient if doing so would be expected to result in greater benefits. This is discussed below.

6 Incremental benefits of introducing small customer metering competition in Victoria

The incremental benefits of introducing small customer metering competition in Victoria, if high enough, could justify the establishment of Victorian-specific arrangements, despite the costs of doing so.

6.1 Rule Proponent's view

The Victorian Government argues that the incremental benefits of introducing competition in small customer metering services in Victoria are likely to be small because:

- most of the benefits associated with competitive metering services will be realised through the rollout of AMI in Victoria, regardless of which party is the responsible person for the meter; and
- the AMI meters provide a platform for retailers to offer innovative services to the market, regardless of which party is the responsible person.

The Victorian Government investigated the potential benefit of not making the proposed rule, through retailers being able to install new and replacement small customer meters. Competition may encourage retailers to provide metering services more cheaply than distribution businesses do, resulting in a benefit. However, in the case where the retailer replaces a working AMI meter, an exit fee would be payable to the distribution business, and the cost to society is likely to outweigh the benefit.

6.2 Stakeholder views

6.2.1 Victorian electricity distribution businesses and Energy Networks Association

First round of consultation

The Victorian electricity distribution businesses concur with the Victorian Government's views that the incremental benefits of introducing metering competition in Victoria are likely to be modest in the short term. The provision of innovative services does not rely on retailer provision of the meter. The Victorian electricity distribution businesses are already working with retailers to deliver value-added customer services.⁷⁶

⁷⁶ Victorian electricity distribution businesses, joint submission on the Consultation Paper, p. 15.

The Victorian electricity distribution businesses doubt whether retailers would be able to provide equivalent metering services at lower costs than currently provided through the AMI program.⁷⁷

Second round of consultation

The Energy Networks Association endorses the AEMC's view that:

- the incremental benefits of allowing retailers to provide small customer metering services in Victoria are likely to be low over the period until a national framework for competition in metering and related services is established; and
- the costs of establishing a Victorian-specific framework for commercial contestability are likely to outweigh the benefits of doing so.⁷⁸

The Victorian distribution businesses support the AEMC's conclusions that allowing the derogation to lapse and relying on existing frameworks would be likely to result in inefficient outcomes. In particular, the benefits of introducing competition from 31 December 2013 are likely to be modest at best, while the potential costs of allowing competition to be introduced, without the necessary regulatory framework, business protocols and systems in place, are likely to be significant.⁷⁹

6.2.2 Retailers

First round of consultation

The ERAA supports the provision of metering under a framework that allows competition and facilitates customer choice. Competition is likely to achieve service provision at lower cost than under monopoly provision, and to foster an increase in the range of services and products offered through the infrastructure. Monopoly provision of smart meters tends to entrench the use of proprietary technologies, which inhibits the development of smart grids and has anti-competitive effects in downstream retail markets.⁸⁰

The ERAA contends that at the moment there is no demonstrated market failure, and that consequently the benefits from allowing metering competition are likely to outweigh any costs required to facilitate competition.⁸¹

⁷⁷ Victorian electricity distribution businesses, joint submission on the Consultation Paper, pp. 15 and 20.

⁷⁸ Energy Networks Association, submission on the Draft Rule Determination, p. 1.

⁷⁹ Victorian electricity distribution businesses, joint submission on the Draft Rule Determination, p. 1-2.

⁸⁰ Energy Retailers Association of Australia, submission on the Consultation Paper, p. 1.

⁸¹ Energy Retailers Association of Australia, submission on the Consultation Paper, p. 15.

Origin Energy identifies categories of customers that would benefit from small customer metering competition. Large customers that have multiple small consumption sites are currently prevented from being able to deal with a single metering provider nationally, because of the requirement to deal with a separate metering provider in Victoria.⁸²

Origin Energy submits that competition would also be expected to accelerate the realisation of AMI benefits through the improved capacity of retailers and third parties to negotiate with distribution businesses to access related services, through the exercise of competitive tension.⁸³ A number of benefits of the AMI program have been delayed, and competition should reduce delays and encourage innovation from distribution businesses.

Origin Energy argues that the chief barrier to third party access to metering data and related services is the existing derogation, and its expiry - along with the development of national processes - are the best mechanisms to promote third party services and innovation. While distribution businesses have demonstrated a willingness to engage with retailers around the delivery of enhanced AMI services, retailers and third parties have only limited ability to influence the terms under which services are supplied. Again, the exercise of competitive tension - if the derogation expires - should encourage an increased range of metering-related services at competitive market rates.⁸⁴

Origin Energy contends that allowing the derogation to expire would provide Victoria with the opportunity to trial third party meter provision on a small scale and build capacity to transition to national arrangements. It would enhance incentives for new industry participants to innovate and offer services across all NEM regions.⁸⁵

AGL also observes that distributor exclusivity means that metering services are not provided at least cost, which may restrict the range of products and services that would be enabled through an open access and competitive approach.⁸⁶

Momentum Energy observes that customer outcomes are likely to be worse under an extension of the derogation because it will delay the development of specific product offerings by retailers for customers with smart meters.⁸⁷

Second round of consultation

Origin contends that while the short-term benefits associated with the contestable provision of metering are likely to be low, due to the limited likely deployment of

⁸² Origin Energy, submission on the Consultation Paper, p. 6.

⁸³ Origin Energy, submission on the Consultation Paper, p. 6.

⁸⁴ Origin Energy, submission on the Consultation Paper, pp. 8 and 10.

⁸⁵ Origin Energy, submission on the Consultation Paper, p. 10.

⁸⁶ AGL, submission on the Consultation Paper, p. 2.

⁸⁷ Momentum Energy, submission on the Consultation Paper, p. 1.

meters on a commercial basis in this period, there are important longer-term benefits available to market participants and service providers to build capacity and experience ahead of the development of any national framework. Such experience and capacity building will be delayed (along with a delay in the benefits associated with competitive meter provision) by extending the derogation. Origin therefore argues that Victoria should re-introduce choice of meter and meter service provision in order to allow market participants and service providers to understand how the market for smart meters will work as it transitions away from monopoly provision and regulated cost recovery.⁸⁸ AGL makes a similar point.⁸⁹

Origin also argues that the derogation's expiry would allow the benefits of contestable metering provision to be realised at greenfield sites, where exit fees would not apply, and would allow retailers to negotiate more flexibly with service providers to develop new services.⁹⁰

6.2.3 Third party metering services provider

First round of consultation

Metropolis submits that a competitive metering services environment would promote innovation, and identifies several innovations that are being inhibited by the current derogation in Victoria.⁹¹

Metropolis identifies classes of consumer that would benefit from reduced costs as a result of competition in metering services. These include:

- Solar PV customers, who have been required to purchase a bi-directional meter from their distribution business in addition to their AMI meter. Metering competition would allow Metropolis to offer a single meter that could perform the functions of both the AMI meter and the bi-directional meter, at less cost.
- New connections.
- Small business customers, who may value additional metering features.
- Embedded networks.
- Customers with multiples sites, some falling within the small consumption definition, or within different distribution networks, but who want a consistent service across all sites.

⁸⁸ Origin Energy, submission on the Draft Rule Determination, pp. 2-3.

⁸⁹ AGL, submission on the Draft Rule Determination, p. 1.

⁹⁰ Origin Energy, submission on the Draft Rule Determination, pp. 11-12.

⁹¹ Metropolis, submission on the Consultation Paper, p. 9.

6.3 Conclusion

For the reasons set out below, we conclude that the incremental benefits of introducing small customer metering competition are unlikely to outweigh the costs of establishing Victorian-specific arrangements to facilitate that competition.

6.3.1 Areas of incremental benefit

The AMI program will result in all Victorian small customers having an AMI meter with a specified minimum functionality.⁹² That functionality supports the realisation of substantial benefits, including:

- the provision of interval metering data to support flexible tariffs;
- the remote collection of metering data;
- remote de-energisation and re-energisation of supply; and
- the provision of data to support the efficient operation of distribution networks.

It is unlikely that metering competition would lead to a significantly higher level of functionality over the near term - in terms of the installed infrastructure. As already discussed, it is unlikely to be efficient to replace the existing infrastructure so near to the beginning of its life.

Competition could provide incremental benefits, beyond what the AMI program is expected to deliver. These could result from:

- lower investment and operating costs; and
- increased provision of innovative products and services that are enabled by advanced metering infrastructure.

Competition would generally be expected to lead to lower investment and operating costs than occur under the monopoly provision of metering services.

We consider that the potential savings on investment and operating costs would only apply in the case of new meters. For existing meters, the investment costs have already been incurred. For existing meters, operating costs are bundled as part of the provision of the metering services. To realise potential savings on operating costs would probably require a change of meter, and we consider it unlikely that the savings would justify meter replacement. The potential savings on both investment and operating costs may therefore be expected to relate only to metering points that are created after the AMI rollout has concluded. The value of this benefit is therefore likely to be small in the short term in Victoria.

⁹² Subject to successful completion of the AMI rollout.

Making the functionality of the existing Victorian advanced metering infrastructure available to consumers to control is likely to be the greatest area of potential incremental benefit. As noted previously, we do not expect this benefit to be realised simply through allowing retailer provision of small customer metering services.⁹³ We expect this benefit to occur under a framework for commercial contestability where retailers and third party service providers can more easily access the existing functionality and offer the services directly to the consumer.

We consider that the incremental benefits associated with the contestable provision of related services would be small compared to the benefits that the AMI program is already expected to provide, which relate mainly to avoided costs resulting from the replacement of accumulation meters, efficiencies in network operation and response to flexible tariffs.⁹⁴

Retailers have argued that a further benefit of allowing the derogation to lapse would be allowing market participants and service providers to build capacity and experience, thereby informing the development of the national framework for competition in metering and related services. As discussed in section 5.3.2, it is the Commission's view that investing resources in developing frameworks for contestable metering services in Victoria could distract from the national reform process, rather than informing it, and would possibly entrench Victorian differences.

6.3.2 Incremental benefits are unlikely to justify Victorian-specific arrangements

The Victorian Government's rule change request indicates that Victoria would migrate to the national framework for small customer metering competition, once that is implemented. The incremental benefits of metering competition, over what the AMI program is expected to provide, should be realised under either scenario: Victorian-specific or national arrangements. Therefore, the value of establishing Victorian-specific arrangements would be the earlier realisation of any incremental benefits over a relatively short period of time.⁹⁵

Given this relatively short "payback" period, and the low level of expected incremental benefits, we consider it likely that the costs of establishing Victorian-specific arrangements for competition in metering and related services would outweigh the benefits.

⁹³ See section 1.4.2.

⁹⁴ Deloitte, *Advanced Metering Infrastructure Cost Benefit Analysis*, Final Report prepared for the Department of Treasury and Finance (Victoria), 2 August 2011, p. 82.

⁹⁵ Being the period of time required to establish the national framework along with regulatory arrangements to achieve the orderly transfer of Victorian arrangements to that framework.

7 Appropriate duration of a new derogation

7.1 Rule Proponent's view

The Victorian Government has requested that the new derogation expire once the national framework for competition in metering and related services for residential and small business customers is established, along with regulatory arrangements to achieve the orderly transfer of Victorian arrangements to that framework. If the national framework is not established by 31 December 2016, then the derogation would expire.

The Victorian Government's rationale for requesting a new derogation with a duration of up to three years may be summarised:

- The most efficient approach to introducing small customer metering contestability in Victoria would be to adopt the national framework, which SCER has agreed to progress.
- It is uncertain when the national framework will be implemented. Although the AEMC proposed in its Power of Choice review that this occur by the end of 2014, it could reasonably be expected that this may not happen until some time in 2015.
- Given the uncertainty, it is proposed that the derogation be extended until the national framework for competition in metering and related services for residential and small business customers is implemented. In the unlikely event that the national framework is not implemented by the end of 2016, the derogation would expire.
- The end of 2016 is proposed for the alternative end date, rather than the end of 2015, to avoid the costs of seeking another derogation in the event that implementation of the national framework is delayed.

7.2 Stakeholder views

7.2.1 Consumer advocacy group

First round of consultation

CUAC submits that it is appropriate to link the duration of the derogation to the establishment of the national framework for competition in metering and related services, provided that regulatory protections relating to the third party provision of metering services are finalised.⁹⁶

⁹⁶ Consumer Utilities Advocacy Centre Ltd, submission on the Consultation Paper, p. 3.

7.2.2 Victorian electricity distribution businesses and Energy Networks Association

First round of consultation

The Victorian electricity distribution businesses submit that it is appropriate to link the duration of the derogation to the establishment of the national framework for competition in metering and related services. Doing so is likely to result in significant savings if Victoria adopts those arrangements.⁹⁷

The Victorian electricity distribution businesses also submit that three years is an appropriate timeframe for the establishment the national framework. This should provide time for:

- a number of rule changes required to give effect to the Power of Choice recommendations; and
- the design, related consultation and implementation of changes to NEM processes, procedures, business-to-business arrangements and industry systems to give effect to the new rules.

Second round of consultation

The Victorian distribution businesses and the Energy Networks Association endorse the proposed duration of the derogation.

The Energy Networks Association submits that it is appropriate for the Victorian AMI system to continue in its current format for the next three years to enable concentration on developing the appropriate national framework. The Energy Networks Association notes that, in a separate process, the AEMC has commenced engagement with industry on open access and common communication standards relating to enabling competition in metering services in the national market. The process will require significant resources and commitment from many parties to facilitate effective interoperation of smart meters while protecting the interests and rights of consumers.⁹⁸

The Victorian distribution businesses indicate that they will continue to work constructively with the Victorian Department of State Development, Business and Innovation (DSDBI), AEMO and the Commission, and industry working groups to meet the timeframes envisaged by the Minister, as reflected in the draft determination.⁹⁹

⁹⁷ Victorian electricity distribution businesses, joint submission on the Consultation Paper, p. 27.

⁹⁸ Energy Networks Association, submission on the Draft Rule Determination, pp. 1-2.

⁹⁹ Victorian electricity distribution businesses, joint submission on the Draft Rule Determination, p. 8.

7.2.3 Retailers

First round of consultation

Retailers, who do not support the making of a new derogation, also do not support the proposed duration of the derogation.

Origin Energy and the ERAA both note the possibility that the national framework will not be ready within three years, or that Victoria will not readily adopt the national framework once it is ready, and that another derogation extension will be requested.¹⁰⁰

The duration of the ERAA's proposed transitional option would be linked to the establishment of the national framework, at which point the ERAA supports the migration of Victoria to those arrangements.

Second round of consultation

AGL and Origin both contend that the proposed rule change is likely to result in compounded delays to the introduction of contestable metering in Victoria.

AGL submits that, because the proposed rule change fails to provide any indication or commitment to transition Victoria to a contestable metering approach, the transition to competitive metering in Victoria will be delayed until after December 2016.¹⁰¹

Origin argues that the derogation should not be extended, and that reconsidering the need for the establishment of Victorian-specific arrangements after another three years, if the national framework has not been established by then, would probably delay contestable metering and service provision until 2019 and compound the lost opportunities afforded by competitive metering provision.¹⁰²

7.3 Conclusion

Second round stakeholder submissions did not provide any additional information that would support changing the duration of the derogation. Our reasoning in relation to this matter from our draft rule determination is set out below.

The rule allows two alternatives for the duration of the jurisdictional derogation:

- until the national framework for small customer metering competition is established, along with regulatory arrangements to achieve the orderly transfer of Victorian arrangements to that framework; and

¹⁰⁰ Origin Energy, submission on the Consultation Paper, p. 9; ERAA, submission on the Consultation Paper, p. 1.

¹⁰¹ AGL, submission on the Draft Rule Determination, p. 1.

¹⁰² Origin Energy, submission on the Draft Rule Determination, pp. 3-4, 7.

- a fallback duration of three years if the national framework and transitional arrangements are not established by the end of 2016.

These alternatives are considered in turn below.

7.3.1 Establishment of the national framework

We consider establishment of the national framework, along with arrangements for Victoria to migrate to that framework, to be an appropriate trigger for the derogation to expire. As we have determined in the preceding sections, this is likely to be the best way of implementing small customer metering competition in Victoria. It is likely to realise the benefits from the investment already made in Victorian AMI, while also unlocking the incremental benefits that may be expected to derive from customer choice and a better platform for competition in meter-related services.

We note retailers' concerns that the rule as made does not compel Victoria to adopt the national framework. However, it is our conclusion that making a new derogation provides the most efficient avenue for Victoria to migrate to a framework for competition in both metering and related services. Doing so provides time for a national framework to be established and for the Victorian Government, market agencies and industry participants to devise a path for Victoria to migrate its small customer metering arrangements to that framework. Nevertheless, willingness and effort on the part of all these entities will be required if the transition is to be successful.

We expect that the rule change that establishes a framework for competition in metering and related services for residential and small business customers will also remove this derogation from the NER. This is because, on commencement of that framework, the preconditions for expiry of the derogation under clause 9.9C.2 should be satisfied.

7.3.2 Three years

The alternative of a three-year duration requires consideration of two sets of issues:

- Should the fallback, three-year duration exist?
- If so, is three years an appropriate duration?

Should the fallback duration exist?

The Victorian Government proposes a three-year fallback duration that would apply if the national framework is not established by the end of 2016. But in the case that the national framework is not available to migrate to, Victoria would face similar choices to those it does now: establish Victorian-specific arrangements for competition in metering and related services, or seek another extension of the derogation until the national framework is established.

There would be little benefit in having the fallback duration if we were confident that adopting the national framework will persist over time as the answer to the question, "How should small customer metering competition be implemented in Victoria?" It could merely impose the administrative burden of performing another rule change in three years' time that is likely to result in another extension of the derogation.

However, we consider that there is enough possibility of that answer changing over time that a fallback duration should be included in the rule.

At a future point in time, the value of advancing the realisation of incremental benefits from competition in metering and related services may outweigh the costs of establishing Victorian-specific arrangements to allow that competition.

Technological change and ageing assets will at some point in time result in being efficient to replace the current AMI stock. Consistent with the conclusions we reached in the Power of Choice review, it is most likely to be in the long term interests of consumers to have that new investment driven by consumer choice.

Further, innovation in meter-related services and products is likely to increase the benefit over time of establishing competitive arrangements that better support customer choice in this area.

Finally, the longer it takes to establish the national arrangements, the more likely it is that establishing Victorian-specific arrangements for competition would be worthwhile, because of the greater implied payback period.

Given these considerations, and the possibility of other unforeseen changes, we consider it appropriate that the derogation should contain a fallback expiry date.

Is three years an appropriate fallback duration?

The Victorian Government's proposal of three years as the fallback duration is based on an expectation that the national arrangements be established by the end of 2015, while allowing some contingency in case the national process is delayed.

The fallback duration needs to be at least as long as the expected time for the establishment of national arrangements. It also needs to allow for time to put in place the transitional arrangement for Victoria to migrate to the national framework.¹⁰³

Given the uncertainties about the future considered in the preceding section, we conclude that it is appropriate for the fallback duration to be related to the expected date that Victoria would migrate to the national framework, rather than being extended too much further.

Our current expectation is that the national framework for metering competition will be established by the end of 2015.

¹⁰³ A shorter fallback duration would be likely to result in a new rule change request for another derogation, creating cost and uncertainty.

We consider it appropriate to allow up to a year to put in place regulatory arrangements to allow for the orderly transfer of Victorian arrangements to the national framework. We note that in some areas, the Victorian arrangements will require workarounds to make them consistent with the Power of Choice recommendations. For example, common communication standards are not immediately workable, given that different communication networks have been implemented.

Abbreviations

AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
AMI	advanced metering infrastructure
Commission	See AEMC
CUAC	Consumer Utilities Advocacy Centre Ltd
ERAA	Energy Retailers Association of Australia
MCE	Ministerial Council on Energy
NEL	National Electricity Law
NEM	National Electricity Market
NEO	National Electricity Objective
NER	National Electricity Rules
SCER	Standing Council on Energy and Resources

A Rationale for the rule change request

In its rule change request, the Victorian Government considers the costs, benefits and other impacts associated with two options:¹⁰⁴

- (A) not making the proposed rule, allowing retailers to elect to be responsible person for AMI meters, and therefore introducing competition in small customer metering services in Victoria; and
- (B) making the proposed rule, and therefore continuing distribution business exclusivity for AMI meters.

With regard to option A, the Victorian Government finds that:

- The incremental benefits, beyond what will be achieved by the AMI program, would be low.
- The costs would be significant, and would include inefficient duplication of an equivalent national process and a potential loss of benefits associated with the AMI program.
- Barriers to retail competition could be created if consumers have to change meters when they change retailers.
- There would be potential adverse impacts on reliability of supply.
- There would be a lack of adequate customer protection arrangements.
- Introducing metering competition at the same time as flexible pricing could create confusion for consumers.

The Victorian Government finds that option B preserves the benefits associated with Victoria's AMI program, and defers the costs of a consumer engagement plan to support the introduction of metering contestability.

Therefore, the Victorian Government argues that it is in the interests of Victorian consumers to make a new derogation that would preserve distribution business exclusivity for small customer metering services for another three years, or until national arrangements for competition in metering and related services are implemented.

Supporting arguments from the rule change request are summarised below.

¹⁰⁴ Minister for Energy and Resources (Victoria), *AMI Rule Change Request (Jurisdictional Derogation - Victoria)*, 18 June 2013, pp. 5-23.

A.1 Effect of not making the rule

A.1.1 Benefits

The Victorian Government states that the incremental benefits of introducing competition in small customer metering services in Victoria are likely to be small because:

- most of the benefits associated with competitive metering services will be realised through the rollout of AMI in Victoria, regardless of which party is the responsible person for the meter; and
- the AMI meters provide a platform for retailers to offer innovative services to the market, regardless of which party is the responsible person.

Not making the rule would result in retailers being able to install new and replacement small customer meters. Competition may encourage retailers to provide metering services more cheaply than distribution businesses do, resulting in a benefit. However, in the case where the retailer replaces a working AMI meter, an exit fee would be payable to the distribution business, and the cost to society is likely to outweigh the benefit.

A.1.2 Costs

The Victorian Government identifies costs that would be incurred in developing Victorian specific processes and systems to accommodate contestable metering services. These would inefficiently duplicate costs that will be incurred in developing the national framework for competition in metering and associated services. In particular:

- Business-to-business processes for metering competition would need to be automated. They are currently quite manual, and therefore expensive, as they are used for only a small number of large electricity consumers.
- The current automated business-to-business processes for small customer meters, such as those relating to remote de-energisation and re-energisation, would need to be modified. They assume that the distribution businesses, not the retailer, are responsible for the service.
- Processes and systems would need to be introduced for responding to meter faults where the retailer is responsible for the meter.
- Customer protection arrangements would need to be changed to accommodate metering competition while protecting consumers' interests.

There is no certainty that Victorian-specific processes would be consistent with the national framework, in which case they would need to be modified again once that is implemented.

The Victorian Government finds that there could be a loss of benefits associated with the AMI program if:

- a retailer elects to be the responsible person for a Victorian small customer's metering installation; and
- processes and systems are not established to ensure that the retailer continues to provide the same level of service as the distribution businesses would have.

The potential loss of benefits relate to:

- Remote de-energisation and re-energisation. If retailers cannot provide this service, additional costs would be incurred.
- Network operational efficiency. Meters for which retailers are responsible may not support efficient network operation, resulting in additional costs and associated impacts on security and reliability of electricity supply.
- Flexible pricing. The introduction of metering competition at the same time as flexible pricing may compromise the ability of retailers and consumers to understand and benefit from innovative tariffs.

The Victorian Government finds that, in the absence of rules to prevent inefficient meter churn, metering competition may lead to consumers being required to change meters when they change retailers. There would be a net cost to society if the new meter enables no improvement in the associated services.

A.1.3 Other impacts

The Victorian Government identifies other potential adverse impacts of not making the rule:

- Barriers to retail competition may be created if consumers are required to change meters when they change retailers, depending on how metering charges are handled.
- Customer reliability may be affected if processes for handling meter faults between retailers and distributors are not established.
- There may be a lack of adequate customer protection arrangements. A consumer engagement program to support metering competition would be necessary.

A.1.4 Net incremental cost-benefit

The rule change request provides an indicative estimate of the costs and benefits associated with not making the rule.¹⁰⁵ The Victorian Government notes that there is a high degree of uncertainty as to how participants would respond to the introduction of competition in metering services in the absence of a national framework. The estimate therefore provides an indication of the possible range of outcomes, rather than attempting a definitive quantification. The net incremental cost-benefit of not making the rule is estimated to be in the range of -\$5 to -\$93 million.

A.2 Effect of making the rule

A.2.1 Benefits

The Victorian Government finds that making the rule would:

- allow a customer engagement campaign to support the introduction of metering contestability to be deferred for up to three years;
- preserve the expected benefits of the AMI program in Victoria.

Other benefits would result from waiting to adopt the national framework for competition in metering services, rather than implementing Victorian-specific arrangements. Making the rule would:

- allow existing processes and systems to be continued until a national framework is implemented, avoiding inefficient and possibly inconsistent duplication of effort;
- avoid inefficient replacement of meters, with adoption of the proposed Metering Coordinator role as part of the national framework;
- allow Victorian participants to focus on the development of the national framework, rather than being distracted by the development of Victorian-specific arrangements; and
- allow the new national consumer protection arrangements and communications campaign, which are to be developed as part of the national framework, to be adopted in Victoria.

Making the rule would also allow consumers a longer period in which to understand the benefits of flexible pricing before metering contestability is introduced. Appropriate customer engagement is needed to avoid the risk of community alienation.

¹⁰⁵ See: Minister for Energy and Resources (Victoria), *AMI Rule Change Request (Jurisdictional Derogation - Victoria)*, 18 June 2013, Table 1 for a summary of costs and benefits, and pp. 13-23 for supporting assumptions.

A.2.2 Costs

The Victorian Government identifies administrative costs associated with the rule change process.

A.2.3 Other impacts

The Victorian Government finds that making the rule would support retail competition as:

- consumers would not have to pay for a new meter when they change retailers;
- with the introduction of flexible pricing enabled by AMI meters from the latter half of 2013, retailers will have the potential to compete on more targeted product, service and price offerings, even without metering contestability.

The Victorian Government finds that making the rule would provide for competition in metering services as:

- competition would continue to exist for the provision of metering services to the distribution businesses; and
- competition would exist to provide value-added metering services facilitated by AMI, such as in-home displays.

The Victorian Government finds that making the rule would not have significant negative impacts on innovation. Metering contestability may promote innovation in investment in metering service in the long run. In the short run, however, retailers are not likely to provide meters with additional functionality or higher service levels than AMI meters already provide.

A.2.4 Net incremental cost-benefit

The Proponent estimates the net cost-benefit of making the rule to be in the range of -\$200,000 to \$500,000.

A.3 Rationale for requested duration of derogation

The rule change request provides a rationale for requesting a new derogation with a duration of up to three years, which may be summarised:

- The most efficient approach to introducing small customer metering contestability Victoria would be to adopt the national framework, which SCER has agreed to progress.
- It is uncertain when the national framework will be implemented. Although the AEMC proposed in its Power of Choice review that this occur by the end of 2014, it could reasonably be expected that this may not happen until some time in 2015.

- Given the uncertainty, it is proposed that the derogation be extended until the national framework for competition in metering and related services for residential and small business customers is implemented. In the unlikely event that the national framework is not implemented by the end of 2016, the derogation would expire.
- The end of 2016 is proposed for the alternative end date, rather than the end of 2015, to avoid the costs of seeking another derogation in the event that implementation of the national framework is delayed.

B Summary of issues raised in submissions

B.1 First round of consultation

Stakeholder	Issue	AEMC Response
Readiness of Victoria to introduce competition in metering services for small customers		
Energy Networks Association	For competition in metering services to occur in practice, a number of processes and systems need to be developed (p. 1).	<p>We consider that the existing frameworks for competition in metering services do not provide a basis for markets to make efficient investment and operational decisions - which led us to the recommendations we made in the Power of Choice for a new national framework.</p> <p>We consider that a framework for competition in metering and related services needs to provide certain minimum features (see section 5.3.1).</p> <p>Because these features are lacking, allowing the derogation to lapse and relying on existing frameworks would be likely to result in inefficient outcomes.</p>
Energy Retailers Association of Australia	It is disappointing that transitional impacts have not already been properly addressed prior to the rule change request, especially as the ERAA considers them to be insignificant (pp. 3-4).	
AGL	The AMI ISC flagged to the government in February 2012 that the end of the derogation needed to be managed. Despite having plenty of time to act to resolve the issues identified, no action was taken (p. 2).	
Momentum Energy	It is disappointing that the Victorian Government did not undertake earlier consultation about how the derogation should conclude (p. 2).	
Metropolis	Metropolis does not support the Victorian Jurisdictional Derogation and sees no need for an extension. A supporting framework for metering services competition is already in place (p. 1).	

Stakeholder	Issue	AEMC Response
Impacts of extending the derogation		
Momentum Energy	The extension of the derogation, if anything, will result in worse outcomes for customers on the basis that it will take longer for retailers to develop specific product offerings for customer with smart meters (p. 1).	<p>Many of the benefits associated with advanced metering are expected to be realised in Victoria through the AMI program.</p> <p>There may be some incremental benefits associated with the competitive provision of metering and related services that will not be realised in Victoria during the period of a new derogation. Our assessment is that these would primarily relate to innovation in products and services, which we expect to occur under a framework for commercial contestability where retailers and third party service providers can more easily access the existing functionality and offer the services directly to the consumer (see section 6.3.1).</p> <p>However, we consider that these benefits will be realised should Victoria migrate to the national framework for small customer metering services competition, once that is implemented.</p>
Energy Retailers Association of Australia	Where monopoly segments of the market are given exclusive rights to the rollout of contestable infrastructure, it means that customers are not necessarily provided this service at least cost and may restrict the range of products and services provided through the infrastructure. Monopoly provision of smart meters tends to entrench the use of proprietary technologies, which inhibits the development of smart grids and has anti-competitive effects in downstream retail markets (p. 1).	
Victorian electricity distribution businesses	The Victorian distribution businesses are not aware of any innovative services that rely on a retailer-provided AMI meter. The Victorian distribution businesses are already working with retailers to deliver value-added customer services (p. 15).	
Victorian electricity distribution businesses	The Victorian distribution businesses concur with the Minister's assessment of the benefits of making the Rule (p. 17).	
Victorian electricity distribution businesses	Superficially, the proposed rule change could be regarded as lessening competition in the provision of metering services. However, competition will only deliver net benefits to customers if it is supported by appropriate systems and business-to-business arrangements that do not undermine the benefits from the AMI rollout or retail competition more generally (p. 23).	

Stakeholder	Issue	AEMC Response
Impacts of not extending the derogation		
Energy Networks Association	Without the national framework in place, the introduction of metering competition in Victoria from January 2014 would have a number of detrimental impacts (p. 1).	Allowing the derogation to lapse and relying on existing frameworks for metering services competition would be likely to result in inefficient outcomes (see section 5.3.1).
Victorian electricity distribution businesses	<p>There are six service performance issues that may be adversely affected if competition in the provision of AMI meters were allowed to commence on 1 January 2014. These areas are:</p> <ol style="list-style-type: none"> 1. Ensuring network and customer safety. 2. Delivering the expected benefits from the AMI rollout. 3. Delays in supply restoration following an outage. 4. Increased costs of providing legacy distribution services. 5. Barriers to retail competition. 6. Customer protection (p. 9). 	<p>The inadequacy of existing frameworks leads us to conclude that an alternative framework would need to be established in Victoria (see section 5.3.2).</p> <p>We consider that Victoria would need to either:</p> <ul style="list-style-type: none"> • establish its own specific arrangements for metering competition; or • adopt an interim set of arrangements and then migrate to the national framework for competition in small customer metering and related services once that is implemented. <p>In either case there would be:</p> <ul style="list-style-type: none"> • the direct costs of establishing arrangements to meet the minimum requirements described in section 5.3.1; and • indirect costs, such as the impacts on the cost of business for service providers of having divergence from national arrangements, or on consumer confidence from having multiple arrangements.
Victorian electricity distribution businesses	There is no agreed industry process in a competitive environment for coordinating the third party meter installation, the service connection and the initial energisation. In the absence of appropriate industry processes, connections may be delayed or additional costs incurred in multiple site visits to effect a connection (p. 17).	<ul style="list-style-type: none"> • indirect costs, such as the impacts on the cost of business for service providers of having divergence from national arrangements, or on consumer confidence from having multiple arrangements.
Victorian electricity distribution businesses	The Minister explains that following costs would be incurred in developing Victorian specific processes and systems to accommodate contestable metering services:	We consider that the main benefits of introducing metering competition in Victoria will relate to innovation in products and services (see above). The Victorian Government's rule change request indicates that Victoria would migrate to the

Stakeholder	Issue	AEMC Response
	<ul style="list-style-type: none"> • Business-to-business processes for metering competition would need to be automated. • Current automated business-to-business processes such as de-energisation and re-energisation would need to be amended to reflect the transfer of responsibility from distributors to retailers where the retailer is responsible for the meter. • Processes and systems would need to be introduced for responding to meter faults where the retailer is responsible for the meter. • Processes and systems would need to be introduced for the provision of network data where the retailer is responsible for the meter. • Customer protection arrangements would need to be changed to accommodate metering competition while protecting consumers' interests (p. 16). 	<p>national framework for small customer metering competition, once that is implemented. Therefore, the value of establishing Victorian-specific arrangements would be the earlier realisation of any incremental benefits over a relatively short period of time.</p> <p>We consider it unlikely that these benefits would outweigh the costs - direct and indirect - of establishing Victorian-specific arrangements. It is therefore likely to be in the interests of Victorian consumers for Victoria to wait until the national framework is established and to transition to metering competition then.</p>
Consumer Utilities Advocacy Centre	<p>CUAC strongly supports the Minister's rule change request seeking a jurisdictional derogation in relation to meters installed under the AMI program in Victoria. CUAC agrees with the Victorian Government that the introduction of metering contestability in January 2014, in advance of the national smart meter framework, could potentially result in a number of detrimental impacts. In particular:</p> <ul style="list-style-type: none"> • Loss of benefits anticipated to flow from the AMI rollout. • Absence of adequate consumer protections to support metering contestability. 	

Stakeholder	Issue	AEMC Response
	<ul style="list-style-type: none"> • Additional costs arising from developing Victorian specific protections to support contestability in advance of national smart meter framework. • Additional layer of complexity and likely confusion for consumers at a time where other changes such as flexible pricing are also being introduced (pp. 1-2). 	
Origin Energy	There is no evidence to support the impacts on the costs and benefits of the Victorian AMI rollout suggested in the rule change proposal, and expiry would simply align Victoria with other National Electricity Market (NEM) jurisdictions (where contestability of type 3 and 4 meters for all customers applies in full today for all customers) (p. 1).	
Origin Energy	A chief purpose of the existing derogation was to provide investment certainty for distribution businesses during the course of the AMI rollout, which is now substantially complete (p. 1).	
Origin Energy	Any risks to the AMI costs and benefits that relate to significant meter replacement in a competitive environment are based on an implausible assumption and should be discounted accordingly (p. 4).	
Origin Energy	There are customers that would benefit from small customer metering competition. Large customers that have multiple small consumption sites are currently prevented from being able to deal with a single metering provider nationally, because of the requirement to deal with a separate metering provider in Victoria (p. 6).	
Origin Energy	Competition would be expected to accelerate the realisation of	

Stakeholder	Issue	AEMC Response
	<p>AMI benefits through the improved capacity of retailers and third parties to negotiate with distribution businesses to access metering services, through the exercise of competitive tension. A number of benefits of the AMI program have been delayed, and competition should reduce delays and encourage innovation from distribution businesses (p. 6).</p>	
Origin Energy	<p>The chief barrier to third party access to metering data and metering services is the existing derogation, and its expiry - along with the development of national processes - are the best mechanisms to promote third party services and innovation. While distribution businesses have demonstrated a willingness to engage with retailers around the delivery of enhanced AMI services, retailers and third parties have only limited ability to influence the terms under which services are supplied. The exercise of competitive tension - if the derogation expires - should encourage an increased range of metering services at competitive market rates (pp. 6, 10).</p>	
Origin Energy	<p>Service levels should not reduce in a competitive environment. It is likely that a retailer or third party seeking to engage a competitive service provider (which may be an unregulated business of a distributor) will seek additional services and functionalities and at service levels at least equal to those provided through conventional (regulated) smart metering. Commercial reality suggests that customers are unlikely to pay for a reduced level of service (p. 6).</p>	
Origin Energy	<p>Expiry of the existing derogation will increase retail competition and offer retailers and third parties the incentive to innovate, years ahead of what would take place if the derogation is extended (where there is the possibility it will simply be further extended) (p. 7).</p>	

Stakeholder	Issue	AEMC Response
Origin Energy	The need to apply the requested rule change is unnecessary given that there is likely to be a limited number of customers offered competitive meter services initially (p. 9).	
Origin Energy	Expiry of the current derogation presents Victoria with an opportunity to trial third party meter provision on a small scale, build capacity to transition to national arrangements, enhance incentives to innovate and encourage new market participants to offer services across all NEM regions (p. 9).	
Business-to-business processes		
Energy Retailers Association of Australia	Whilst the ERAA considers that there are some business-to-business processes that would need to be developed to cater for a competitive metering environment, the ERAA does not support the assumptions made in the rule change request. The rule change request refers to the introduction of metering contestability in Victoria as similar to the introduction of Full Retail Contestability, where 2.5 million electricity customers in Victoria were able to choose their electricity retailers. This is a misrepresentation of the environment that would be present at the time when the derogation was due to expire (p. 6).	<p>We note the argument that existing business-to-business processes are sufficient for competition in type 4 metering, but also note that some modifications appear to be required in the context of AMI meters - to ensure that all parties can execute their responsibilities.</p> <p>We note the innovation displayed by third party metering service providers in bypassing the business-to-business hub. However, we do not consider that it will be efficient to replace existing AMI meters with third party meters in most cases, in the short term. We would therefore be concerned if this was the only available solution to shortcomings in business-to-business processes where the retailer elected to become responsible for an AMI site, and wished to retain the existing AMI meter and enter into agreements with the distribution business to provide metering services.</p> <p>There also appears to be some concern over how responsibility for AMI sites would be determined upon expiry of the derogation. If it is the intention that service provision remain with the distributor, except in cases where the retailer</p>
Energy Retailers Association of Australia	Distributors would attempt to recover stranded metering cost through high exit fees; the likelihood of working AMI meters being replaced is highly remote as the business case for doing so would not be commercially economical. Therefore the need to develop and automate business-to-business arrangements to cater for a competitive metering market in Victoria would be in the short term unnecessary and prohibitive (p. 6).	
AGL	AGL does not agree that business-to-business processes will	

Stakeholder	Issue	AEMC Response
	be required to cater for a competitive metering environment in the event that the derogation expires. Metering contestability exists in other states outside of Victoria, such as NSW and South Australia, and AGL believes that existing processes and procedures are adequate to support the transition for contestability in Victoria (p. 2).	actively elects to become responsible, then some means of deeming retailers to have accepted an offer from distribution businesses to act as the responsible person for AMI sites appears necessary.
Origin Energy	The Australian Energy Market Operator's systems support contestable metering relationships - between responsible person, meter provider and meter data provider - at present. There has been no deficiency found with respect to these processes requiring changes of the kind described on p. 15 of the rule change request (p. 5).	There also appear to be unresolved issues with how AMI meters would be classified within the market's systems, if they became type 4 meters. We accept that it would be necessary to be able to distinguish AMI meters from other non-AMI type 4 meters.
Metropolis	Properly developed business-to-business processes that fully support metering services competition operate in the National Electricity Market today and ensure that benefits are delivered to consumers (p. 2).	
Metropolis	Business-to-business processes for metering competition are fully automated in the market's systems and require no manual intervention at all. The processes used for large electricity customers are exactly the same as those used for residential electricity customers and work exceedingly well in volume (p. 4).	
Metropolis	Processes that assume the distribution business has service responsibility do not require modification. For example, Metropolis allows retailers to communicate directly with its meters to initiate a remote de-energisation or re-energisation, without using the existing business-to-business processes, and while complying with Energy Save Victoria's safety standards (p. 5).	

Stakeholder	Issue	AEMC Response
Development of Victorian-specific processes and systems		
Energy Retailers Association of Australia	The ERAA however does not believe that the need for specific processes and systems to allow for metering contestability to commence is a material issue. As most meters installed in Victoria by December 2013 will be AMI meters, then developing specific processes to accommodate contestable metering services would only apply to a small number of meters installed initially post December 2013 (p. 9).	The inadequacy of existing frameworks leads us to conclude that an alternative framework would need to be established in Victoria (see section 5.3.2).
AGL	As the rule change request does not provide which Victorian specific processes and systems would need to be accommodated to allow for metering contestability to commence, AGL believes it is very difficult to provide substantive commentary on this matter (p. 2).	
Origin Energy	Origin does not consider that in the short to medium term, separate Victorian specific arrangements are required (just as they are not currently required in all other NEM jurisdictions without the derogation of the kind in force in Victoria at present). (p. 6).	
Safety		
Energy Retailers Association of Australia	Energy Safe Victoria (ESV) has an established Memorandum of Understanding (MOU) which outlines the requirements for a safe remote re-energisation/de-energisation process. Participants are approved to perform remote re-energisation and de-energisation only after an audit by ESV ensures compliance with the process set out in the MOU (p. 11).	Submissions present contradictory evidence on this matter. We have not placed weight on this aspect in making our determination, as we are satisfied on other grounds that Victorian-specific arrangements for metering competition would be necessary if the existing derogation is not extended.
Victorian electricity distribution businesses	The Victorian electricity distribution businesses are concerned that customers will be exposed to safety and service	

Stakeholder	Issue	AEMC Response
	performance risks if competition is introduced in a disorderly and ill-prepared manner.	
Origin Energy	Retailers have had advice from Energy Safe Victoria that remote energisation and de-energisation can take place where a third party provides a smart meter (following the established industry protocol). In addition, interval reads and remote data acquisition are a fundamental requirement of the meter type retailers would be permitted to install as responsible person.	
Metropolis	When remotely de-energising or re-energising a connection point the retailer and Metropolis comply with the safety standards developed in consultation with the safety regulator (Energy Safe Victoria) (p. 5).	
Energy Retailers Association of Australia	The rule change request implies that there is a barrier to retailers providing re-energisation and de-energisation services, under an interpretation of the Retail Code and NECF that only distributors have the right to provide remote services, and concerns about safety requirements. The ERAA does not agree with this interpretation (p. 10).	
Victorian electricity distribution businesses	Before retailers are allowed to remotely de-energise or re-energise customers, a protocol needs to be established so that distributors are able to discharge their obligations under the Distribution Code (p. 10).	
Inefficient replacement of existing meters		
Energy Retailers Association of Australia	Considering that most meters in Victoria at this time would be AMI compliant, then the number of customers who have need for meter replacement at that time would be minimal (p. 6).	We agree that inefficient meter replacement is unlikely in the presence of an exit fee (see section 5.3.1). However, in the Power of Choice review, we recommended arrangements that are intended to prevent the inefficient
Energy Retailers Association	The ERAA believes meter churn is likely to be minimal if it	

Stakeholder	Issue	AEMC Response
of Australia	occurs at all (p. 6).	replacement of meters when customers switch retailers, and to facilitate the transfer of contracts for meter provider and meter data provider services between distribution businesses and retailers. We consider that these are critical requirements of a framework for competition in metering and related services, and that they should therefore form part of the framework for metering competition in Victoria.
Consumer Utilities Advocacy Centre	Many consumers could question why they have are paying for a mandatory AMI rollout, only to be offered a different meter from their retailer with potentially different or more advanced functionality, where this meter may be marketed as “no cost” as part of a bundled offer (p. 2).	
Momentum Energy	Given that the cost of meter replacement will outweigh the benefit for some time, inefficient meter replacement is unlikely to occur and therefore the adverse impacts outlined in the Consultation Paper by the Victorian Government are overstated.	
AGL	It is highly unlikely for a functioning AMI meter to be replaced or churned as the existing fee arrangements, established under the AMI Order in Council, make the business case commercially unviable unless there is significant customer benefit (p. 2).	
Barriers to retail competition		
Victorian electricity distribution businesses	A potential barrier to retail competition arises where a customer is ‘locked in’ to a retail contract because of the costs of churning a retailer-provided AMI meter.	In the Power of Choice review, we recommended arrangements that are intended to prevent the inefficient replacement of meters when customers switch retailers, and to facilitate the transfer of contracts for meter provider and meter data provider services between distribution businesses and retailers. We consider that these are critical requirements of a framework for competition in metering and related services, and that they should therefore form part of the framework for metering competition in Victoria..
Origin Energy	Origin has had commercial experience of this issue outside of Victoria with respect to small customers for a number of years and the reality is that the presence of third party metering has neither impacted on competition nor has it resulted in any significant churn of meters (p. 2).	
Metropolis	Industry processes are designed specifically so that a meter change is never required in order to facilitate a customer	

Stakeholder	Issue	AEMC Response
	<p>transfer. Metropolis has installed thousands of residential smart meters (type 4) and customers have subsequently freely transferred between retailers. A retailer may choose to nominate a new metering services provider when transferring a customer, but there is nothing in the rules or processes that requires them to do so.</p> <p>Contractual arrangements would not act as a barrier to customer switching either. There is no scope for a third party metering services provider to charge an exit fee to an incoming retailer that it does not have a contract with. (pp. 2-4).</p>	
Reliability of supply		
Victorian electricity distribution businesses	<p>In a contestable AMI environment, unless the business protocols and business-to-business arrangements are put in place, distributors will not have sufficient information or authority to resolve outages in a timely manner. For example:</p> <ul style="list-style-type: none"> • A distributor responding to an outage would not be authorised to correct a fault with a retailer-provided AMI meter. • A distributor will be unaware whether an apparent customer outage is due to remote de-energisation by the retailer. 	<p>Submissions present contradictory evidence on this matter.</p> <p>We have not placed weight on this aspect in making our determination, as we are satisfied on other grounds that Victorian-specific arrangements for metering competition would be necessary if the existing derogation is not extended.</p>
Energy Retailers Association of Australia	<p>Meter failure is extremely rare. Recently, Energy Safe Victoria recently advised the ERAA that one per cent of AMI meters are faulty on installation, and are immediately replaced. As at early March 2013, only one AMI meter had failed after installation across all Victoria (p. 9).</p>	
Metropolis	<p>Meter faults do not cause disruptions to customers' supply. If a smart meter fails, only the quality of metering data is affected.</p>	

Stakeholder	Issue	AEMC Response
	The customer does not experience an outage. Meter faults are the responsibility of the metering services provider, with rectification requirements contained in the NER and AEMO service levels (a condition of accreditation) (p. 6).	
Consumer protections and uptake of flexible pricing		
Momentum Energy	Some issues, such as consumer education which need to be addressed by the government and industry. However, these issues do not require the extension of the derogation (p. 2).	<p>We consider that there are grounds for concern on this matter.</p> <p>We do not underestimate the impacts on consumer confidence of having multiple changes to market arrangements within a short period of time.</p> <p>We consider that it would be prudent for governments to engage in a customer education campaign at the time that metering services contestability is introduced.</p> <p>We note that a national framework for smart meter consumer protections is being progressed (see section 1.4.3). Again, it would appear to be in the interests of Victorian consumers for Victoria to adopt that framework once it is established, rather than creating Victorian-specific arrangements to address these issues.</p>
Energy Networks Association	To complicate the introduction of flexible pricing by the addition of transition to contestable metering could create significant confusion and complexity for Victorian consumers (p. 2).	
Consumer Utilities Advocacy Centre	Introducing meter contestability before benefits are realised has the potential to generate substantial confusion and dissatisfaction among consumers (p. 2).	
Consumer Utilities Advocacy Centre	Competition in metering services opens up the possibility of third parties, such as businesses providing energy management services, to be involved in providing a range of service to consumers. Such businesses fall outside the Australian Energy Regulator (AER) framework for retailer authorisation or exemption and outside the Victorian licensing and exemptions framework. CUAC is of the view that regulatory provisions regarding third party meter service provision should be addressed prior to opening up metering services competition (p. 2).	
Energy Retailers Association of Australia	The rule change request is silent on what consumer protection measures will be affected by the introduction of contestable	

Stakeholder	Issue	AEMC Response
	metering so it is very difficult for the ERAA to comment (p. 10).	
Victorian electricity distribution businesses	There are a number of areas where customer protection concerns could arise when competition is first introduced. It is important that customers are well informed regarding the different metering charges, terms and conditions, and service levels associated with distributor and retailer-provided AMI meters. The arrangements should also safeguard against inefficient meter churn, for instance by facilitating establishment of processes for metering contracts to be transferable between retailers (p. 14).	
Origin	Origin believes that the existing consumer protection regime supports the expiry of the derogation. Retailers will remain subject to the Energy Retail Code and the consumer protection framework, which is sufficient to manage smart meters deployed in Victoria at present (p. 2).	
AGL	AGL believes that the existing customer protections do not require amendment to allow for contestable metering within Victoria. The arrangements that exist in the Marketing Code and the Retail Code sufficiently address the issues and concerns raised in the proposed rule change (p. 3).	
Origin Energy	<p>Origin is doubtful that the expiry of the exclusivity provisions of the derogation will have any impact on the benefits associated with the introduction of flexible pricing:</p> <ul style="list-style-type: none"> • Customers that are most likely to accept a competitive meter services offer will be sophisticated enough to distinguish between flexible pricing issues and benefits associated with an alternative meter provider. • It is not likely that any retailer or third party market 	

Stakeholder	Issue	AEMC Response
	<p>participant would widely advertise (for example in the mass media) from the expiry of the derogation that choice of meter services is now available, or that this would subsequently confuse customers considering flexible pricing offers.</p> <ul style="list-style-type: none"> Flexible pricing will have been in place for some time at the expiry of the current derogation. As such, consumers will have familiarity with concept and will be able to distinguish between this and competitive meter services (p. 5). 	
Metropolis	Metering services competition is likely to enhance the uptake of flexible pricing by making metering services available at a lower charge. Competitively provided type 4 meters must comply with the NER and therefore ensure the availability of flexible pricing options (pp. 7-8).	
Realisation of network benefits		
Victorian electricity distribution businesses	There are a number of benefits from the AMI rollout program that would be compromised if the derogation were allowed to lapse on 31 December 2013. These include expected network operational benefits, which will be eroded unless processes are established to ensure that distributors have access to AMI data from retailer-provided meters within operational timeframes (p. 11)	<p>We consider the example of the possible loss of network benefits to be illustrative of some of the inadequacies of the current frameworks for metering competition when applied to AMI in Victoria.</p> <p>We agree that a competitive environment could allow network operational benefits to be realised - so long as retailer or third-party provided meters met the existing AMI functionality specification, and access to the meter's data and functionality was made available to distribution businesses. But we consider that new systems and processes would be required, including rules to allow distribution businesses to access operational data and a means of prioritising commands sent to the meter by multiple parties.</p>
Energy Retailers Association of Australia	As per current Type 4 arrangements, retailers would offer network services enabled by these meters to distributors on commercial terms allowing them to still realise the benefits estimated by Deloitte (pp. 12-13).	
Energy Retailers Association	In a competitive environment, distributors have the option of offering advanced network services (such as fault detection	

Stakeholder	Issue	AEMC Response
of Australia	services) to retailers. As a competitive provider, distributors will need to demonstrate that these services are a worthwhile investment for retailers' metering assets (pp. 12-13).	
Energy Retailers Association of Australia	Distribution businesses have raised concerns that they will not have continuous visibility of the energisation status of retailer-provided meters. They have indicated that MSATS is not close enough to real-time to make it a reliable reference. If a distributor is engaged to provide fault detection services to retailers, it would have real-time visibility of any assets they are engaged to monitor. If they are unsuccessful in winning this engagement, our technical advice is that distributors will still be able to access sufficient information to enable reliable fault detection (pp. 12-13).	
Metropolis	Meters for which retailers are responsible support efficient network operation. The NER and AEMO service levels require contestable metering services to provide data to each distribution business, with daily delivery of data to each participant through the market's system. Metropolis's residential meters conform to the Victorian functionality requirements, and offer additional capabilities. Distribution businesses can subscribe to the use of these functions (pp. 8-9).	
Transition to a national framework for contestable metering services		
Victorian electricity distribution businesses	The Victorian distribution businesses consider that it is much more efficient to design and implement nationally agreed arrangements in a methodological and structured manner, rather than develop 'band-aid' solutions in Victoria (p. 3).	We consider that migrating to the national frameworks for competition in metering and related services and smart meter customer protections is likely to be the best way of implementing small customer metering competition in Victoria. It is likely to realise the benefits from the investment already made in Victorian AMI, while also unlocking the incremental benefits that may be expected to derive from
Energy Networks Association	The proposed rule change sensibly seeks to ensure an efficient transition by Victoria to a national framework for	

Stakeholder	Issue	AEMC Response
	contestable metering services without unnecessary risk, expenditure or confusion for Victorian consumers (p. 2).	customer choice and a better platform for competition in meter-related services (see section 7.3.1).
Energy Networks Association	Until there is clarity in the national contestable metering rules, it will not be possible to commence consideration of transitional processes.	
Energy Networks Association	ENA would welcome expedited resolution of this rule change to enable the focus and attention of all relevant parties to be applied to the critically important task of ensuring effective development of the national framework including its associated processes and implementation (pp. 2-3).	
Energy Retailers Association of Australia	The existing derogation has had sufficient impact on business confidence such that in this instance the ERAA would prefer Victoria to move to a contestable metering market ahead of national processes. The ERAA's preferred option is for the derogation to expire on 31 December 2013 (pp. 1, 3).	
Energy Retailers Association of Australia	Retailers do not have confidence that Victoria will readily adopt a national metering framework. This continued uncertainty has a direct impact on investment in related products and services enabled by enhanced metering technology (p. 1).	
Energy Retailers Association of Australia	The rule change request fails to provide any indication that the Victorian Government will use an extension to prepare Victoria for contestable metering (p. 3).	
Energy Retailers Association of Australia	The ERAA and its members also propose a transitional option, that addresses perceived issues, and would operate until a national framework is developed (p. 4).	
Origin Energy	While Origin notes that the Commission has effectively been asked to narrowly assess the merits of the complete expiry of	

Stakeholder	Issue	AEMC Response
	<p>the existing derogation against its extension for three years, Origin believes that alternatives should be considered between these two extremes. In particular, the continuation of certain elements of the existing derogation (namely, classification of advanced metering infrastructure installations as type 5 remotely read meters) would eliminate many of the concerns raised by the Victorian government in its rule change request as submitted to the Commission (p. 1).</p>	
Origin Energy	<p>Origin believes that relying on the development of national processes to transition away from exclusivity of small customer meter provision farms out the question of the removal of exclusivity to an external forum that is in its early stages and will not resolve the concerns identified in the rule change request in the near future (even if these were material). As such, Origin is concerned that limited progress will be made between now and 2016 and on this basis there will be a need to extend the derogation yet again (p. 2).</p>	
AGL	<p>AGL is concerned that the rule change request fails to provide any indication or commitment by the Victorian government to transition Victoria to a contestable metering approach. The AMI ISC flagged to the government in February 2012 that the end of the derogation needed to be managed. Despite having plenty of time to act to resolve the issues identified, no action was taken (p. 2).</p>	
AGL	<p>AGL supports the provision of smart metering under a competitive metering and services framework which facilitates customer choice. The introduction of competition in metering is one of the three key reforms proposed in the AEMC's Power of Choice Review. AGL therefore does not support the extension of the existing Victorian jurisdictional derogation (p. 1).</p>	

Stakeholder	Issue	AEMC Response
Other		
Momentum Energy	The rollout of meters in Victoria has been a difficult program which has been beset by a number of issues associated with the communication of costs and benefits of the program (p. 1).	The AEMC is assessing the rule change against the NEO. This by its very nature is a forward-looking assessment. The AEMC has not assessed the efficiency or effectiveness of the AMI rollout in Victoria.
Origin Energy	In 2008, the AMI service levels were significantly reduced to the four available today (remote energisation and de-energisation, reading data on 30 minute intervals and remote delivery of this data based on a performance level). All other services that may be enabled by the meters based on their native functionality need to be negotiated bilaterally (p. 10).	The AEMC has not assessed the efficiency or effectiveness of the AMI rollout in Victoria - see above.
Metropolis	There is no need for exit fees in Victoria. At the end of 2013, distributors will have collected on average approximately \$620 from every household in Victoria (based on the regulated metering service charges collected since January 2006). This more than compensates distributors for the cost of the AMI deployment which has so far cost twice a competitive rollout (p. 4).	Cost recovery for the AMI program - including exit fees - would not be affected by the derogation's expiry, or its renewal. Accordingly the AEMC has not considered whether exit fee arrangements should be amended.

B.2 Second round of consultation

Stakeholder	Issue	AEMC response
Adequacy of existing frameworks for small customer metering competition		
Energy Networks Association	<p>The Energy Networks Association endorses the AEMC's view that there is not currently a clear and viable framework for commercial contestability in AMI metering and related services in Victoria. In the absence of such a framework, expiry of the existing derogation might limit consumer benefits from the existing investment, without creating benefits from better third party access to related services (p. 1).</p>	Agreed.
Victorian electricity distribution businesses	<p>The Victorian distribution businesses support the AEMC's conclusions that the current arrangements in Victoria lack the following features that are critical for supporting effective competition in the provision of AMI meters:</p> <ul style="list-style-type: none"> • Arrangements for open access and common communication standards, including the basis for charging for access. • Certainty over rights to use the related services enabled by the meter, including the ability to prioritise commands sent to the meter. • Arrangements to prevent inefficient replacement of meters. • Arrangements for the transfer from distribution businesses to retailers of existing contracts for meter provider and meter data provider services (p. 1). 	Agreed.

Stakeholder	Issue	AEMC response
Victorian electricity distribution businesses	<p>The Victorian distribution businesses agree with the Commission that as AMI meters are currently at the beginning of their asset lives, the efficiency benefits from introducing competition are likely to be very limited. Furthermore, it is inefficient to replace highly functioning and recently installed AMI meters.</p> <p>A properly designed regulatory and commercial framework would inhibit the inefficient replacement of assets, such as AMI meters. On the other hand, if the appropriate regulatory and commercial arrangements are not put in place, then inefficient asset replacement may well occur (p. 5).</p>	Agreed.
Victorian electricity distribution businesses	<p>The Commission correctly notes that a framework for contestability needs to be developed if the benefits from the substantial investment already made in AMI meters are to be realised. This framework needs to unbundle metering services from the provision of meters in order to facilitate competition in both activities.</p> <p>If competition were introduced in the absence of such a framework, then limited, if any, efficiency benefits will be achieved (p. 5).</p>	Agreed.
Victorian electricity distribution businesses	<p>Allowing the existing derogation to expire would advance a model of competition that is contrary to the design set out in the Commission's Power of Choice report. It would accelerate a form of competition that the Commission has already concluded would not promote the long term interests of consumers. The orderly introduction of competition not only requires appropriate systems and processes to be in place, but it also requires an appropriate regulatory framework. At present, that framework is still in its early development phase</p>	Agreed.

Stakeholder	Issue	AEMC response
	<p>(p. 6).</p> <ul style="list-style-type: none"> • The national framework for competition in small customer metering and related services is currently being developed and, in the context of the National Electricity Market, it is appropriate that these arrangements apply in Victoria. • The national arrangements must include protection arrangements and a transition plan for all sub-160 MWh customers. • The national framework is fundamentally different from the existing arrangements in the rules, which would apply if the derogation in Victoria were allowed to lapse. The Commission's Power of Choice report recommended open access to metering data and competition in the provision of meter-related services, which is independent of meter ownership. This design will facilitate competition in a way that delivers benefits to consumers. 	
Victorian electricity distribution businesses	<p>The Victorian distribution businesses agree with the Commission that it would be inefficient to develop Victorian-specific arrangements to introduce competition in the provision of AMI meters. In particular, there would be an inefficient duplication of effort in developing arrangements in Victoria and nationally. Furthermore, additional resources would be required to achieve convergence if the Victorian arrangements did not precisely mirror the national arrangements.</p> <p>Furthermore, the necessary changes to establish Victorian-specific arrangements could not be developed in time to facilitate competition from 31 December 2013. It is questionable whether industry players would devote the</p>	Agreed.

Stakeholder	Issue	AEMC response
	<p>necessary resources to develop arrangements for Victoria, in the knowledge that these arrangements would ultimately need to transition to the national regime (p. 7).</p>	
AGL	<p>AGL supports the provision of smart metering under a competitive metering and services framework, which facilitates customer choice. Introducing metering competition is one of the key reforms proposed in the AEMC's Power of Choice review. It is therefore surprising that the draft determination simply extends the existing Victorian jurisdictional derogation.</p> <p>The transition to competitive metering and commercial delivery of services should not be delayed. It can be based on the establishment of commercial arrangements between distributors and retailers in Victoria for the management of installed AMI meters. AGL considers that this is the most cost efficient way of transitioning to a contestable metering environment (p. 1).</p>	<p>We consider that a framework for competition in metering and related services needs to provide certain minimum features (see section 5.3.1) that are lacking in the existing frameworks, which led us to the recommendations we made in the Power of Choice. Allowing the derogation to lapse and relying on the existing frameworks would not advance those reforms.</p> <p>We are not confident that all of the issues that would arise if retailers became the responsible person for already installed AMI meters could be managed through commercial arrangements on an ad hoc basis. We conclude that there would be a sufficient risk of disruption to the market that these issues should be resolved before allowing retailers to become responsible for AMI sites.</p>
Origin	<p>Origin disagrees that there is not currently a clear and viable framework for commercial contestability in AMI metering and related services in Victoria, meaning that expiry of the existing derogation might limit consumer benefits from the existing investment, without creating benefits from better third party access to related services:</p> <ul style="list-style-type: none"> • The Power of Choice framework does not need to be fully implemented ahead of customer choice of metering provider and related services • If a framework is required in Victoria in advance of contestable provision then contestable provision of meters to small customers should not be allowed in any NEM 	<p>There is not currently a framework for customer choice in metering and related services. For small customers with a remotely read interval outside Victoria, their choice of metering services provider is bundled with their choice of retailer. By implication, the responsible person at a metering site also controls access to the related services that are enabled by the meter (see section 1.4.2).</p> <p>Allowing the derogation to lapse and relying on the existing framework in the NER might advance the contestable provision of metering services. It would not create a situation where third parties could compete to provide metering and related services to consumers, which we expect to drive</p>

Stakeholder	Issue	AEMC response
	<p>jurisdiction.</p> <ul style="list-style-type: none"> A significant number of Victorian electricity customers will not have access to smart metering at the scheduled expiry of the current jurisdictional derogation (December 2013) and will be dependent on uncertain rollout schedules of individual distribution businesses. For such customers, there are no benefits available today, and it may be some time before they realise any benefits from the AMI rollout. For existing customers, benefits such as flexible pricing and the provision of in home displays are unlikely to be threatened by expiry of the derogation (pp. 2, 6). 	<p>innovation in products and services that are enabled by AMI.</p>
Origin	<p>Origin contests the view that the costs of establishing a Victorian-specific framework for commercial contestability are likely to outweigh the incremental benefits of doing so:</p> <ul style="list-style-type: none"> Commercial drivers will minimise the possibility of inefficient meter churn on change of retailer. Meter churn is minimised and managed by stakeholders in New Zealand, in a similar commercial environment and market structure to the NEM (p. 3). Meter churn is unrealistic (p. 9). The existing chapter 7 provisions and market frameworks are adequate to support the contestable provision of meters to small customers for the relatively limited number of non-distributor meters likely to be installed between the expiry of the existing jurisdictional derogation and the implementation of a national framework (pp. 3, 6, 7). The likely number of non-AMI meters installed in Victoria will be sufficiently small to have no impact on existing market systems. Origin has not experienced 	<p>Origin's submission argues that the perceived gaps in the existing frameworks, should the existing derogation lapse, would not require Victorian-specific arrangements. Origin argues that the existing frameworks are either sufficient or that industry would find practical solutions to questions relating to access and interoperability. Origin also argues that commercial incentives would be sufficient to manage perceived risks relating to meter churn and customer protections.</p> <p>The Commission acknowledges that retailer provision of remotely read interval meters for small customers is possible under the existing NER framework in jurisdictions other than Victoria. However, the distributor-led mass rollout of AMI to small customers creates a different starting point, and creates a number of issues that would need to be addressed.</p> <p>We conclude that there would be a sufficient risk of disruption to the market that these issues should be resolved before allowing retailers to become responsible for AMI sites. (See</p>

Stakeholder	Issue	AEMC response
	<p>business-to-business or systems impact from its deployment of several thousand remotely read type 4 meters for the Adelaide Solar Cities project in the past five years (p. 6)</p> <ul style="list-style-type: none"> • There is no need for interim Victorian arrangements, so the costs are negligible or zero (p. 7). • The deployment of a limited number of smart meters commercially is unlikely to confuse consumers with respect to flexible pricing (p. 8). • The Victorian Energy Retail Code has already undergone significant amendment adding consumer protections for customers with smart meters; Origin does not consider that further Victorian-specific regulation is required (p. 8). • Distributors would negotiate access to third party meters to realise AMI-enabled network service improvements (p. 8). • Any contestable meter would comply with the AMI Functionality Specification in Origin's view (p. 9). • The AMI Service Levels are relatively simple and limited to data retrieval and delivery and remote de and re-energisation. Origin does not see their application to retailers as a barrier (p. 9). • The framework for new connections is clear (p. 9). • Any non-AMI meter installed for a small customer will essentially have the same attributes as an AMI device (p. 9). 	<p>section 5.3.1.)</p> <p>As we have described in section 6.3.2, the cost of addressing these issues is likely to outweigh the benefits of allowing more contestable provision of metering services, which we estimate to be small in the near term.</p>

Stakeholder	Issue	AEMC response
Origin	Retailers will not control access to the related services that are enabled by AMI meters. Distributors will continue to control their own AMI systems, which retailers have no ability to control. Origin expects the current facilitated access model would continue (p. 6).	Origin's submission highlights one of the issues that would need to be resolved if the derogation were to expire: the uncertain ability of distributor-controlled AMI systems and processes to apply if retailers become the responsible person for small customer meters, and issues with the current frameworks for access to AMI.
Victorian electricity distribution businesses	<p>The Commission's draft determination concludes that there is conflicting evidence from stakeholders regarding the consequences for safety and reliability. However, it would be valid to apply the precautionary principle to this matter, which would place the burden of proof on those advocating the introduction of competition to demonstrate that there is no risk to safety and reliability if the derogation were allowed to lapse (p. 2).</p> <p>The introduction of competition would transfer activities currently undertaken by distributors to retailers or their agents. Without establishing business protocols and business-to-business arrangements to facilitate these changes, there is a strong likelihood that service and performance gaps will emerge. While it may be possible to address these gaps as they arise, this approach would expose customers - including in particular life support customers - to unacceptable risks. The Victorian distributors continue to regard these issues as further reasons to support the proposed rule change (p. 3).</p>	<p>Submissions present contradictory evidence on this matter.</p> <p>As in the draft rule determination, we have not placed weight on this aspect in making our determination, as we are satisfied on other grounds that Victorian-specific arrangements for metering competition would be necessary if the existing derogation is not extended.</p>
Origin	Remote de and re-energisation was not seen as complex to implement by Energy Safe Victoria (discussed with ESV in March 2013 and this was communicated to the DSDBI). The responsible person's meter provider would be responsible for restoring faults, if any, of contestably provided AMI. This issue exists today with pre-derogation type 4 meters at small	

Stakeholder	Issue	AEMC response
	customer sites and Origin has never had a meter failure to our knowledge. Smart meter failure does not always trigger an outage of electricity in any event (p. 8).	
Incremental benefits of introducing small customer metering competition in Victoria		
Energy Networks Association	<p>The Energy Networks Association endorses the AEMC's view that:</p> <ul style="list-style-type: none"> • the incremental benefits of allowing retailers to provide small customer metering services in Victoria are likely to be low over the period until a national framework for competition in metering and related services is established; and • the costs of establishing a Victorian-specific framework for commercial contestability are likely to outweigh the benefits of doing so (p. 1). 	Agreed.
Victorian electricity distribution businesses	<p>The Victorian distribution businesses support the AEMC's conclusions that allowing the derogation to lapse and relying on existing frameworks would be likely to result in inefficient outcomes. In particular, the benefits of introducing competition from 31 December 2013 are likely to be modest at best, while the potential costs of allowing competition to be introduced, without the necessary regulatory framework, business protocols and systems in place, are likely to be significant. Weighing up the costs and benefits indicates clearly that it would be highly imprudent to allow the derogation to lapse (pp. 1-2).</p> <p>The Victorian distribution businesses strongly agree with the Commission's observations that there are capability gaps in the business systems and processes that are required to</p>	Agreed.

Stakeholder	Issue	AEMC response
	facilitate competition. Introducing competition without the necessary business systems and processes in place will impose unacceptable costs and risks on the industry and its customers (p. 5).	
Origin	<p>The short-term benefits associated with the contestable provision of metering are likely to be low, due to the limited likely deployment of meters on a commercial basis in this period. However, there are important longer-term benefits available to market participants and service providers to build capacity and experience ahead of the development of any national framework. Such experience and capacity building will be delayed (along with a delay in the benefits associated with competitive meter provision) by extending the derogation.</p> <p>Victoria should re-introduce choice of meter and meter service provision in order to allow market participants and service providers to understand how the market for smart meters will work as it transitions away from monopoly provision and regulated cost recovery (pp. 2-3).</p>	<p>The benefits of allowing retailer provision of small customer metering services in respect of greenfield sites are unlikely to outweigh the costs - in the short term - of establishing the necessary frameworks for this to occur in a way that allows the expected benefits of the AMI program to be realised.</p> <p>It is the Commission's view that investing resources in developing frameworks for contestable metering services in Victoria is likely to distract from the national reform process rather than informing it, and would possibly entrench Victorian differences.</p>
Origin	In the absence of the derogation, retailers will be able to more flexibly negotiate with service providers on commercial terms to develop new services (pp. 11, 12).	
Origin	In the absence of the derogation, exit fees would not be payable in respect of greenfield sites (p. 11).	
Origin	Origin does not believe the Commission is assessing the merits of extending the derogation on the same basis as which it was originally made. (p. 12).	In assessing the rule change request, the Commission considered those factors as required under the NEL - see section 2.2.
Origin	It is not clear how a framework for commercial contestability will enable retailers or third parties to more easily access	The national framework that is being progressed in response

Stakeholder	Issue	AEMC response
	<p>existing functionality, given the proprietary nature of the AMI systems and network management systems. The Victorian distributors have promoted a 'facilitated' access model. In practice this is the only realistic approach to accessing functionality of AMI devices for the foreseeable future (pp. 12-13).</p>	<p>to the Power of Choice review will establish:</p> <ul style="list-style-type: none"> • a framework for open access and common communication standards for advanced metering; and • a framework for competition in both metering and related services, including the unbundling of metering from the retail contract. <p>It is our view that this framework will enable better third party access to existing infrastructure and encourage innovation in related services.</p>
Appropriate duration of a new derogation		
Energy Networks Association	<p>The proposed rule change sensibly seeks to ensure an efficient transition by Victorian to a national framework for contestable metering services without unnecessary risk, expenditure or confusion for Victorian consumers (p. 1).</p> <p>It is appropriate for the Victorian AMI system to continue in its current format for the next three years to enable concentration on developing the appropriate national framework. In a separate process, the AEMC has commenced engagement with industry on open access and common communication standards relating to enabling competition in metering services in the national market. The process will require significant resources and commitment from many parties to facilitate effective interoperation of smart meters while protecting the interests and rights of consumers (pp. 1-2).</p>	Agreed.
Victorian electricity distribution businesses	The proposed timing for the extension of the derogation should be sufficient for the national framework to be established and for the Victorian industry to establish the necessary systems	Agreed.

Stakeholder	Issue	AEMC response
	<p>and processes to transition to those arrangements. The derogation needs to allow sufficient time to establish workarounds to ensure the alignment of the national framework with the specifics of the Victorian rollout situation, and to put in place transitional arrangements for Victoria to migrate to this framework.</p> <p>The derogation should be extended for three years as a fallback, in case the national arrangements do not proceed as expected.</p> <p>The Victorian distribution businesses will continue to work constructively with the Victorian Department of State Development, Business and Innovation (DSDBI), AEMO and the Commission, and industry working groups to meet the timeframes envisaged by the Minister, as reflected in the draft determination (p. 8).</p>	
AGL	The proposed rule change fails to provide any indication or commitment to transition Victoria to a contestable metering approach. This means that the transition to competitive metering in Victoria will be delayed until after December 2016, which is inconsistent with the AEMC's Power of Choice findings and SCER's response to them (p. 1).	<p>It is the Commission's conclusion that making a new derogation provides the most efficient avenue for Victoria to migrate to a framework for competition in both metering and related services - see sections 5.3.2, 6.3.2 and 7.3.1.</p> <p>Making a new derogation provides time for a national framework to be established and for the Victorian Government, market agencies and industry participants to devise a path for Victoria to migrate its small customer metering arrangements to that framework. Nevertheless, willingness and effort on the part of all these entities will be required if the transition is to be successful.</p>
Origin	The derogation should not be extended. Allowing limited competition in AMI provision and services will hasten the development of a national framework and inform policy makers, industry and consumer stakeholders whether elements of the proposed framework are required, whether consumer protections are appropriate and the practical realities associated with interoperability, access and the scope of required business to business procedures.	

Stakeholder	Issue	AEMC response
	<p>Reconsidering the need for the establishment of Victorian-specific arrangements after another three years, if the national framework has not been established by then, would probably delay contestable metering and service provision until 2019 and compound the lost opportunities afforded by competitive metering provision (pp. 3-4, 7).</p>	
Commission's assessment approach		
<p>Victorian electricity distribution businesses</p>	<p>The Victorian distribution businesses strongly support the Commission's assessment approach (p. 3).</p> <p>In the context of the rule change proposal, it is helpful to focus on the following particular aspects of the National Electricity Objective:</p> <ul style="list-style-type: none"> • The objective is clearly focussed on efficiency, not competition. While competition may facilitate efficient outcomes, it does not guarantee them, nor is competition an objective in itself. Importantly, if the derogation were allowed to lapse on 31 December 2013, competition would be promoted at the expense of efficiency. This is because competition would be introduced without the regulatory framework and business processes that are necessary to foster efficient outcomes. • The objective is also concerned with the long term interests of consumers. The objective is not concerned with short term benefits, nor is it concerned directly with the commercial interests of the industry participants. While some industry participants may have a narrow commercial interest in expediting the introduction of competition, the National Electricity Objective directs the Commission to 	<p>Agreed.</p>

Stakeholder	Issue	AEMC response
	consider the long term interests of customers (p. 4).	
Statement of Policy Principles		
Origin	The current Statement of Policy Principles may not be the most appropriate reference point to test the proposed rule change. It was drafted at a time when a mandated deployment of smart meters led by distribution service providers was considered the most likely approach. It has since become clear that further jurisdictional-based mandates for the deployment of smart meters are unlikely (p. 4).	See section 2.5.1.
Origin	<p>Principle 1. The Victorian rollout does not meet the conditions described in the first principle:</p> <ul style="list-style-type: none"> • it has its own functional specification, rather than meeting a national minimum functionality; and • it is not supported by a general regulatory framework for smart meters (p. 4). 	See section 2.5.1.
Origin	Principle 2. Expiry of the derogation will not result in any material impact on operational benefits for distribution networks (p. 4).	See section 2.5.1.
Origin	Principle 3. Based on this principle, the current jurisdictional derogation should expire as planned at the end of 2013 (p. 5).	See section 2.5.1.
Origin	Principle 4. The existing Victorian regulatory framework for AMI supports this principle and the expiry of the derogation should have no impact upon this (p. 5).	See section 2.5.1.

Stakeholder	Issue	AEMC response
Considerations in making a jurisdictional derogation		
Origin	“Envisaging” the orderly transfer of regulation is not equivalent to providing for the orderly transfer of regulation, in relation to and as set out in section 89(a). It is the failure to provide for transition that has resulted in the perceived need to extend the current derogation (p. 5).	See section 2.5.2.
Origin	With respect to clause 89(b), the rule change request simply extends arrangements of the existing derogation, which itself was a deviation from existing regulatory arrangements (ie chapter 7 of the NER) (p. 5).	See section 2.5.2.