

Smart Meter Customer Protection and Safety Review
Current Status and Response to Submissions on Draft Policy
Paper One

Ministerial Council on Energy Standing Committee of Officials

December 2010

Introduction

In August 2009 the Ministerial Council on Energy (MCE) Standing Committee of Officials (SCO) released the *Smart Meter Customer Protection Review – Draft Policy Paper One* which outlined a range of customer protection issues with reference to the National Energy Customer Framework (NECF) First Exposure Draft. SCO thanks stakeholders for their submissions and ongoing interest in these matters. This paper details SCO's response to the 18 submissions received from a variety of stakeholders. This paper also incorporates stakeholder submissions related to smart meter material released with the NECF Second Exposure Draft and comments made at the NECF stakeholder forum on 4 February 2010.

As noted at the 4 February 2010 NECF stakeholder briefings, the smart meter customer protections have not been included in the NECF legislative instruments introduced into the South Australian Parliament on 27 October 2010 or the Rules to be made under them, and will instead form amendments to those initial instruments at a later date. The SCO positions contained in this paper are based on the NECF package as introduced.

This paper presents the current status of SCO's thinking about issues raised in Draft Policy Paper One that could be addressed through future refinements to the NECF. The discussion of each issue is structured as follows:

- A re-statement of the initial draft policy position, as put in the *Smart Meter Customer Protection Review – Draft Policy Paper One*;
- A summary of stakeholder views on that initial draft policy position; and
- A response to those views and statement of the revised policy position where applicable. Where relevant, this also includes a comparison with the Essential Services Commission of Victoria's (ESCV) findings on consumer protection under the Victorian smart meter roll-out.

This paper outlines matters where a policy resolution has been achieved and possible implementation options developed. These options were included in the Explanatory Material of the NECF Second Exposure Draft¹. However, there remain a number of policy issues, mainly related to advanced services (e.g. direct load control and the home area network), on which SCO is undertaking further work to develop settled policy positions. These positions will be outlined in Draft Policy Paper Two. Draft Policy Paper Two will investigate non-NECF customer protection related issues and any issues not resolved from Draft Policy Paper One. It will discuss each issue and consider policy options where necessary.

Where an issue can be appropriately resolved in national instruments, amendments will be made to those instruments (for example, the National Energy Retail Rules (NERR) or National Electricity Rules (NER)). Where an issue may need to be addressed by an individual jurisdiction, the full resolution of the issue will be a matter for each jurisdiction as part of a specific roll-out implementation process.

SCO intends to develop a single package of smart meter customer protection measures to be implemented in the NECF (and other instruments if necessary). The single regulatory package will be further developed utilising advice from the National Stakeholder Steering Committee (NSSC) on business arrangements and technical standards to support smart meters. SCO also expects to liaise with the Australian Energy Market Commission (AEMC) as it progresses Stage 3 of its Review of Demand Side Participation, where the AEMC is expected to assess the market frameworks in the National Electricity Market (NEM) that would be necessary to maximise the economic value to consumers from services enabled by new technologies,

¹ Released 27/11/2009. Available at www.mce.gov.au

including smart grid or smart meter technologies. Experience gained in initial roll-outs, pilots and trials will also be considered where available, and arrangements considered allowing further refinements over the longer term.

In the course of this review, SCO continues to give consideration to the important work on consumer protections currently being progressed by the ESCV. Whilst the Victorian roll-out arrangements to date will not drive the development of the national framework, they will inform its development, as will the learnings of pilots and trials in other jurisdictions. In optimising consumer protections, the Victorian government and ESCV also liaise with other jurisdictions to learn any lessons available from their experience, with a view to achieving consistent arrangements in the long term. Work is continuing to enable alignment between the Victorian project and the national framework. Where necessary, transitional arrangements will be developed in a manner that does not compromise consumer protections established in that state.

Background

In April 2007 the Council of Australian Governments (COAG) committed to a national mandated roll-out of electricity smart meters to areas where benefits outweigh costs. COAG referred work on smart meters to the MCE. The MCE subsequently commissioned a national cost-benefit analysis of smart metering and direct load control (DLC) taking into account different market circumstances in each state and territory and the circumstances of different groups of customers.

In December 2007 the MCE supported a national minimum functionality for smart meters, with an initial list of functions to be further analysed by stakeholders via the NSSC. The MCE noted that detailed technical and operational requirements, including performance and service levels for smart metering, should be further developed. To that end, the NSSC and issue-specific working groups were formed to provide advice to the MCE on technical and operational aspects of the national framework, coordinate pilots and facilitate information sharing.

The MCE also committed to work with stakeholders and the appropriate jurisdictional authorities to review customer protection and safety arrangements and ensure they remain appropriate where smart meters are rolled out. This paper forms part of that review.

Issues

Distributional impacts of time-related pricing

Initial draft policy position

SCO did not propose any smart-meter-related changes to the draft hardship provisions in the NECF First Exposure Draft.

Stakeholder submissions

Consumer groups advised that they had argued for a strengthening of hardship provisions in submissions to the NECF First Exposure Draft. In addition, they argued that low consumption households, which are more likely to be low income households, will be disadvantaged by time-related pricing due to their inability to shift load to off-peak times. Analysis undertaken by the St Vincent de Paul Society² also highlights that people generally at home during the

² St Vincent de Paul Society: *New Meters, New Protections A National Report on Customer Protections and Smart Meters* Available at www.vinnies.org.au

day, such as pensioners and parents, have the potential to be adversely affected by time-related pricing.

The St Vincent de Paul report argues that the impact of time-related pricing is dependant on life situations which can change dramatically where, for example, someone loses their job or becomes ill. It argues that all customers should be able to move freely between time-related tariffs and flat (or 'flattish') tariffs without incurring any fees.

SCO response

SCO notes that regulation of retail tariffs is a jurisdictional matter under the Australian Energy Market Agreement (AEMA) and hence is not included in the NECF; further, an individual customer's tariff is agreed between the customer and their retailer for market offers.

One of the drivers of smart meters is the potential for the technology to be used to reduce cross subsidies that exist between customers.

Some customers will benefit financially from time related pricing without having to change their consumption patterns, while others may need to actively manage their energy consumption to benefit. The analysis undertaken by Energy Market Consulting Associates³ (EMCa) for SCO found that low income households are just as likely to be better off as worse off without having to modify energy use patterns. However, a subset of customers would have to modify consumption to be financially better off, and a subset of them would have limited discretion to do so. Also changes in a customer's life situation may lead to financial hardship and the need to change their energy supply arrangements.

EMCa found that the groups most likely to be affected by cost increases included those with higher than average use of air-conditioners on weekdays, and those with a higher than average reliance on electricity for heating during winter. Also, people regularly at home on weekdays such as pensioners are less able to reduce their demand at these times.

SCO notes that, as time-related pricing becomes more widespread, flat tariffs may increase as cross subsidies between customers are removed.

There are several possible pathways a transition from current tariff arrangements to wider acceptance of time-related pricing could take. SCO has not yet considered these issues. It seems clear that whatever the pathway, there will be some re-distribution of costs in a transition to time-related pricing, although it is not clear how significant this might be. In recognition of these complexities the distributional impacts of TOU pricing will be further investigated in Draft Policy Paper Two. This will need to consider issues around customer choice of tariff, including network tariff allocation.

While individual jurisdictions are responsible for concession regimes that currently exist to assist customers with difficulty paying their bills, SCO may consider if any guiding principles are necessary. There will be further discussion of concessions in Draft Policy Paper Two⁴.

SCO also notes the requirements for customer hardship policies in the NECF, with retailer hardship policies being subject to approval by the Australian Energy Regulator (AER). Further, the obligation on a retailer to offer a payment plan has been extended from hardship customers to all residential customers who advise their retailer they are experiencing financial

³ Energy Market Associates 2009, Smart meter consumer impact analysis, available at http://www.ret.gov.au/Documents/mce/_documents/smart_meters/Smart%20meter%20consumer%20impact%20analysis%20-%20EMCa%20report.pdf

⁴ Victoria has committed to a review of its concession arrangements in light of the rollout of smart meters.

difficulty, or where the retailer otherwise believes the customer is experiencing repeated difficulties in paying their bill or requires payment assistance.

SCO notes that the AER also has responsibility for determining and publishing hardship program indicators on which it is currently conducting preliminary consultation. The hardship program indicators are designed to monitor how retailers' hardship policies and programs are performing. The NECF specifies they must cover: entry into hardship programs; participation in hardship programs; and the assistance available, and provided to, customers under retailers' hardship policies. Including TOU tariffs in these indicators would provide evidence to assist in future policy decisions and an understanding of how retailers are assisting customers on TOU tariffs as part of their hardship programs.

SCO notes that where customers are on standing offer tariffs there is no termination fee and that the NECF prohibits retailers from charging a termination fee under a market contract if a customer applies to the retailer to use Centrepay, and the retailer is required to move them to another contract if Centrepay is not a payment option under their current market contract.

The ESCV's Final Decision⁵ requires retailers to take the following action for customers in a hardship program:

- Recommend to participants the most appropriate tariff for their circumstances, based on a number of factors including cost-effectiveness of the tariff; and
- Monitor participants' behaviour and consumption during the program to ensure that they continue on the most appropriate tariff and facilitate a change if necessary.

SCO notes the ESCV's decision and will consider it further in Draft Policy Paper 2 in the context of customer education and information requirements. SCO may also examine if termination fees are appropriate in these circumstances⁶.

Bill reconciliation

Initial draft policy position

SCO proposed that all customers with smart meters should be able to check that their meter is working correctly, and reconcile their bills against their meter with a reasonable degree of certainty.

Stakeholder submissions

Consumer groups strongly agreed with the draft policy proposal. Some suggested that customers should be able to have their meter tested free of charge.

Whilst noting in-principle support for the draft policy proposal, some retailers argued that it will be impossible for customers to reconcile their bill against their meter due to the use of estimated and substituted data. They argue that if any intervals require estimated or substituted data, the sum of the interval data will almost certainly not equal the difference between the two accumulation reads causing confusion to customers and potentially an increase in call-centre work and complaints to retailers and/or ombudsman.

Some stakeholders suggested that this issue be dealt with via the NSSC in its role of developing the national minimum meter specification and preparing changes to existing NEM Procedures, including the metrology procedure, MSATS and business to business procedures.

⁵ The Final Decision in the Essential Services Commission of Victoria's review of its energy market and consumer protection regulations in light of smart meters was published on 17 September 2010.

⁶ Note that the ESCV has considered this issue and determined that existing Victorian arrangements are appropriate in light of smart meters.

SCO response

The introduction of smart meters is expected to improve the level and quality of information available to customers about their electricity consumption. Currently customers with an accumulation meter can compare the consumption information on their bill with their meter with reasonable certainty (allowing for the time delay between reading the meter and receiving the bill). SCO recommends that this level of certainty is not diminished for customers with smart meters.

This is being addressed nationally in the development by the NSSC of a minimum functional specification for smart meters that will allow a customer to determine the accumulated amount of energy used and to see that amount on the meter, through an in-home display (where installed) or by other means such as the internet.

SCO also notes that the ESCV's Final Decision requires retailers to display the total accumulated consumption read corresponding to the end of the billing period on customers' bills that are derived from interval data. The ESCV also noted its intention to undertake an immediate review into whether bills derived from interval data should also display the total accumulated consumption reading corresponding to the start of the billing period. SCO will consider the ESCV's work and stakeholder comments on it in Draft Policy Paper Two to inform the development of rule change proposals as required.

SCO does not support the suggestion of some consumer groups that customers should be able to have their meter tested for free unconditionally and considers existing arrangements in the NER to be appropriate. These arrangements entitle the responsible person to charge for a meter test up front, which must be refunded where the meter is found to be faulty. The AER will continue to have the power to oversee prices for services such as meter testing and consider appropriate charges at the time of regulatory determinations.

The NER also requires meters to meet relevant Australian and International standards or to have a valid pattern approval as defined by the National Measurement Institute (the Institute). SCO notes that the existing work of the Institute and the Australian Energy Market Operator (AEMO) to review pattern approvals to ensure accuracy of meters in the National Electricity Market, which may strengthen confidence in data accuracy.

Presentation of consumption information

Initial draft policy position

SCO proposed that retailers provide customers with consumption data for each tariff segment (e.g. peak, off-peak, shoulder) on their bill to enable them to reconcile their bill charges.

Stakeholder submissions

This policy position was supported by stakeholders; however, retailers noted that requiring more detail than the total consumption for each tariff segment would be more difficult to implement.

SCO response

Given general stakeholder support in consultation, this policy position has not changed.

A possible method to implement this policy proposal was included in the Explanatory Material which accompanied the NECF Second Exposure Draft. It proposed amending the bill content requirements of the NERR, to include a requirement that a customer's bill contain:

“details of consumption or estimated consumption of energy, including (if applicable) details for each relevant retail tariff segment.”

This would have effect according to the structure of the retail tariff, rather than according to the type of meter that may be in place at a customer's premises. For a single-rate flat tariff, the provision would have the same effect as the current requirement to show total energy consumption for the billing period. For a multi-part tariff (including inclining block tariffs, time-of-use tariffs, and seasonal tariffs) the provision would require energy consumption to be shown for each part or segment of the tariff.

This would show customers how the bill was constructed and provide customers with information to assist them to manage their energy consumption. Presentation of energy consumption data in this form may also provide customers with more information when comparing offers from different retailers.

SCO notes this policy position is consistent with the ESCV's position in its Final Decision⁷.

Estimations and substitutions

Initial draft policy position

SCO proposed that retailers be required to inform customers with smart meters of the scope of any estimation on their bill.

Stakeholder submissions

Some consumer groups supported this draft policy proposal whilst others argued that estimated data should not be used at all (discussed further below). Retailers argued that any requirement be above a specified threshold so as not to confuse customers, which may potentially increase call centre traffic. Some retailers discussed the importance of the bill as their major means of communication with the customer and argued against any mandated format requirements.

One stakeholder suggested that a guaranteed service level (GSL) payment be paid to the customer by the meter provider where the number of actual reads falls below a specified threshold.

SCO response

Given general stakeholder support, SCO recommends that retailers be required to show the scope of any estimations **and substitutions** on the bill. Advice of substitutions has been added as they are as relevant as estimations from a consumer perspective.

SCO considers it is appropriate that it be at retailers' discretion as to how they present this information to customers. This flexibility ensures retailers are able to maintain control of their bill design and present the message to their customers as they see fit.

SCO also notes the ESCV's determination on this matter requires retailers to indicate that the bill is estimated when the interval metering data for a total of 48 hours during a billing period used to determine the billed energy consumption are not actual readings. By framing the requirement with reference to "actual readings", the ESCV's determination does not differentiate between substituted and estimated data therefore both would be captured. The regulation amendments also provide guidance where, for example, a momentary fault causes loss of data for just a few intervals without a meter failure, or where storm damage affects the operation of the meter. SCO notes that this requirement only applies to bills derived from smart meters, where interval data is collected remotely.

⁷ Essential Services Commission 2010, *Regulatory Review – Smart Meters*, September, p.28

SCO will consider the ESCV's findings in this area when finalising its policy position; however, SCO currently expects the need for estimation and substitution to be reduced where smart meters are installed as the meter will be remotely read daily (as opposed to a quarterly manual read) which provides more opportunities to identify faults in the meter or communications infrastructure. Further to this, remote reading will also remove the need for substitutions resulting from meter access issues.

In order to ensure customers are kept as informed as possible, SCO does not recommend a threshold be imposed at this stage. However, as discussed above, SCO recommends that the AER monitor the use of estimated and substituted data where an interval meter is in place. AER reporting on this matter is expected to reveal the extent to which estimation and substitutions are occurring where smart meters are installed. This will be further investigated in the development of Draft Policy Paper Two.

SCO does not recommend a GSL payment at this stage. AER reporting may be used to guide any future policy response in this area should one be necessary.

Treatment of missing data in a Dynamic Peak Pricing (DPP) event

Initial draft policy position

SCO proposed in situations where meter data is permanently lost in a DPP event that substitutions not be based on historical data. SCO proposed that, if a suitable alternative methodology was not available, customers should be charged for estimated electricity consumed at a non-DPP price.

Stakeholder submissions

Consumer groups supported the draft policy proposal and suggested that retailers should be prohibited from charging a customer based on substituted or estimated data in all cases. They argued that the advanced nature of smart meters should remove the need for estimations and substitutions.

Retailers did not support the draft policy position and argued that current estimation and substitution arrangements worked well. They raised further concerns that not permitting them to bill on the basis of estimated or substituted data may create a separation of their wholesale and retail market obligations. If implemented, they argued that this proposal would expose them to unmanageable risk as they are not responsible for the meter or metering data, but remain liable for the wholesale cost of the energy.

SCO response

SCO recognises the potential liability issues for retailers raised by prohibiting them from charging at a DPP rate where data is permanently lost and is exploring other options to address this issue. The NSSC provided advice for SCO on the appropriateness of the current metrology procedures to account for new tariff types that are likely to be offered following the introduction of smart meters. SCO will include a final policy position on this in Draft Policy Paper 2 after considering the NSSC's advice.

To inform this issue over the long term, SCO recommends that the AER monitor the use of estimated and substituted data where a remotely read interval meter is in place. As part of this process, retailers would be expected to advise the AER of the number of instances where data had been substituted during a peak period. This could be done via the performance regime set out in the NECF.

Overcharging and undercharging

Initial draft policy position

SCO did not propose any smart meter related changes to overcharging or undercharging provisions in the draft NECF.

Since the Draft Policy Paper, SCO proposed in the NECF Second Exposure Draft Explanatory Material that the time available for retailers to identify and notify a customer of any undercharge amount be reduced from the proposed (fixed) period of 12 months to a more flexible model which derives from the applicable billing cycle and meter reading cycle once smart meters are in place. This proposal reflected the expectation that metering data for most customers will be available to the retailer for the preceding day.

Stakeholder submissions

Consumer groups suggested that the period available to retailers to identify and notify a customer of any undercharge should be limited to three months. They argued that more regular meter reading should reduce the need to give retailers 12 months to identify any undercharge.

Retailers and distributors pointed out that the current undercharge period was not related to billing cycles but was in place to allow adequate time to identify and rectify technical issues such as crossed meters or situations where a customer has changed address without notifying the retailer of their new address.

While a rare occurrence, the Energy Networks Association (ENA) pointed to historical examples of Type 4 meters for large customers where faults have taken a substantial time to detect. The ENA advised that, while there are no regulated undercharging provisions for large customers, any undercharge is normally limited to two years.

The Energy Retailers Association of Australia argued that at a minimum undercharging could only be identified six months later in line with final settlement periods in the NEM.

SCO response

Following stakeholder submissions on the NECF Second Exposure Draft, SCO recognises that there is currently no correlation between undercharging provisions and billing cycles, so therefore sees no reason to link the two following the introduction of smart meters. It is reasonable to give businesses sufficient time to detect faults which can be difficult to find for a range of technical reasons. As a result, SCO considers the fixed timeframe set out in the NECF, which is now proposed to be nine months, to be appropriate.

Historical billing data

Initial draft policy position

SCO proposed that where a customer requests a copy of their historical billing data retailers must be able to provide:

- the full set of metering data on which the bill was based; and
- a summary of the meter data on which the bill was based.

It is SCO's intention that it be at the customer's discretion as to which of these levels of detail they require.

Stakeholder Submissions

This policy position was supported by stakeholders. Retailers and distributors would prefer that the NECF not prescribe the form historical billing data is to be provided in. Distributors proposed that where they are required to provide information to a retailer in response to a customer request that they be permitted to recover the reasonable cost of doing so from retailers.

SCO response

Given stakeholder support in consultation, this policy position has not changed. However, for consistency purposes some wording changes may be required in drafting the appropriate Rule.

To allow for information provided by interval meters SCO recommends that where a customer requests a copy of their historical billing data, retailers must be able to provide:

- the full set of billing data (including relevant metering data) on which the bill was based; and
- a summary of the billing data (including relevant metering data) on which the bill was based.

Customers should be able to choose which of these levels of detail they require. It is expected that where interval metering data is collected, a summary will be of most use to most customers and should be the default option offered by retailers. Where historical billing data is based on accumulation metering, it may be easier for the retailer to simply provide the full set of billing data rather than summarising it, and that should be the default option.

SCO supports the view of retailers and distributors that the format that data is provided in should not be prescribed.

The MCE's agreed policy in the NECF sets out the requirements for retailers to provide historical billing information to customers on request, and the circumstances in which they can and can't charge for providing that information. SCO considers that distributors should also be permitted to recover the reasonable cost of providing consumption information to a customer or customer's retailer. These matters are addressed in the NECF package.

Direct load control

Initial draft policy position

SCO did not propose any changes to the draft NECF at this stage to regulate direct load control.

Stakeholder submissions

Retailers and distributors were supportive of the policy position and considered it important that customer protections for DLC be considered once the NSSC has completed its work.

Consumer groups argued that the NECF should consider direct load control now and provide a framework for its future implementation. Consumer groups proposed that the NECF should: include a definition of direct load control; regulate current forms of direct load control; and circumscribe 'new' forms of direct load control, including duration, frequency and scope.

SCO response

SCO has not further developed a view about the appropriate regulation of direct load control but considers this issue warrants further consideration in Draft Policy Paper Two, which will inform a consolidated regulatory package of national smart meter customer protection measures. The package may be informed by the NSSC's technical and operational work in

relation to this function (and other functions) and, depending on timing, Stage 3 of the AEMC's Review of Demand Side Participation. SCO notes that in the ESCV's Final Decision it signalled a need to immediately consider any processes, protocols and regulations that might be required before direct load control products are offered to consumers, as well as a review of any related safety issues. The outcomes of this further review will also be considered by SCO once available.

In taking this approach policy makers are expected to have a better understanding of the context in which smart meter services will be delivered, which will inform appropriately targeted customer protections in relation to those services. The areas of focus suggested by consumer groups are recognised as being important and will be included in SCO's consideration of customer protections.

Supply capacity control

Initial draft policy position

SCO did not propose any changes to the draft NECF related to interruption of supply at this stage to regulate involuntary use of supply capacity control to manage emergency situations.

Stakeholder submissions

The majority of retailers and distributors supported the draft policy position to defer consideration of customer protections relating to supply capacity control until after the NSSC has completed its technical and operational work on this function. Others argued that adequate protections already exist in the National Electricity Law and National Electricity Rules.

Consumer groups strongly argued against the proposal in the paper that supply capacity control could be used as an alternative to disconnection in hardship cases and proposed that it be expressly prohibited from being used by retailers. In public forums they explained that, for some customers, de-energisation may be a threshold trigger for the customer to seek assistance with managing their bills. They consider that if supply capacity control were offered to these customers as an alternative, they may not seek assistance and continue to experience unnecessary hardship. One jurisdictional ombudsman agreed there was some merit in using supply capacity control as an alternative to disconnection but suggested there would have to be very strict customer protections around its use.

Consumer groups also argued that the NECF should include a range of customer protections related to supply capacity control. These include: appropriate notification requirements; explicit informed consent of customers; defined minimum threshold requirements (including timing, frequency and scope); exclusion of customers on life support and customers dependent on other types of medical equipment; and extension of marketing rules to distribution businesses.

SCO response

SCO notes the strong opposition by consumer groups to using supply capacity control as an alternative to disconnection and therefore recommends that it be prohibited for these purposes in the NECF. SCO does however consider there to be potential value in allowing retailers access to this function (subject to appropriate access arrangements and customer protections) to possibly develop market offers and manage their own exposure to the wholesale electricity market, so supporting a lower-priced offer to customers. SCO does not consider it to be appropriate that supply capacity control form part of any retailers' standing offer tariff.

SCO notes that, in its Final Decision, the ESCV prohibits the use of supply capacity control products for the purpose of credit management for an interim period and subject to further review. Further, the ESCV is to commence an immediate review into any processes, protocols

and regulations that might be required before supply capacity control products are offered to consumers for purposes other than credit management. Any potential safety issues will also be investigated.

Like direct load control, SCO will further consider customer protections necessary to support supply capacity control once the full context of smart meter services is known. The areas of focus suggested by consumer groups are recognised as being important and will be considered in Draft Policy Paper Two.

Distributor marketing

Initial draft policy position

SCO proposed that the National Energy Marketing Rules be extended to include distributors or third parties acting on behalf of distributors.

Stakeholder submissions

The majority of distributors opposed the draft policy position claiming that additional regulation beyond existing customer protection laws and industry codes of practice was unnecessary. Other distributors suggested no decision should be made on this matter until the NSSC has completed its technical and operational work.

Retailers opposed the concept of distributors' direct marketing in any case. They viewed the direct relationship with the customer – and any direct marketing as a result of that – as their exclusive domain. As a result, they did not see the need for any specific marketing rules for distributors.

Consumer groups supported the draft policy position.

SCO response

SCO acknowledges the views of retailers, however, considers that it may be appropriate for distributors to have the option of direct contact with customers for the purposes of offering load management products. This would not preclude distributors entering into arrangements with retailers to manage customer contact for such products. Business to business processes and operational protocols may need to be developed to support these arrangements.

To support the most effective delivery of load management products to customers, SCO recommends information sharing between retailers and distributors. This is intended to ensure the safety and reliability of electricity supply and ensure customers are served in a coordinated manner by their retailer and distributor.

The NSSC is providing advice for SCO on operational aspects of the national smart meter framework, which includes access arrangements for load management infrastructure. SCO expects the arrangements to allow multiple parties to have efficient and timely access to the infrastructure without threatening network security.

SCO notes from 1 January 2011, Australia will have a single, national consumer law (the Australian Consumer Law (ACL)), which includes a range of protections for consumers when purchasing goods and services. The ACL will cover areas such as marketing conduct, product safety, contracting arrangements and information standards. The NECF was drafted to be consistent with the ACL. The new Rules are intended to operate concurrently with it and other relevant Commonwealth laws, such as the *Telecommunications Act 1997* which includes various conduct provisions related to telemarketing and research calls.

The NERL provides a head of power for rules to be made which can apply to any person who carries out energy market activities; currently however the National Energy Marketing Rules

only apply to retailers. SCO recommends that the National Energy Marketing Rules be extended to apply to distributors, due to the increased services and opportunity for marketing enabled by smart meters and in-home displays, to ensure customers are provided with adequate protection against inappropriate marketing conduct.

Retailer marketing through in-home displays

Initial draft policy position

As discussed in the previous section, SCO proposed that the National Energy Marketing Rules be extended to include distributors or third parties acting on behalf of distributors.

Stakeholder submissions

Some retailers and distributors opposed the proposed response suggesting that existing regulation (or that already proposed in the NECF) would be sufficient to cover any marketing through an in-home display (via the Home Area Network – HAN).

Consumer groups, whilst supporting the extension of the NECF marketing rules to distributors, considered marketing through the HAN to be a much broader issue. Fundamentally they oppose any type of advertising via the HAN and believe customers should have the right to refuse any type of marketing. Consumer groups supported SCO's engagement with the Australian Communications and Media Authority (ACMA) and Office of the Privacy Commissioner (and any relevant jurisdictional Privacy Commissions) on this issue.

SCO response

As discussed above, SCO recommends that the National Energy Marketing Rules be extended to apply to distributors and third parties acting on their behalf.

SCO recognises that broader customer protection issues exist in relation to content regulation of material provided via the HAN through an in-home display or other medium (e.g. internet). Full consideration of this issue is reliant on the NSSC's advice on a national HAN standard and arrangements to support its deployment. SCO will progress these issues in cooperation with ACMA and the Privacy Commissioner following the NSSC's advice.

De-energisation notification

Initial draft policy position

SCO proposed that the draft NECF be amended to include de-energisation⁸ notification requirements, to require retailers to inform customers with smart meters that de-energisation of their electricity supply may occur remotely rather than manually. This notification should be given at the same time that the customer is warned that de-energisation will or may occur.

Stakeholder submissions

This policy position was supported by the majority of stakeholders. Retailers supported the policy position provided that the notification could be included within the current notification requirements and not require a separate or additional communication with the customer.

Consumer groups supported the policy proposal but also argued that the removal of possible customer contact at the time of disconnection necessitates multiple points of contact by a

⁸ The NECF recognises that the term 'de-energisation' is interchangeable with the term 'disconnection'. This document also uses both terms interchangeably.

retailer within 24 hours of disconnection for non-payment. Consumer groups also suggested that arrangements be put in place to ensure remote disconnections are accurately carried out and Wrongful Disconnection Payments be included in the NECF as an incentive on retailers and distributors to ensure disconnections are done properly.

SCO response

Following consideration of stakeholder views, SCO recommends that retailers be required to inform customers with smart meters that disconnection of their electricity supply may occur remotely rather than manually in all disconnection warning notices and in the model standard contract. SCO considers notification in multiple places to be appropriate so the customer is made aware of this possibility upon signing up to their electricity supply and immediately prior to a possible disconnection.

Retailers are already required to notify the customer if they are to be disconnected, so the further requirement in the warning notice would only indicate to the customer that it could happen without a representative from the distributor attending their premises.

The proposed disconnection for non payment provisions in the NECF require retailers to provide a payment reminder notice, a warning of disconnection notice and to use their best endeavours to contact the customer, either in person or by telephone, facsimile or other electronic means prior to disconnection. SCO recommends that for customers with smart meters an additional final step be included in the disconnection process, with a requirement that the retailer must use best endeavours to contact the customer in person or by telephone 24 hours prior to submitting the disconnection order to the distributor where disconnection is being undertaken remotely. This recommendation acknowledges the fact that remote disconnection will remove the possibility of customer contact at the time of disconnection as might occur now with manual disconnection. This proposal does not reduce the five day period between final written notice and actual disconnection as contained in the NECF.

SCO has previously decided not to include wrongful disconnection payments as part of the NECF and does not expect the introduction of smart meters to have an impact on the number of wrongful disconnections or warrant a change in this policy position. However, SCO expects that the development of the business processes and procedures to support remote disconnection by the NSSC will include measures to ensure accurate remote disconnections will occur and procedures will be put in place to quickly rectify any wrongful disconnection.

SCO also notes that the ESCV's Final Decision requires retailers to state on all disconnection warnings that the disconnection could occur remotely. The ESCV also deemed that where a customer is experiencing financial difficulties, retailers must contact the customer in person or by telephone, or in extenuating circumstances, by mail, SMS or email before activating a remote disconnection. SCO will consider this work and stakeholders' submissions to the ESCV's review in the development of the final rules package.

Prepayment metering

Initial draft policy proposal

SCO did not propose any changes to prepayment provisions in the draft NECF.

Stakeholder submissions

The majority of stakeholders supported the draft policy position. They agreed that smart meters will not change the concept of prepayment, but rather change how the prepayment meter system works.

Some consumer groups suggested that Rule 803 of the NECF (Second Exposure Draft) should be amended to clarify that a prepayment meter system must be able to display essential information without a need for any customer enhancements or additions to the system.

Since the Draft Policy Paper the NSSC has proposed a broader definition of ‘prepayment meter system’ as part of the consultation process on the NECF Second Exposure Draft. The proposed definition expands on what was previously included in the NECF to further clarify that a prepayment system could include a combination of devices other than the meter – such as an in-home display – that together provide prepayment services.

Beyond the proposed revised definition of ‘prepayment metering system’, the NSSC has assessed the current prepayment requirements in the NECF and considers them appropriate to support smart meters. The NSSC is currently developing a national minimum meter specification supported by flexible business processes and procedures to enable prepayment services consistent with the NECF requirements.

SCO response

The NECF employs a definition of prepayment meter system, rather than defining a specific type of (prepayment) meter. The intention is to divorce the functionality from the physical meter and to focus on the required performance standards for that functionality. The definition is intended to be broad enough to incorporate disparate and physically separated elements that form an overall system – such that the point of sale terminal for re-charging could form part of that system, for example. SCO believes that there is a continuing need to separate definitions of a meter or types of meters from additional functionality which may or may not be co-located with a meter.

SCO considers that the MCE agreed policy, in which the NECF clearly stipulates that the onus is on retailers to meet the system requirements for prepayment metering, means that customer-provided enhancements would not be necessary.

Embedded generation

Draft policy position

SCO did not propose any changes to the draft NECF in relation to de-energisation where an embedded generation system is in place.

Stakeholder submissions

The majority of stakeholders supported the draft policy position. They considered the primary reason for disconnection will be non-payment, and as such it is reasonable that customers are disconnected, even where an embedded generation system is in place.

SCO response

Given stakeholder support in consultation, this policy position has not changed.

SCO also notes that a National Connections Framework (NCF) has been developed in the NECF package. This will deal with the connection of embedded generation, including the terms and conditions associated with that connection. The use of a smart meter as opposed to any other meter type to record the energy flow from an embedded generator does not create any specific customer protection matters which are not already adequately covered by the NECF and NCF.

Forward work program

SCO is currently developing the next customer protection paper, *Smart Meter Customer Protection and Safety Review Draft Policy Paper Two*, which will investigate non-NECF customer protection and safety related issues and any outstanding issues from Draft Policy Paper One.

Draft Policy Paper Two is intended to take an approach which assesses possible consumer impacts relating to each smart meter service. It will:

- start with a general description of the services smart meters enable and how they may operate in the market, assessing possible issues that may arise for customers;
- discuss possible policy options to address identified issues (including “no action”);
- identify a preferred position; and
- outline consultation questions and invite stakeholders to respond.

In broad terms, the topics to be covered in Draft Policy Paper Two will include:

- Tariff transition issues, such as customer choice and the relationship between retail and network tariffs;
- Direct load control;
- Supply capacity control for non-credit-management purposes;
- Information flows and privacy (including marketing through the HAN);
- Cost and benefit pass through;
- Concession regimes and Community Service Obligations (recognising that these are the responsibility of individual jurisdictions);
- Consumer education and information; and
- Consumer safety issues identified as part of the roll-out.

The draft paper will be released for stakeholder comment. Once the formal consultation process is completed SCO will issue a final position paper setting out SCO’s recommendations from the review (incorporating the positions in this paper).

SCO looks forward to working closely with all stakeholders in the second stage of development of its policy recommendations on smart meter customer protection and safety issues.