

MCE Second Exposure Draft of the National Energy Customer Framework



Contact: Verity Watson

United Energy Distribution and Multinet Gas

Phone: (03) 8540 7819

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Executive summary

In summary United Energy Distribution and Multinet make the following key points:

Appropriateness of the Contractual Model

- We are moving into a more rapidly changing world and the removal of the ability to have a contractual relationship between the distributor and the retailer should not be eliminated. The NECF drafting needs to place a requirement in the retailer authorisation to accommodate the sign up to the specific network's default arrangements approved by a regulator. This must be allowed in the overall framework to supplement the distributor-retailer arrangements in the NERR and NER/NGR.
- We suggest that the AER approved standard connection contract be allowed to apply for small and large customers. The AER needs to approve these contracts and is able to ensure that any small customers are protected. This also allows for consistent treatment of customers of a certain type regardless of size, eg embedded networks etc.
- The deemed standard connection contract is constraining; it does not adequately deal with customer carry over matters. This should be addressed in the model terms and conditions the deemed standard connection contracts.

Development and operation of a parallel regulatory model

- The Rule making test in clause 1002 (1) of the NERL should be extended to include a second test that the proposed Rule is not inconsistent with jurisdictional energy legislation
- It is important that policy makers manage the implementation of law and rules in an effective manner that allows customers and industry participants to readily understand the hierarchy of legal and regulatory instruments across various laws, rules, procedures, codes and contracts.
- Development and management of an achievable jurisdictional work program will be required with all stakeholders to ensure careful management of the implementation of NECF, particularly for the first jurisdiction/fuel. This will need to be developed in light of the Application Act and the final regulatory framework sought.
- Distributor's costs must be fully recoverable under defined pass through events for both electricity and gas through amendments to the NER/NGR definition of pass through events.
- We strongly recommend that connections and credit support, and any further new requirements, are consulted on before the NECF Bill is introduced to the South Australian parliament.

National Energy Retail Objective

- The proposed inclusion of section 113(2) in the second exposure draft essentially gives customer protection and hardship policies a 'carve-out' from the national electricity objective and the national gas objective. The pitfalls, risks and potential for unintended consequences give rise to an increased

possibility of distortion of the energy market. We recommend that section 113 (2) should be removed from the NERL and direction targeted at the particular regulatory functions in the NERL/NERR rather than at the level of the general objectives.

Definitions

- The definition of de-energisation should clarify that the actions of the closing or opening of a connection do not include supply capacity control or load management which may be utilised with smart metering. This avoids a later legislative change and also aligns the legislation with the deemed standard connection contract. Consequential changes are also required to energisation.

Connection Framework

- The proposed connection charge principles based on customer size and the broad scope of the reimbursement scheme are inappropriate and introduce a substantial administrative burden on distributors for little customer benefit. 5A.E.1 (a) and (b) should be deleted. Distributors existing capital contribution policies should be allowed to continue.

Retailer of last resort

- Industry has already undertaken a significant amount of work to introduce RoLR processes and procedural requirements in the respective retail market procedures and transaction arrangements. This work is either already implemented or intended to be implemented well before the NECF is introduced in any jurisdiction.
- AEMO should ensure that RoLR procedures exist within the retail market procedures and cover the items required of the NERR, so that the tight link of RoLR processes with retail transfers and transactional arrangements in the respective markets can remain and be reused.
- The businesses suggest that the allocation of the designated RoLR should be kept simple due to the tight time frames to undertake certain activities in the market. Consistent with the RoLR Procedures comments above, we recommend that existing Rules and systems in the industry should be used to the maximum extent possible to minimise unnecessary costs in the ROLR scheme which are ultimately recoverable from customers

Credit support

- A new clause should be drafted into the NER and NGR retail support sections that allows the distribution businesses to take the retailer to court for bad debt.
- The AEMC effectiveness of retail competition reviews have noted that credit support is not a barrier to entry for retailers, rather it is a cost of doing business. The credit support calculations should not be enshrined in the NER/NGR without further consultation.
- Distributors should be provided with an opportunity to request credit support earlier than 35 business days after the statement of charges has been issued

and remains unpaid. The drafting should be amended in 6B.6.5 (a) (iii)/122 (1) (a) (iii) to 1 statement of charges within 5 business days of the due date.

- The default rate as currently set provides a cheaper mechanism of gaining working capital than going to the financial markets. The default rate should be the bank bill rate plus the debt margin from the most recent AER price determination for each jurisdiction.
- We suggest that the drafting in 6B.3.3 (d)/110 (d), allow that the retailer may take the dispute to the dispute resolution panel (DRP) as opposed to must take the dispute to the DRP. The distributor should also have a reciprocal right to take a spurious dispute to the DRP or to ensure that lack of retailer's service providers information potentially causing the dispute may also be rectified.
- The distributor must have a right where a credit rating has been downgraded and they have not been advised by the retailer to use a credit rating they have gained to trigger the credit support provisions. It is not in the interests of customers for the distributors to have no right to trigger credit support where they have the right to do so.

Smart Metering

- The RPWG/SCO should delay any substantive changes in the customer protection framework and deal with smart metering in a more holistic manner. Once the National Smart Meter Stakeholder Committee has provided its advice in the next few months this would allow a more balanced and informed approach for smart metering changes.

National Energy Retail Market Procedures

- We would welcome more explanation regarding what is being proposed and why. What parts of the customer transfers, NMI discovery process etc are to remain in the procedures under the respective Rules (NER/NGR) and what is being proposed in the new NERMP under the NECF.

1 Introduction

United Energy Distribution (UED) and Multinet (the businesses) appreciate the opportunity to comment on the Retail Policy Working group's second exposure draft of the National Energy Customer Framework (NECF).

UED distributes electricity to over 630,000 customers covering a 1,472 square kilometres from the south eastern suburbs, southwards, including the Mornington Peninsula. The network consists of approximately 13,000 kilometres of powerlines and 209,000 poles.

Multinet is the largest distributor of natural gas in Victoria and services 646,000 customer connections in Melbourne's inner and outer eastern and south eastern suburbs. The 9,413 km gas distribution network covers an area of 1,603 square kilometres.

The introduction of a single customer protection framework is a major regulatory change.

This second exposure draft of the NECF introduces the following new or significant changes from the first exposure draft:

- Small customer dispute resolution;
- A retailer of last resort scheme;
- A small compensation claims regime;
- Retail support rights and obligations between distributors and retailers in the respective National Electricity and Gas Rules covering billing and credit support; and
- Connection arrangements in the respective National Electricity and Gas Rules.

In addition, the second exposure draft recognises the implementation and ongoing parallel regulatory framework being implemented with this national energy customer framework and the jurisdictional Application Acts and ongoing jurisdictional legislative instruments.

The businesses have provided limited high level comments regarding the framework and contractual approach in the body of this submission. The detailed drafting comments and suggestions are provided in a table in the Attachment.

UED and Multinet look forward to the future consultation processes and the further development of the NECF package. We also look forward to actively working with the jurisdiction as the Application Act is developed and the amendments made to the various local instruments and codes in anticipation of implementation.

2 Appropriateness of the Contractual Model

The businesses are concerned that the move from the contractual to regulatory arrangements for the distributor-retailer relationship, and the regulated terms and conditions for the distributor-customer relationship will stifle the flexibility required as we move forward to a new environment.

2.1 Distributor-retailer arrangements

In NECF1 the distributor-retailer arrangement was governed by a minimum set of terms and conditions.

The terms and conditions specified in the regulated contract applied for electricity. The terms and conditions asterisked needed to be included as is, in the terms and conditions of the gas networks access arrangements. Further terms and conditions could be added as long as they were not inconsistent with the NECF.

In NECF2, there has been a decision to withdraw the contractual model as;

‘The implementation of the contractual model in the different regulatory environments for electricity and gas proved on further development to be inefficient, particularly given the terms of the contract needed to operate as direct obligations on both retailers and distributors rather than as negotiable terms and conditions. The treatment and relocation of the ‘Retail Support Terms and Conditions’ (previously Schedule 3 to the NERR) follows the decision to redesign these contractual terms and conditions as direct obligations for NECF2.’¹

The policy makers have expressed a view that the distributors always proposed these contracts and there was never a meeting of the minds with retailers. In light of this view, the following has occurred:

- The rights and obligations of distributors and retailers in relation to information exchange and other matters has been included in the NERR; and
- Billing, payments and disputes by retail customers and credits support arrangements have been drafted as an amending Rule to the NER and the NGR.

Whilst the policy makers have developed this framework, it is up to each jurisdiction which aspects of the framework are adopted in the jurisdiction and the timing or transitional arrangements.

It is unclear how much of the existing regulatory framework will continue to prevail. It is clear that the electricity distributors will still have a jurisdictional electricity distribution licence, but whether it will still provide an option for the distributor to propose terms and conditions of a Use of System Agreement (UoSA) and have these approved by the regulator and applied to all retailers as a further default arrangement is uncertain.

Similarly for gas, there is a need to still provide for terms and conditions within an access arrangement regarding supply, quality of supply, unaccounted for gas etc.

¹ MCE, National Energy Customer Framework, Second Exposure Draft, Explanatory Material, November 2009, clause 61

We recommend that individual distributors should be able to develop their own variations in a Use of System Agreement – subject to AER approval and any relevant guidelines.

UED and Multinet strongly recommend that the NERL/NERR framework include that in addition to these billing, credit support and informational arrangements regulated under this framework, that the NECF require that retailer authorisations;

- require any further regulator approved use of system terms and conditions to be considered part of the default, and
- to require contractual sign up to these.

This contractual sign up process is used as part of a process to communicate with new entrant retailers, understand when they intend to transact in the market and be established in market systems. The need for any testing of these B2B transactions and communication is also discussed and agreed. The removal of the distributor-retailer contract makes these communications and orderly market entrance less certain.

2.1.1 More rapidly changing world needs flexibility

Achieving the further benefits of smart meters, developing smart cities, the introduction of electric vehicle banks, prepayment meters etc all have significant potential to change the operational characteristics between retailers and distributors.

A national constraint that one size fits all will not meet the challenges of the future and will serve to stifle change and innovation. This approach does not fit with a move to smart grids, dealing with climate change issues and other aspects of a changing future.

This level of flexibility would allow an electricity distributor to develop demand side management solutions and have consistent agreed arrangements with retailers, as opposed to blocking these solutions. These requirements may exist on a more localised level as load grows with higher penetration of even larger air conditioners. An individual distributor needs to have this level of flexibility.

This flexibility also allows a framework that recognises network topography and other characteristics of UED's network that may require more limitations on how loads are managed on the Mornington Peninsula vs Brighton.

In the gas environment this level of network specific arrangements is still required for access on a market carriage network as opposed to access conditions which may be required on rural gas network extensions, such as South Gippsland.

2.1.2 Jurisdictional flexibility required

UED is cognisant that the Victorian UoSA's have had one change over the last decade and are now undergoing changes to accommodate specific jurisdictional policies. There needs to be an avenue where specific jurisdictional policy decisions can be accommodated in a default agreement that the distributor proposes, the regulator reviews and consults with retailers and determines the terms to be fair and reasonable. This helps to provide efficiency of operations for the distributor and to provide a level and transparent playing field for all retailers. Where do these specific jurisdictional items go in future?

The level of change is likely to increase significantly in the future as further levels of complexity and sophistication of services arise from the advanced interval meter rollout in Victoria and as we progress towards smart grids. The final parallel regulatory framework needs to cater for this level of flexibility for jurisdictional matters.

We are moving into a more rapidly changing world and the removal of the ability to have a contractual relationship with the retailer should not be eliminated. The NECF drafting needs to place a requirement in the retailer authorisation to accommodate the sign up to the specific network's default arrangements approved by a regulator. This must be allowed in the overall framework to supplement the distributor-retailer arrangements in the NERR and NER/NGR.

2.2 Distributor – Customer Arrangements

UED and Multinet continue to recommend that the NERL allow for an AER approved standard contract for small customers in addition to large customers.

2.2.1 *Customers are not uniform – nor should be the regulatory arrangements*

Minimum variation is allowed to the deemed standard customer connection contract. All small customers are not the same.

Distribution networks are undergoing the most radical transformation in service delivery in 100 years. The notion that there can be a model set of terms and conditions that applies uniformly across small customers is thinking that applies to the past and needs reconsideration with an eye to the future.

A better model would allow AER approved variations to the model set of terms and conditions for classes of small customers or services. The logic that allows regulated flexibility for large customers applies equally in a world where small customers require service variation depending on circumstances and the geographical diversity across one distributor's distribution areas. Radical innovation to the way networks operate arising from smart grid and smart meter technologies, may also require contract variations.

The deemed standard connection contract is constraining, it does not adequately deal with customer carry over matters, nor does it deal adequately with various customer types.

2.2.2 *Regulatory terms and conditions can be wrong and are inflexible to change*

The ability to fix any gaps or clarify provisions so that the customer and the distributor's obligations are clear, is limited. There is no ability to change the deemed standard connection contract without a lengthy Rule change process and assurance that the terms are required in every jurisdiction and for both fuels.

2.2.3 Allow AER discretion to adjust deemed standard connection contracts for small customers

The distributor should be able to propose changes to an AER deemed approved standard connection contract that is able to apply to small and large customers to address the clarity required by a distributor and customers in order that the customer service obligations are balanced and clear. The model terms and conditions proposed could provide a base with the distributor needing to justify to the regulator any variation away from these terms and condition.

Examples include the management of embedded networks and any necessary provision of standing data by both the licensed distributor and the exempt distributor. Another example would be the carry over provisions relating to embedded generation to ensure that generators do not impact other customers on the distribution network.

As global warming increases the risks of more frequent weather extremes is expected. This poses challenges to the distributors, but also may warrant increased flexibility to use supply capacity limiting features in smart meters for load shedding events.

There may be certain provisions that are warranted for specific customer types eg embedded network parent customers, electric vehicle banks that form part of ongoing supply service arrangements. These are best dealt with in an AER approved deemed standard contract than in a connection contract under Chapter 5A or Part 12.

The distributor should be able to propose certain terms and conditions applicable to a customer group and have these contracts as deemed standard contracts, these additional terms could be an adjunct to the model terms and conditions or small variations to the model terms and conditions.

This approach is consistent with the distributor's ability to propose changes to this contract at any time in Victoria and have them apply after approval by the regulator.

<p>We suggest that the AER approved standard connection contract be allowed to apply for small and large customers. The AER needs to approve these contracts and is able to ensure that any small customers are protected. This also allows for consistent treatment of customers of a certain type regardless of size eg embedded networks etc.</p>
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2.2.4 Flexibility for customer carry over matters in the deemed contract

A contract under Chapter 5A or Part 12 is limited in use for the customer who requests a new connection/connection upgrade (NERL 306 (1) and (2)) as opposed to contracting the next customer or existing customers to certain terms and conditions necessary for the supply of the network and for regulatory obligations to be met.

It is important for safety and bushfire risk that private electricity poles and wires are appropriately managed by the customer, no matter if the customer is the third or fourth owner of the property since the supply was first established.

The obligation for a customer to manage the maintenance of private poles and vegetation management on private property is not entirely clear in the legal framework and is often problematic. An opportunity to advise customers of these requirements if they are not already aware of them is appropriate.

Conditions which may be placed on access to lease and easements on a customer property that may be agreed at the time the connection contract is accepted under NER Chapt 5A may not be adequately covered in the deemed standard connection contract covering ongoing supply in the NERL.

UED and Multinet support the ENA proposal to deal with the carry over arrangements by amending clause 6.3(b) in the model deemed standard connection contract:

The deemed standard connection contract is constraining; it does not adequately deal with customer carry over matters. This should be addressed in the model terms and conditions of the deemed standard connection contracts.

3 Development and operation of a parallel regulatory model

3.1 Harmonious operation of the parallel frameworks in the future

The drafting in the National Energy Retail Law (NERL) clause 103 contemplates an ongoing role for jurisdictional instruments for transitional or other reasons. This Law, the National Regulations and the Rules constitute the "National Energy Customer Framework", which will apply in each participating jurisdiction by virtue of the Application Act for that jurisdiction and are intended to operate in parallel with jurisdictional energy legislation.

The Application Act is an important part of the legislative framework that establishes how the national and jurisdictional arrangements co-exist. However the maintenance of this ongoing co-existence in a harmonised manner is not clear. There is no requirement in the NECF to ensure that the parallel regulatory framework remains workable moving forward. Problems regarding ongoing legal hierarchy might give rise to operational problems moving forward.

The Rule making test in clause 1002 (1) of the NERL should consider not just whether a proposed Rule is likely to contribute to the achievement of the national energy retail objective. It must be satisfied that the proposed Rule is not inconsistent with jurisdictional energy legislation.

The Rule making test in clause 1002 (1) of the NERL should be extended to include a second test that the proposed Rule is not inconsistent with jurisdictional energy legislation.

3.2 Development of the jurisdictional starting point for the parallel frameworks

In our last response we raised the need for each jurisdiction to develop a transition plan to work out the following in relation to jurisdictional instruments:

- Whether the instrument/clause needs to be repealed;

- Whether the instrument/clause should be in NECF with or without some amendment; and
- Whether the instrument/clause needs to remain with or without some amendment to ensure that the remaining jurisdictional instrument or arrangement is left in a workable state.

Whilst we recognise that this is an enormous task, it is unclear how the Minister, the Ministerial Council of Energy (MCE) or Standing Committee of Officials (SCO) can determine whether the initial NERL and National Energy Retail Rules provides a reasonable starting point. We suggested that this analysis within each jurisdiction needed to occur prior to the second exposure draft to ensure that items that ought to be in the initial NECF were addressed.

We are aware that Victoria has commenced this task, however as yet we are unaware of the transition plan/timing and what might remain jurisdictional.

We note that the NERL provides for an ongoing role for jurisdictional energy legislation and local instruments. Without a fuller understanding of what Victoria may be proposing our response is limited to the NECF as opposed to the final framework that will operate in Victoria.

The NECF is already an enormous package and introduces a significant level of change on distributors. The Application Act for Victoria, given the level of complexity, is likely to be equally as large and there will also be a significant flow on effect to local instruments. This in itself creates a huge workload on industry regarding regulatory consultation processes and internal consultation and communication of changes.

It will be a challenge for policy makers to manage the implementation of hundreds, if not thousands of pages, of law and rules in a simple manner that allows customers and industry participants to understand the hierarchy of legal and regulatory instruments across various laws, rules, procedures codes and contracts. Every effort should be made to enable this to be clearly articulated and manageable at an operational level.

We look forward to actively working with the jurisdiction as the Application Act is developed and the amendments of the various instruments and codes are progressed.

It is important that policy makers manage the implementation of law and rules in an effective manner that allows customers and industry participants to readily understand the hierarchy of legal and regulatory instruments across various laws, rules, procedures, codes and contracts.

4 Necessary conditions to a start in the first jurisdiction

The businesses wish to record that there are many extensive and time consuming tasks to be performed before the NECF package can become operational.

4.1 Necessary Documentation in Place

Based on a quick scan of the second exposure draft of the NECF2, there are a significant number of documents that need to be in place for the first jurisdiction to

make the NECF effective, see Schedule 1. This list focuses on documentation that the AER needs to develop, or a distributor may need to develop and have approved by the AER.

Some of the documents in the Schedule 1 may exist and only require a minor update to reflect changes required as a result of the NECF. However other documents will need to be developed when the final framework is well understood. This can best be achieved once the NECF, Application Act and consequential amendments to other laws, codes and procedures are known. For example the remaining parts of the Victorian Electricity Distribution Code may impact the connection services contract in the NER.

4.2 Establishment of systems and processes

4.2.1 Establishment of NECF customer classifications and information exchange

The NECF requires the following categories to be defined at each NMI or MIRN in order for the NECF framework to be applied;

- Residential and business;
- Small and large; and
- Small market customer or not.

The last two categories are specifically required for NECF and will need to be established in the distributors' IT systems. A method of communication of these classifications will be required between distributors and retailers, this may possibly result in a need to develop a new B2B Procedure.

Development, consultation and implementation of new national procedures will take around 18 months to two years.

4.2.2 Other system and process requirements

The NECF also introduces changes in existing systems and processes as mentioned in our last response:

- Connections framework increases the requirement for call centre and back office staff due to the more direct nature of customer engagement on new connections and connection alterations, particularly for gas;
- Changes to billing systems created by the NER and NGR proposed arrangements; and
- Amending credit support management process for gas and possibly electricity.

The transition process timing, and ultimate impact on the business remains uncertain and poses a risk to the business.

4.2.3 An industry/government project

There is a significant amount of work for the implementation of the full NECF package including the Application Act and remaining jurisdictional instruments which

have been raised above. It is important that industry and government work together to undertake an impact analysis on what needs to occur when the final framework is better known. Any Application Act needs to allow for a flexible start (or starts of parts of the NECF) that allows appropriate processes to ensure that the necessary items are in place before implementation and that the transition to the NECF is orderly.

We recommend that an achievable jurisdictional work program be developed with all stakeholders that recognises other work programs in the industry and the timing with access arrangements.

Development and management of an achievable jurisdictional work program will be required with all stakeholders to ensure careful management of the implementation of the parallel regulatory frameworks, particularly for the first jurisdiction/fuel. This will need to be developed in light of the Application Act and the final regulatory framework sought.

4.2.4 Transition costs must be recoverable

In addition to the regulatory and systems development work above, other costs are also introduced as a consequence of the NECF.

This package creates increased liability for gas distributors. The package also changes the billing and cashflow arrangements that will result in working capital changes for the businesses.

All fair and reasonable costs ought to be allowed as pass throughs. The NECF reform provides significant benefits to retailers through national standardisation and transferral of processes/costs to the distributors. For the distributors there is a considerable amount of work created by the transferral of these services, broader business and customer service impacts and the allocation of new contractual liabilities.

UED has sought in its December 2009 price review submission a cost pass through to cater for the implementation of the NECF. The AER determination on this matter will not be available until late 2010.

Multinet's next access regime commences in 2013, the costs of any transition prior to this date or in 2013 will need to be dealt with via a legislative amendment to create a defined regulatory pass through for the current access arrangement.

Distributor's costs must be fully recoverable under defined pass through events for both electricity and gas through amendments to the NER/NGR definition of pass through events.

4.2.5 Further consultation required

We raised a broad number of drafting issues in our last response and have also raised a significant number of issues in this NECF2 response. Given the size of the package and the explanatory note it is difficult to assess how the issues we have raised have been dealt with and the policy rationale for this draft. An example of this is the substantive amendment to the economic objective of the framework with very little consultation/explanation provided in the explanatory material.

This is also the first opportunity to respond to the connection framework and the credit support arrangements in the Rules. A subset of smart meter policy issues may also be addressed in further drafting. We suggest that these areas at a minimum need further consultation over the next few months if they will be drafted into the NECF Bill.

The ENA response highlights a significant number of issues in the connections framework relating to legal/contractual arrangements, applicable terms and NGR conditions, the impact of alteration to definitions across the NECF and NER etc. We consider that there is a significant number of issues that warrant further consultation. This is an area where clarity of the customers' and distributors' obligation is important and that processes are easily understood and efficient for all concerned.

Ideally the businesses wish to have a further consultation draft NECF to ensure that the extensive list of items we have raised in our responses are adequately addressed to ensure an efficient, robust framework for the NECF.

We are comfortable with the approach that the more advanced smart metering functions need further consideration and will progress as a separate NECF Rule change package at a later date. However recognising that this timeframe may not meet with the Victorian Government's expectations, the initial NECF/Application Act needs to allow sufficient flexibility for appropriate management of this functionality within Victoria.

We strongly recommend that connections, credit support, and any further new requirements, are consulted on before the NECF Bill is introduced to the South Australian parliament.

5 National Energy Retail Objective

The second exposure draft of the NERL contains a national energy retail objective (clause 113) which differs materially from the objectives set out in section 7 of the NEL and section 23 of the NGL. The draft national energy retail objective also differs materially from that proposed in the first exposure draft. The rationale for this departure is set out in paragraphs 37 and 38 of the explanatory material which accompanies the second exposure draft:

“To avoid any unintended diminution of specific consumer protection measures such as hardship policies, where those policies may be interpreted by some as conflicting with the economically efficient operation of energy markets, the draft NERL provides the following new provision under section 113:

“The national energy retail objective should not be taken to prevent or restrict the development and application of consumer protections for hardship customers and other small customers, including the development, approval and application of customer hardship policies.”

The businesses support measures aimed at customer protection and alleviating customer hardship. We also concur with the view that the national electricity retail objective should be applied in way that does not lead to a diminution in customer protection. In particular, we would be concerned if existing consumer protections and customer hardship management arrangements were to be watered down or

potentially removed through a narrow interpretation of the national electricity retail objective.

The businesses consider, however, that there is negligible risk of any diminution (unintentional or otherwise) of specific consumer protection measures if the definition of the national energy retail objective is limited to section 113(1), as proposed in the first exposure draft of the NERL. This is because specific obligations regarding customer protection and hardship policies are included in the Law and Rules. For instance, Division 6 (customer hardship) and Division 7 (payment plans) of the draft Law directly address matters relating to customer hardship and customer support, and contain specific provisions aimed at ensuring Government's customer protection policies are given effect.

Furthermore, as already noted, the approach adopted in specifying the national energy retail objective in the second exposure draft differs from that adopted in the first exposure draft of the NERL. Page 22 of the explanatory material accompanying the first exposure draft noted:

“The statutory objective in section 113 of the NERL (which also forms the basis of the rule making test for the making of amendments to the NERR) is an equivalent objective to that of the NEL and NGL regimes.”

The rationale for the approach adopted in the first exposure draft is detailed in two documents:

- The Consultation Paper titled *National Framework for Non-Economic Distribution and Retail Regulation*, prepared for the Retail Policy Working Group by Allens Arthur Robinson in June 2007 (the AAR Consultation Paper); and
- Ministerial Council on Energy Standing Committee of Officials, *A National Framework for Regulating Electricity and Gas (Energy) Distribution and Retail Services to Customers: Policy Response Paper*, June 2008.

The AAR Consultation Paper examined submissions that environmental and social policy objectives should be incorporated in the regime, and concluded that:

“There is no need to amend the statutory objectives to be included in the NEL and NGL to accommodate the transfer of the non-economic distribution and retail regulatory functions to the national framework.”

In responding to the AAR recommendations, SCO considered submissions from some stakeholders which argued that the national electricity and gas objectives are inadequate to protect the interests of small consumers (particularly the vulnerable), and distributional and equity effects should be incorporated into principles guiding the regulator². After examining these submissions, SCO's response concluded its views on this matter as follows³:

“[T]he SCO agrees with the AAR recommendation not to amend the existing objectives. In the SCO's view this will drive the best outcome, giving to the AEMC when exercising its rule making function, appropriately balanced

² Ministerial Council on Energy Standing Committee of Officials, *A National Framework for Regulating Electricity and Gas (Energy) Distribution and Retail Services to Customers: Policy Response Paper*, June 2008, page 105.

³ *Ibid*, page 106-107.

guidance between the objectives of protecting consumers and minimising the cost and burden of regulation.

The SCO's view is also consistent with the Beale report recommendations [made to the Victorian Government in December 2006] in relation to the ESCV. In particular, the SCO agrees with Mr Beale that the most appropriate bodies to protect the interests of consumers are Governments...

In this way, Government acting through the Parliament drives and controls consumer protection. Consistent with the observations made in the Beale report, this regulatory design is the most appropriate means by which Governments may drive social and environmental outcomes.

In summary, the SCO considers that the AAR recommendations in relation to the adequacy of the current statutory objectives should be accepted.”

The businesses concur with the reasoning set out by SCO in support of the adoption of the recommendations contained in the AAR Consultation Paper. Given the detailed and comprehensive examination of this matter (by SCO and the Retail Policy Working Group assisted by Allens Arthur Robinson) in the lead-up to the publication of the first exposure draft of the NERL, we are surprised and concerned that the second exposure draft proposes the inclusion of a new provision (sub-section (2)) in section 113.

We consider that the proposed inclusion of sub-section (2) in section 113 of the NERL is unnecessary and undesirable from a public policy and regulatory perspective. A key foundation of the national energy reform program has, to date, been the adoption of consistent national objectives across the gas and electricity sectors. As noted in Mr Beale's December 2006 report to the Victorian Government (referred to above) inconsistent objectives reduce clarity, introduce potentially competing goals and add to uncertainty. Multiple objectives do not promote certainty or aid clarity, and therefore they should be avoided.

In light of the information presented above, we consider that inclusion of the proposed section 113(2) in the NERL is unnecessary and undesirable, and therefore that section should be removed from the NERL.

The proposed inclusion of section 113 (2) in the second exposure draft essentially gives customer protection and hardship policies a 'carve-out' from the national electricity objective and the national gas objective. The pitfalls, risks and potential for unintended consequences give rise to an increased possibility of distortion of the energy market. We recommend that section 113 (2) should be removed from the NERL and direction targeted at the particular regulatory functions in the NERL/NERR rather than at the level of the general objectives.

6 Definitions

6.1 De-energisation/re-energisation

In the NERL, de-energisation, in the case of electricity, means the opening of a connection, or in the case of gas, the closing of a connection, in order to prevent the flow of energy to the premises.

The businesses are concerned that actions of a supply contactor in relation to supply capacity control or load management activities may be inadvertently included in this definition.

The use of supply capacity control during load shedding may provide an opportunity for all customers to be on supply, albeit with a portion of customers being on reduced or limited supply. The law should not be introduced in a manner that may preclude the use of these functionalities at the appropriate time.

We support the NSSC submission that the drafting should clarify that the actions of the closing or opening of a connection do not include supply capacity control or load management. Making this drafting amendment also provides consistency with the model terms and conditions for deemed standard connection contracts which expressly contemplate this type of use, clause 9.1 and 9.2.

Consequential changes are also required to ensure clarity in the definition of energisation.

The definition of de-energisation should clarify that the actions of the closing or opening of a connection do not include supply capacity control or load management which may be utilised with smart metering. This avoids a later legislative change and also aligns the legislation with the deemed standard connection contract. Consequential changes are also required to energisation.

7 Connection Framework

UED and Multinet support the ENA submission in relation to the connection framework for electricity and gas. We also support the ENA view that these interrelationships of the NERL and new connection chapters of the NER and NGR, and the new chapters of the NER and NGR within the existing NER and NGR are complex and we still assessing the drafting and the issues it may create..

We consider that the new chapters of the NER/NGR would benefit from another round of consultation at the same time as the supporting amendments to the NEL and NGL are subject to consultation. Improved clarity and appropriateness of the arrangements will be gained.

7.1 Connection charges principles and reimbursement scheme

Chapter 5A of the NER introduces a new Part E regulating;

- connection charge principles relating to customer size as opposed to customer demand and local conditions on the network; and
- introduces a new reimbursement scheme.

7.1.1 Connection charges principles should be removed

Clause 5A.E.1 applies the following connection charge principles:

- A large customer or non-registered embedded generator must make an appropriate capital contribution towards the cost of an extension to, or augmentation of the network necessary to make the connection;
- A small customer or micro embedded generator must make an appropriate capital contribution towards the extension of the network necessary to make the connection but the costs of augmentation incurred by the distributor are to be recovered through DUoS charges.

A distinction of customer size should not be used to determine who pays for the augmentation. The cost of augmentation is driven by the customers demand, the demand in that area of the network and the size of the investment.

The requirement that a large customer or a non registered embedded generator must always pay towards the cost of extension or augmentation is inconsistent with the current arrangements, where capital contributions for augmentations would only be required from customers to the extent that the customer requires an augmentation that would not be recoverable under distribution use of system charges from the customer and anticipated further customers.

Part E of the new Chapter 5A must be expressed to be consistent with section 6.21.2 of Chapter 6 so that it is clear that the balance of all the costs of the extension or augmentation (not just small customer augmentation) that are not appropriate to be borne by the customer is recovered through DUoS charges.

7.1.2 Reimbursement scheme introduces administrative burden

The reimbursement scheme in 5A.E.1 (b) imposes a significant administrative burden and introduces inefficient processes.

The reimbursement scheme has a very broad scope since it applies to every customer if the connection assets the customer has paid for cease to be solely dedicated to them. This is well beyond what we have in place today. This means that every pole to pit that is paid for by the first customer is considered a dedicated connection asset. If a second customer wishes to use the pit, they need to reimburse the first customer. This applies to thousands of connection works each year introducing a significant level of regulatory burden for the period of the reimbursement scheme.

A customer contribution policy should be limited to large extensions with significant costs which generally related to connections in rural areas. A pioneer scheme would then be limited to fewer, larger connections

Given that each jurisdiction has a very different starting point, getting this type of arrangement right is a minefield. We recommend that the distributors' existing policies continue to apply; the businesses should be able to produce their own policy based on their own set of conditions. These policies could be subject to regulatory approval.

The drafting proposed in 5A.E.1 (a) and (b) are absolute obligations, and as such, they are inappropriate. We understand that equity is important and consider that this has been achieved based on our current policy in this area.

If the current draft provisions are preserved, clause 10.1 in the deemed standard connection contract model terms and conditions should include a provision that a customer will be required to pay to a retailer an amount representing the refund made to an earlier user for a new connection.

The proposed connection charge principles based on customer size and the broad scope of the reimbursement scheme are inappropriate and introduce a substantial administrative burden on distributors for little customer benefit. 5A.E.1 (a) and (b) should be deleted, distributors existing capital contribution policies should be allowed to continue.

8 Retailer of Last Resort

NECF2 contains new Retailer of Last Resort (RoLR) arrangements that are intended to maintain the continuity of supply of energy to customers by enabling another retailer to sell the energy to those customers when their existing retailer may have failed.

The arrangements proposed are complex and do not provide clarity or assist the market.

The AER must ensure a default RoLR is in place, however the drafting does not clarify that this party would be the RoLR in the field in the MSATS systems, or whether this RoLR would be used if there were no registered RoLRs or if the AER decided at the time that the registered RoLRs were unsuitable.

While the AER provides a RoLR notice, there does not appear to be any time imperative for the AER to designate the RoLR to be able to meet the timeframes required for the RoLR to act quickly and effectively in the market, for example to forecast gas for the next trading day. Whilst transfers may be progressed after the retailer has failed and retrospectively applied to the RoLR date, some activities need to commence before the first trading day.

8.1 RoLR Procedures

The NERL 618 requires AEMO to make RoLR procedures in accordance with these Rules.

The NERL could usefully require AEMO to ensure that RoLR procedures are developed within the retail market procedures. Criteria for the making of the procedures should be set out in the NERL. The RoLR procedures could continue to be part of the retail market procedures for electricity and gas as is the case or intent today. This proposed approach would minimise the level of rework for industry and ensure that the tight link to retail transfer, metering and B2B arrangements (in electricity) is maintained.

The gas RoLR requirements for Victoria covering a small second tier retailer failure are covered in the gas retail market procedures and the gas interface protocol. These requirements have been effective for some time in the Victorian gas market.

The electricity RoLR processes currently undergoing consultation by AEMO/IEC could continue through consultation and be implemented at the appropriate time. These RoLR process documents are part of the CATS and B2B procedures which are included within the definition of retail market procedures. The proposed approach allows this process to continue so that agreed RoLR arrangements are in place in the industry.

The electricity RoLR documentation could recognise the AER as the regulator providing guidance under a jurisdiction where NECF was adopted and could also recognise the local regulator in a jurisdiction where NECF had not yet been adopted.

The only exception to this is the customer data required by the RoLR is gained from the failing retailer via the RIO/RIN under NECF and via the distributor in the AEMO RoLR processes document.

If the suggestion to have RoLR procedures within the respective retail market procedures is adopted, NERR clauses 1110-1114 could be removed as the public consultation processes adopted by the NER/NGR frameworks would apply. The NER provides two rounds of transparent, open consultation and the NGR process is no different to that proposed in the NECF.

This provides customers the same, if not more opportunity to participate in the consultation and the development of these procedures. Customers are afforded two rounds of consultation in electricity compared to one in gas.

Minimising the level of complexity regarding the RoLR designations and minimising rework in IT systems and processes will ultimately result in lower costs to customers.

Industry has already undertaken a significant amount of work to introduce RoLR processes and procedural requirements in the respective retail market procedures and transaction arrangements. This work is either already implemented or intended to be implemented well before the NECF is introduced in any jurisdiction.

AEMO should be required to ensure that RoLR procedures exist within the retail market procedures and cover the matters required by the NERR, so that the tight link of RoLR processes with retail transfers and transactional arrangements in the respective markets can remain and be reused.

8.2 Practicality of RoLR designation

NERL 612 (2) (d) provides that a RoLR notice may designate more than one RoLR and provides a number of variables – customer classes, customers or areas or any combination.

It should be recognised that the market is under pressure during a RoLR event to ensure an orderly and seamless transition for customers. The more complicated this designation of the RoLR to the individual NMI/MIRN the more complicated the assignment of the correct RoLR for AEMO and also the management of in progress service orders at the distributor end. This may delay the processes and also create more exceptions that need to be dealt with after the event.

The businesses suggest that the allocation of the designated RoLR should be kept simple due to the tight time frames to undertake certain activities in the market. Consistent with the RoLR Procedures comments above, we recommend that existing Rules and systems in the industry should be used to the maximum extent possible to minimise unnecessary costs in the ROLR scheme which are ultimately recoverable from customers.

9 Credit Support

The credit support arrangements have been incorporated into the Rules and provide for:

- determining the required credit support amount based on the retailer's outstandings with the distributor and the retailer's credit allowance;
- calculation of a distributor's maximum credit allowance;
- acceptable forms of credit support, including bank guarantees or another form agreed between the parties; and
- when and how any existing credit support arrangements may be reviewed and revised.

The explanatory material for the second exposure draft re-iterates the SCO position;

'The SCO accepts that distributors should be entitled to require credit support from certain retailers to enable distributors to manage the risk exposure of non-payment for services by a retailer in a regulatory environment where a distributor cannot refuse to provide such services. It is also accepted that such credit support arrangements should not be so onerous as to impose unreasonable costs on retailers or effectively create a barrier to entry in the retail market.'

9.1 Distributors should have a contractual right to recover bad debt

Distribution businesses are required to provide distribution services whether or not they are paid by the retailer. The removal of the distributor-retailer contractual arrangements eliminates the distributor's contractual rights to undertake court proceedings for non payment. Further the billing and payment arrangements provide no opportunity for a distributor to deal with continual late payments or disputes.

As drafted non payment of credit support if it was allowed to be requested, would need to be considered an access dispute. This appears inappropriate considered that these commercial arrangements are now Rules.

The normal arrangement under the Rules is that a dispute may be taken to a dispute resolution panel to confirm the accuracy of the calculation methodology applied, this still does not provide an avenue of enforcement to gain payment.

Under this scenario, a distributor would need to seek enforcement of the Rules by the AER, which is likely to take a further month at least. The AER only **may** consider revoking a retailer authorisation under these circumstances. The distribution business could be left in a position of increasing bad debt with no ability to rectify the situation.

If a RoLR event was triggered, 5 months of bad debt could be recovered under RoLR cost pass through arrangements. For a large retailer this could result in a payment per customer well in excess of \$100, with the per customer cost increasing by 1\$ for each customer for every day of no action. We consider that this is a significant cost to all customers and in this section make a number of suggestions that seek to reduce this number and tighten up the process.

The businesses suggest that a new clause be inserted in the NER and NGR retail support sections that allows the distribution business to take the retailer to court for debt due.

Drafting similar to that in Clause 11A.3 of the Victorian AMI Cost recovery order should be included:

‘A charge or fee determined in accordance with this Order is recoverable from a retailer who is a relevant licensee in a court of competent jurisdiction as a debt due and payable by that retailer to the distributor.’

A new clause should be drafted into the NER and NGR retail support sections that allows the distribution businesses to take the retailer to court for bad debt.

9.2 Credit support is not a barrier to entry

The AEMC recent review into retail competition in Victoria⁴ concluded that effective competition exists:

*"The Commission's finding is that competition in both electricity and gas retailing in Victoria is effective. The majority of energy customers are participating actively in the competitive market by exercising choice among available retailers as well as price and service offerings. There is strong rivalry between energy retailers, facilitated by the current market structures and entry conditions."*⁵

*"The current conditions for entry into and expansion within the retail energy sector are also positive. There has been substantial new entry into energy retailing in Victoria since the commencement of FRC, including from both established interstate retailers and "de novo" entry. The current market conditions encourage efficient entry, thereby creating a credible threat of competition from actual or potential new retailers and constraining the pricing and output decisions of existing retailers."*⁶

The AEMC concluded that credit support arrangements for electricity and gas were not a barrier to entry⁷:

"The Commission notes the implications for retailers of requirements to commit a proportion of their working capital to meet bank guarantees and credit support arrangements. However, in light of the costs being scalable, the Commission has not been persuaded that these obligations are of such a magnitude that they are a material impediment to entry or expansion. Furthermore, as with the licensing conditions, prudential requirements may contribute to consumer confidence in the market and their willingness to switch to new retailers."⁸

⁴ Review of the Effectiveness of Competition in Electricity and Gas Retail Markets in Victoria -First Final Report, AEMC, 19 December 2007

⁵ P viii, *ibid*

⁶ Px, *ibid*

⁷ It is noted that the new credit support arrangements for electricity were implemented in 2007, the same year that the AEMC conducted its review, hence the AEMC's review pertained ostensibly to arrangements that had been in place for some time.

⁸ P133, *ibid*

The AEMC has arrived at similar conclusions in South Australia where bank guarantees are required to cover three months of charges⁹.

Contrived solutions such as those in Victoria for electricity should not become the uniform straightjacket for all jurisdictions and both fuels. The framework must allocate the risks to those best able to deal with them. The distributors and their Boards should not be forced to accept contrived credit arrangements that will ultimately be paid for by all customers, including vulnerable customers.

In addition, this contrived solution suggests that the distributor can tolerate a risk (and cashflow impact) of a third of its total annual revenue in one hit without any impact. This is regardless of business cashflow arrangements and the differences in meter reading cycles between the fuels and within the fuels, or that any event may not be limited to one fuel or one retailer.

A more appropriate upfront credit support model would enable the costs to be considered as part of doing business as suggested by the AEMC. The AEMC review was undertaken when the straight credit rating approach was in use. The AEMC concluded that it had not acted as a barrier to competition and there were a significant number of new entrant retailers. The costs of doing business are then borne by the customers who choose the retailer who may fail, the customer has the right if prices are cheaper elsewhere to change retailer.

The AEMC effectiveness of retail competition reviews have noted that credit support is not a barrier to entry for retailers, rather it is a cost of doing business. The credit support calculations should not be enshrined in the NER/NGR without further consultation.

9.3 Poor payment history

NER 6B.6.5 (a) (iii) provides an opportunity for a retailer to defer payment of distribution service charges for over a month. The drafting provides an avenue to delay payment of the distribution service charges at a cheaper default interest rate than can be gained from raising funds in the financial market.

Retailers generally pay on time or a day or so late. This is not to say that the on time payment history of the past will continue into the future.

We recommend that one invoice being paid late by 25 business days before being able to request credit support which takes a further 10 business days is unreasonable.

The drafting should be amended in 6B.6.5 (a) (iii) to 1 statement of charges within 5 business days of the due date. This allows a distributor to call for credit support after 5 business days and still provides 14 business days within which time the retailer could provide payment and avoid credit support. This provides the retailer about 25 business days from the time the distributor has issued the statement of charges which is more than reasonable. By this stage the next invoice has already been issued and is due for payment in a further 5 or so days.

⁹ Review of the Effectiveness of Competition in Electricity and Gas Retail Markets in South Australia - First Final Report, AEMC, 19 September 2008

Distributors should be provided with an opportunity to request credit support earlier than 35 business days after the statement of charges has been issued and remains unpaid. The drafting should be amended in 6B.6.5 (a) (iii)/122 (1) (a) (iii) to 1 statement of charges within 5 business days of the due date.

9.4 Default rate needs to be adjustable

The default or penalty interest rate is drafted in Chapter 6B/Part 21 as the bank bill rate plus two percentage points.

The default rate should be a reasonable financial rate that may be considered a penalty rate and act as encouragement to pay bills on time. The default rate is set too low and could be seen to be acting as an incentive not to pay an invoice on time given the current financial climate. The default rate as currently set provides a cheaper mechanism of gaining working capital than going to the financial markets.

We understand that this arrangement may change and suggest that the default rate be amended for each jurisdiction in line with the AER's most recent determination of the debt margin. This provides a commercial incentive for the retailer to consider their entitlement to pay the invoice on time and dispute it later and avoid the penalty regime or vice versa.

The default rate as currently set provides a cheaper mechanism of gaining working capital than going to the financial markets. The default rate should be the bank bill rate plus the debt margin from the most recent AER price determination for each jurisdiction.

9.5 Disputed statement of charges

We accept that the retailer has a right to dispute network charges. The current use of system agreements allow a process to register and resolve a dispute, including escalation and response times. These existing arrangements allow longer than 10 business days.

As drafted in 6B.3.3 (d), the retailer must take any dispute not resolved within 10 business days of notifying the dispute to the distributor, to the dispute resolution panel under the Rules. This allows the retailer no discretion where there is a genuine effort on behalf of both parties to resolve complex disputes or a high volume of disputes. The 10 business days allows very little time where the distributor needs further information from the retailer regarding the exact nature of the dispute or for the distributor to follow up disputes internally where there have been complex transactional changes occurring – meter exchanges and retailer transfers, new IT system etc.

In addition amending the drafting in 6B.3.3 (a) to require the retailer to provide information in the format agreed by the distributor or retailer would assist with facilitating more timely analysis and resolution of the disputed amounts.

We suggest that the drafting in 6B.3.3 (d)/110 (d), allow that the retailer may take the dispute to the dispute resolution panel (DRP) as opposed to must take the dispute to the DRP. The distributor should also have a reciprocal right to take a spurious dispute to the DRP or to ensure that lack of information from a retailer's service provider causing the dispute may also be rectified.

9.6 Credit rating for the retailer

The drafting in 6B.6.3 should be amended to provide the distributor with a right to use a credit rating they have gained from any of the credit rating agencies mentioned. It is highly unlikely that a retailer whose credit rating has reduced will advise the distributor of the fact that they need to provide credit support.

If the drafting remains with an obligation that the retailer must provide the credit rating, there needs to be an obligation on the retailer to provide both an initial credit rating or a change in credit rating to a distributor in a timely manner to allow re-calculation and adjustment of the credit allowance and credit support required.

Under this arrangement, the distributor would still need to undertake its own monitoring of credit ratings in case the retailer did not advise the distributor. The distributor would need to gain enforcement of the retailer not providing timely notification of changes in credit ratings via a Rules breach with the AER. Where a retailer has not advised the distributor of a change in credit rating, the distributor must be allowed to use the credit rating it has obtained.

To avoid any split credit ratings arising from the three credit rating agencies identified, we would be comfortable with the retailer nominating at the commencement of this framework which credit rating agency is to form the basis of the credit support calculations.

<p>The distributor must have a right where a credit rating has been downgraded and they have not been advised by the retailer to use a credit rating they have gained to trigger the credit support provisions. It is not in the interests of customers for the distributors to have no right to trigger credit support where they should have the right to do so.</p>
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10 Smart metering

The explanatory material raises four initial issues and policy positions relating to smart metering and invites comments:

- How energy consumption is presented to customers
- How historical billing data may be presented
- Notifying customers that disconnection may be effected remotely; and
- Undercharging provisions

The RPWG/SCO note that these issues are a policy response on a subset of issues and may proceed to the next draft of the NECF introduced to parliament. These issues relate to the basic functionality of smart metering that are considered by SCO as those likely to be implemented earlier in a roll out, as opposed to more advanced functionality which may take some time to implement.

A response may be available on the first smart meter policy paper 1 in March 2010. A second draft policy paper is expected to be released in the second quarter of 2010 with final SCO review in last half of 2010. This may result in a need for legislative

changes to the initial NECF in the second half of 2011 or may result in a Rule change proposal direct to the AEMC in the first quarter of 2011 with a final decision from the AEMC in the first quarter of 2012.

The RPWG/SCO should consider delaying any substantive measures and dealing with customer protections in a more holistic manner. This would allow the technical and operational aspects of consumer protection to be more fully considered once the National Smart Meter Stakeholder Committee (NSSC) has provided its advice in the next few months and allows more time from the learnings and actual data arising from the Victorian program to be evaluated.

This may provide a more balanced and informed approach on how an issue may be most cost effectively dealt with in the consumer framework.

We look forward to actively participating in the NSSC processes on these issues and the future smarting policy papers.

<p>The RPWG/SCO should delay any substantive changes in the customer protection framework and deal with smart metering in a more holistic manner. Once the National Smart Meter Stakeholder Committee has provided its advice in the next few months this would allow a more balanced and informed approach for smart metering changes.</p>

Each of the four initial policy issues are addressed below.

10.1 How energy consumption is presented to customers

NERR clause 213 requires a customer's bill to include details of energy consumption. SCO proposes that as part of the smart meter customer protections, the requirement should be expanded to provide customers with energy consumption for each tariff segment. We are supportive of this approach.

The requirements in clause 213 to provide the basis on which tariffs and charges are calculated, including a requirement to provide pro-rata billing information may cover the policy issue. A bill would not meet the requirements even with today's metering configurations for dedicated off peak arrangements if the basis for the calculation of charges including consumption, applicable retail tariff rate and cost were not on the bill.

We consider that this is already addressed in the NERR without additional drafting.

10.2 How historical billing data may be presented

NERR clause 216 requires retailers and possibly distributors to provide historical billing data on request. The explanatory memorandum refers to historical billing information, billing data and summary billing data fairly interchangeably.

As currently drafted the NERR is silent as to how the data should be presented, or the level of detail that must be available if a customer requests it. There is concern that interval metering data arising from a smart meter may be different than other interval data or consumption reads.

The SCO proposes that where a customer request a copy of their historical billing data that the retailers must be able to provide both the full set of billing data and a summary of this billing data.

The current drafting of the NERR clearly provides the customer with a right to request their billing information from their retailer. The existing rules in the NER also provide the customer with the right to access their metering data via a request to their retailer. This gives the customer the right to the interval metering data.

We suggest that the current regulatory framework is sufficient in relation to the customers being able to request metering data or billing data from their retailers. Customers and retailers may arrange the level of detail the customer is seeking, how the data is provided etc to suit the customer's needs.

The retailer may bundle various distributor network and other charges according to the retail tariff and charging arrangements when presenting them to the customer. Historical billing information could be referred to in 216 (2), however 216 (3) should refer to metering data as opposed to historical billing information. The distributor does not have historical billing information that is subject to the retailer's offering.

The distributor should be able to charge reasonable costs to provide the metering data in a similar manner to the retailers ability under 216 (2), in addition to that already provided by the MDP under the normal metrology arrangements.

Smart meters may offer more innovative ways to provide energy or metering data in future. Any further drafting in the NECF should not stifle or restrict future innovations and methods of customer engagement.

10.3 Notifying customers that disconnection may be effected remotely

Current manual disconnection processes involve a site visit which allows any health or safety concerns to be raised at the last minute. With remote disconnection, this opportunity is no longer available and the SCO propose that customers should be made aware of this.

SCO propose two mechanisms in the NERR:

- A new clause in the model deemed standard connection contract that informs customers that they may be disconnected remotely, and /or
- A warning in the disconnection warning notice that if their meter has remote capability, they will be disconnected without a person visiting the premises.

The obligation in the warning notice to advise the customer that the disconnection may occur remotely should be on the party providing the warning notice and included as a distributor and a retailer obligation.

10.4 Undercharging provisions

The SCO propose that the fixed twelve month period should be reduced from the current proposed fixed period which was chosen in light of the minimum three

monthly billing cycle and minimum twelve month meter read requirements. SCO consider it is appropriate to reduce the amount of time available to retailers to identify undercharging amounts as metering data is available to them the next day.

The SCO suggests that where the retailers choose to move to a more flexible monthly billing arrangement as opposed to quarterly the retailer has more billing opportunities to address the undercharging and hence should be limited to four billing cycles.

The twelve months is a reasonable balance for data issues or meter configuration to become evident. It was raised at the NECF information forum that missed or crossed meters take time to identify and be sorted out/agreed amongst parties impacted. There is a need to review annual consumption trends for a site in order to understand that there may have been a problem. When establishing the existing contractual framework the twelve months was seen as a reasonable balance between identifying operational issues and consumer protection.

The twelve months operates regardless of the read frequency in electricity eg weekly/daily for current 1-4's or monthly /quarterly for meter types 5-7 and also regardless of the retail customer billing frequency which may be fortnightly payments, monthly payments plans. It also operates in a similar manner for gas despite the customers being billed monthly or bi-monthly read and retail billed. The arguments presented indicate a misunderstanding of the key drivers of the current arrangements.

The twelve months allows seasonal impacts to become evident. The arguments presented in the explanatory memorandum are flawed as remotely read meters on monthly billing cycles currently have a twelve month period undercharge limit. The meter reading and customer billing frequency are not the key principles to be considered in establishing the time available to rectify undercharging.

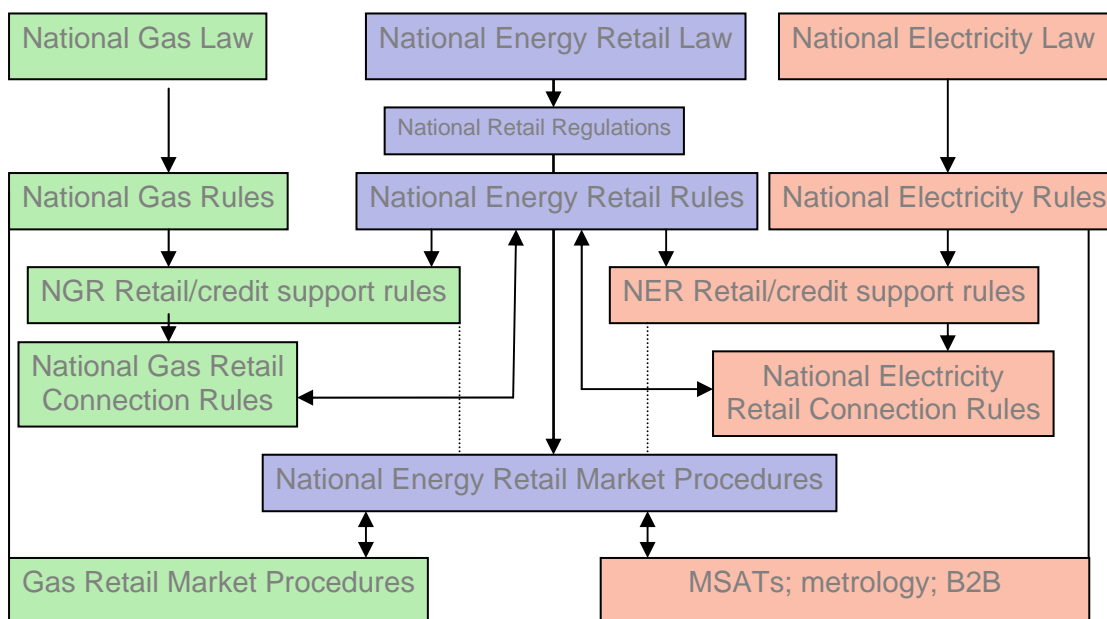
Continuation of the current arrangement does not in any way lessen or change the protection available to small consumers. It provides consistency of arrangements across gas and electricity for customers. It also provides protection to consumers consistent with today's arrangements but does not alter the arrangement for some customers with a smart meter vs those that have not yet had a smart meter roll out.

11 National Energy Retail Market Procedures

The Explanatory material appears to be proposing the development of new National Energy Retail Market Procedures (NERMP) and a number of other amendments to the laws and rules to:

- Ensure that AEMO is appropriately empowered to make and enforce the National Energy Retail Market Procedures to support retail market operations; and
- Ensure those registrations, transfers and related market transactions are undertaken in accordance with the policy underpinning the NECF.

The proposal is that this new NERMP will detail all of the operational matters that relate to customer registration and transfer under the NECF. Yet, the diagram below presented at the information forum appeared to continue the ongoing operation of the current instruments within the respective fuel/market.



The proposal is confusing and is unclear whether it is stripping out customer transfers, registration of NMI and standing data information from the existing gas retail market procedures and CATS/WIGS procedures in order to create this new NERMP. Or, whether these changes will be made in all of the existing instruments – gas retail market transfers in Victoria and the CATS/WIGS, B2B and the Metrology Procedures.

There is a potential risk that there are significant regulatory, system and process changes that result from this activity. There is also the potential to create some inconsistency between wholesale market settlement processes and a retail market headed up under a customer framework. Metering installations and data streams are more complex and more integral within the transfer arrangements in electricity than gas, it is not obvious how this disengagement would work smoothly without seeing the proposed redrafting.

Victorian distributors are undertaking significant system changes to accommodate AMI, based on existing electricity procedures. If there are significant changes then this will create rework on these new systems. In addition the national smart metering business process work is based on amending the current procedures and processes as they are currently known under NER Chapter 7. Any major reshuffle has the potential to impact this work.

An example of additional expenses is the move of NMI discovery obligations onto electricity distributors, so that distributors have to return 99 matches to retailers where there is no unique match. This capability is already available in electricity with AEMO, it is not clear why distributors would be given increased obligations to supplement the AEMO systems with additional costs.

We would welcome more explanation regarding what is being proposed and why. What parts of the customer transfers, NMI discovery process etc are to remain in the procedures under the respective Rules (NER/NGR) and what is being proposed in the new NERMP under the NECF. This would be useful before launching into consequential amendments. We appreciate that the eventual consequential amendments will form the basis of a separate procedure review and consultation process before they are implemented and after the NECF is settled.

<p>We would welcome more explanation regarding what is being proposed and why. What parts of the customer transfers, NMI discovery process etc are to remain in the procedures under the respective Rules (NER/NGR) and what is being proposed in the new NERMP under the NECF.</p>

Schedule 1

NECF – AER Generated and Approved Document List

Item	Guideline/Procedure or Contract
1	AER Retail Pricing Information Guidelines
2	AE R Retailer Authorisation Guidelines
3	AER Exempt Selling Guidelines
4	AE R Compliance Procedures and Guidelines
5	A ER Performance Reporting Procedures and Guidelines
6	AER Multiple RoLR Appointment Guidelines (Default RoLR Failure)
7	AER Multiple RoLR Appointment Guideline s (Non-Default RoLR Failure);
8	AER RoLR Plan
9	AER Connection charge guidelines
10	AEMO RoLR Procedures
11	AEMO other guidelines, standards tests in relation to RoLR
12	Distributor AER approved standard deemed connection contract - NERL
13	Distributor AER approved basic connection contract – NER (with and without micro generation)
14	Distributor AER approved standard connection contract - NER
15	Distributor AER approved basic connection contract – NGR
16	Distributor AER approved standard connection contract - NGR

Attachment – Detailed Drafting Comments

Comments – Second Exposure Draft of the National Energy Customer Framework: Law, Rules, Regulations and Contracts

Organisation commenting: United Energy and Multinet

Draft National Energy Retail Law		
Part 1 – Preliminary		
Section	Subject Matter	Comment
102	De-energisation	<p>In the case of electricity, de-energisation is the opening of a connection to prevent the flow of energy to premises.</p> <p>Advanced interval meters being rolled out as part of the Victorian government policy have the functional capability to limit supply to premises (usually known as supply capacity control) or to perform load management. Both of these functions could be interpreted to limit or prevent the flow to premises.</p> <p>We recommend the drafting clearly state that these functions are not included within the meaning of de-energisation.</p> <p>Similar clarity of the definition should also be included in the energisation definition.</p>
	Jurisdictional energy legislation	<p>The definition is limited to legislation that regulates <u>energy</u> in that jurisdiction. To avoid later confusion, particularly with the connection related field work and timing/costs, this term should clearly include the Road Management Act. The Road Management Act and its regulations, road opening permits and traffic plan requirements are required to be taken into consideration</p>

Draft National Energy Retail Law		
Part 1 – Preliminary		
		<p>and complied with for new connection, connection upgrades or alteration work.</p> <p>It is important that the Road Management Act falls clearly within the definition of jurisdictional energy legislation and hence energy laws as the terms are used throughout the framework. The terms also appear to be intended to be used in the NER/NGR connections framework also.</p> <p>This will clarify that the costs of traffic management plans, road opening permits etc if required are part of the connection contracts framework in case customers or EWOV later query these inclusions.</p>
102	Local Instruments	<p>The drafting appears to contemplate an ongoing role for local instruments beyond a move to this national customer framework. If this is what is being contemplated then there must be a clear hierarchy of the legal instruments expressed in this NECF framework for any inconsistencies between the NEL/NGL and NERL, NERR etc and also in the Application legislation between the local instruments and the NERL/NERR and contracts.</p>
112	Nominated distributor	<p>The NGL allows for several service providers to provide services on a covered network. However, the NGL also provides that where multiple service providers are operating on a covered network, only one service provider acts as the complying service provider for the group.</p> <p>The NERL needs to recognise that services may be provided by a number of service providers but only one service provider is considered the complying or accountable service provider.</p> <p>The drafting in the NERL should ensure that consistent arrangements operate across the NECF/NGR.</p>

Draft National Energy Retail Law		
Part 1 – Preliminary		
113 (2)	National energy retail objective (NERO)	<p>The economic objective for the national energy retail framework is provided in clause (1). Clause (2) then seeks to devalue or overwrite the economic objective by not restricting any application of consumer protection for not just hardship customers but any application of consumer protection for any small customer. This is a substantive additional provision introduced in this second exposure draft with very little explanation and which has the effect of making the NERO not apply to the most substantial class of customers regulated under the NECF – small customers.</p> <p>This objective is a fundamental principle in the regime being established and will guide all future Rule changes, judgements by the AEMC, AEMO and the AER. The objective provided in the first round of consultation had undergone substantial consultation, it is not appropriate to alter such a fundamental principle of the regime lightly.</p> <p>We suggest clause (2) be removed, refer to our main submission.</p> <p>If there is any further redrafting of this clause 113 between now and the finalisation of the Bill, it must undergo consultation with stakeholders, including justification of the need to change from the initial objective proposed in the first exposure draft.</p> <p>Refer to section 3 in our submission.</p>

Draft National Energy Retail Law		
Part 2 – Relationship between retailers and small customers		
Section	Subject Matter	Comment
		No comment

Draft National Energy Retail Law		
Part 3 – Relationship between distributors and customers		
Section	Subject Matter	Comment
302	Obligation to provide customer connection services	This section should make it clear that a distributor must provide the customer with an offer to connect, where the customer requires a new connection. The distributor does not have an absolute obligation to provide the customer connection services until there is acceptance of the distributor’s offer.
303	Customer Deemed Standard Connection Contracts	<p>All small customers are not the same. Distribution networks are undergoing the most radical transformation in service delivery in 100 years. The notion that there can be a model set of terms and conditions that applies uniformly across small customers is thinking that applies to the past and needs reconsideration with an eye to the future.</p> <p>A better model would allow AER approved variations to the model set of terms and conditions for classes of small customers or services. The logic that allows regulated flexibility for large customers applies equally in a world where small customers require service variation depending on circumstances and the geographical diversity across one distributor’s distribution areas (UED and Multinet distribute electricity and gas in urban, semi-rural and rural areas). Radical innovation to the way networks operate arising from smart grid and smart meter technologies will also require the ability to vary terms.</p> <p>Under the current proposed NERL, minimum variation is allowed to the deemed standard customer connection contract. This connection contract covers any of the following services – new connections or alterations to existing connections, energisation, ongoing supply etc. Within these services, there may be certain specific ‘supply’ related provisions different to those</p>

Draft National Energy Retail Law		
Part 3 – Relationship between distributors and customers		
		<p>in the model terms and conditions that are warranted for specific customer types e.g. embedded networks that form part of ongoing supply service arrangement.</p> <p>The distributor must be able to propose certain terms and conditions applicable to a customer group and, once approved by the AER, have these contracts as deemed standard contracts.</p> <p>We suggest that the AER approved standard connection contract model be adopted for small as well as large customers, but for small customers the scope of the AER’s approval would be limited to variations to the model terms and conditions. The AER needs to approve these contracts and is able to ensure that any small customers are protected.</p>
305 and 308	Alterations to the deemed standard connection contract	NERL 305 (4) and (5) are virtually repeated in 308 (3) and (4), with the exception noted below. This appears confusing, the drafting should be made clearer.
305 (5)	Required Alterations to be made to the deemed standard connection contract	<p>In 308 (4), required alterations includes alterations of a kind specified in the Rules or alterations that the Rule require relating to jurisdictional matters. 308 (4) also requires alterations to a term or condition already adopted by the distributor to be consistent with the Rules.</p> <p>A clause equivalent to 308 (4) (b) should be introduced into 305 (5).</p>
307 (1)	Compliance with the Deemed Standard Connection Contracts	<p>There is no clarity regarding the customer’s obligations to comply with the energy laws as required under the deemed standard connection contract.</p> <p>The drafting in the NERL should be amended so that both the customer and the distributor need to comply with the energy laws. Non-compliance by a customer with the deemed</p>

Draft National Energy Retail Law		
Part 3 – Relationship between distributors and customers		
		standard connection contract should give rise to a right of disconnection.
311	Timing of contract approval	As a matter of good regulatory practice, the drafting must include a timing obligation in a similar manner to current processes with the AER. A new clause should be inserted to require the AER to review and approve the contract within a period of 30 or 60 business days. If the AER does not advise that the contract needs to be amended within this timeframe, the contract should be deemed to be approved.
313 (4)	Replacement of a form of AER approved standard connection contract	<p>The drafting in (4) requires the distributor to notify each affected large customer. We had understood from the NECF information sessions that the AER approved standard connection services contracts are deemed on large customers in the relevant class instead of the deemed standard connection services contract.</p> <p>The drafting should clarify that this obligation is met by the contract becoming operative once approved by the AER and on the distributor’s website, consistent with the drafting in 311 (6).</p>
314 (2) (b)	Negotiated connection contracts	<p>The drafting in (2) (b) requires the distributor to explain the difference in the terms and conditions of the negotiated contract compared to the deemed standard connection contract to small customers. Sub clause (ii) requires the distributor to explain the implications to the small customer of those differences. Small customers, include residential and small business. It is not appropriate for a distributor to be advising a wide range of business customers the implications of the contract terms, this is tantamount to providing legal advice.</p> <p>Sub clause (b) (ii) should be removed or limited to residential customers.</p>

Draft National Energy Retail Law		
Part 4 – Small customer complaints and dispute resolution		
Section	Subject Matter	Comment
401	Relevant matter	<p>The Ombudsman scheme in Victoria specifically precludes the Ombudsman from taking on complaints relating to price/tariffs and customer capital contributions. Yet (a) (iv) and (v) are straying into this area. This appears further re-enforced by clause (b).</p> <p>We suggest that the drafting clearly state that the costs/prices, capital contributions are not within the Ombudsman powers of consideration as relevant matters.</p>
404 (1) and 406 (3)	Complaints made to retailer or distributor for internal resolution	<p>The drafting states that the customer may make a complaint to a retailer or distributor.</p> <p>The customer must make the complaint to the distributor or retailer and provide an opportunity to the distributor or retailer to learn of the customer’s complaint and to resolve the complaint before seeking assistance from the Ombudsman.</p> <p>Where complaints are taken directly to the Ombudsman, this increases the cost of the Ombudsman scheme which ultimately is paid for by all customers. The more promptly a complaint can be resolved the more efficient and cost effective the process for all parties.</p> <p>The drafting in 404 (1) should place an obligation on the customer that they must register a complaint with the distributor or retailer and provide reasonable opportunity to resolve the complaint. Similarly the drafting in 406 (3) should also place an obligation on the Ombudsman not to take on complaints where they have not been advised and registered with the relevant retailer or distributor.</p>

404 (2)	Retailer or distributor must deal with the complaint	<p>Where a complaint is received by the retailer pertaining to the service that a distributor has provided, the complaint must be passed onto the distributor to deal with (and also vice versa).</p> <p>This allows the party closest to the service and the issue to learn first hand of the complaint and to resolve the complaint.</p> <p>The drafting needs to provide an obligation on the distributor or retailer to pass the complaint on to the correct party to handle the complaint.</p>
406	Ombudsman scheme	<p>The Victorian Ombudsman scheme states in clause 3.1;</p> <p>‘The functions of the Ombudsman are to receive, to investigate and to facilitate the resolution of:’</p> <p>406 (1) (d) requires the Ombudsman to resolve those complaints and disputes. Sub- clause (c) states that the functions and powers of the Ombudsman are to facilitate the resolution of those complaints and disputes. Sub-clause (c) reflects the Victorian Ombudsman powers. Sub – clause (d) should be deleted as it is extending the Ombudsman powers to resolve disputes no matter what it may involve.</p>

Draft National Energy Retail Law		
Part 5 – Authorisation of retailers and exempt selling regime		
Section	Subject Matter	Comment
		No comment

Draft National Energy Retail Law		
Part 6 – Retailer of Last Resort Scheme		
Section	Subject Matter	Comment
602	Network charges	<p>There is no clear definition in the NER in either Chapter 10 or 6 of distribution use of system charges (or in the proposed Chapter 6B which refers to distribution service charges). This definition is used for the cost build up of retailer pricing in a RoLR event to large customers described in NERL 622 (4) (b).</p> <p>We suggest that the term network regulatory approved charges be considered in preference to the distribution use of system charges. This would include the standard control and alternate control services, metering charges if required (under Chapter 6 or the Victorian Order in Council) which would be appropriate for network charges for large customers in the cost build up required for the pricing to large customers in a RoLR event.</p>
602 (2)	Apprehended RoLR	Clause (2) (b) seeks to define an apprehended RoLR event as both the imminence of the event or that the event has occurred or an imminent circumstance or a circumstance that has

Draft National Energy Retail Law		
Part 6 – Retailer of Last Resort Scheme		
		<p>occurred.</p> <p>This drafting is confusing and seems to contradict that in (3) (b) (i) pertaining to an actual RoLR event.</p>
608 (4)	Preparation for a RoLR event	<p>Where the AER appoints a registered RoLR as a designated RoLR in an apprehended event, this allows the designated RoLR some preparation time.</p> <p>A new clause should be inserted so that the distributor's impacted are also advised. This allows the distributor to ensure resources are available to deal with a high volume of transfers and estimated reads required and the management of in-flight transactions.</p>
610 (2) and 612 (2) (d)	Appointment of designated RoLR's	<p>The drafting provides discretion for the AER to appoint a designated RoLR or make appointments 'afterwards'. The AER may also allocate the designated RoLR to particular areas, customers, classes of customers or any combination.</p> <p>The AER needs to provide direction to AEMO of the allocation in each jurisdiction/distribution area in a timely manner to ensure that the confidence in the wholesale market is maintained. Complex allocation of customers to a designated RoLR should not hold up these processes and may need to be limited to categories available in the market systems e.g. market categories of small/large. We note that nowhere in the NECF is there any obligation on the AER to provide AEMO (and the market) with advice in a manner that aligns with the wholesale market trading day and forecasting requirements.</p> <p>If the AER chooses complex allocation methods on the day of a RoLR event then this complexity flows through to the development of customer contact lists to the respective</p>

Draft National Energy Retail Law		
Part 6 – Retailer of Last Resort Scheme		
		<p>designated RoLR, confuses communications with customers and the management of service orders. This complexity slows the process and has the potential to significantly increase the level of rework in the industry which is likely to impact customers.</p> <p>The more variables allowed and used in 612 (2) (d) the more complexity and the longer the timeframes to deal with transfers and customer service issues. We strongly recommend that the AER re-use the existing decisions provided by the ESC in Victoria as these have undergone lengthy consultation and are implemented in the existing retail market procedures for gas and are likely to become part of the retail market procedures for electricity in 2010/2011. Any deviation from this distribution network area allocation of a RoLR will increase the costs of a RoLR event.</p>
613 (1) (a)	Serving a RoLR notice	The distributors affected should also be served a notice. We suggest a new clause (vi) be inserted to ensure that the distributor's are not overlooked.
618	RoLR Procedures	<p>The clause should be redrafted to ensure that AEMO develops RoLR capability within the respective retail market procedures under the NER and NGR.</p> <p>This ensures that the existing AEMO RoLR processes consultation for electricity may continue and be implemented to ensure that industry has developed RoLR Processes under the CATS Procedures and B2B Procedures. The AEMO RoLR processes currently under consultation for electricity should be the documents referred to in the NERL. The NERL may still require AEMO to ensure that certain things are addressed in the RoLR Procedures which may require some additional items. This will ensure the most cost effective arrangement for customers and better meets the NERL objectives and the NEO and NGO. The current AEMO RoLR Processes for</p>

Draft National Energy Retail Law		
Part 6 – Retailer of Last Resort Scheme		
		<p>electricity will need to be updated:</p> <ul style="list-style-type: none"> • To identify in the jurisdictional tables whether they are seeking direction from the local regulator or national regulator to reflect whether the Application Act has been passed and this section of the NERL takes effect for each jurisdiction • To reflect the NERL e.g. RIO and RIN provision of the customer and site details information by the retailers vs. the distributor provision of data under the AEMO RoLR processes. <p>The above requirement on AEMO to ensure that RoLR capability is developed, allows the current implemented RoLR processes that exist in the retail market procedures for the Victorian gas market to continue.</p> <p>This also allows the RoLR processes to be developed and changed in accordance with the respective fuels Rules consultation procedures (NER and NGR consultation procedures to be used) and it recognises the integral link of the procedures with retail transfer procedures and systems, gas interface protocols and metrology procedures which exist within the NER and NGR frameworks etc.</p> <p>As a consequence NERR clauses 1110-1114 could be deleted.</p>
619	Nature of RoLR Procedures	To ensure that the documentation is kept concise and within one document, sub clause (e) should be removed. Issuing guidelines, standards and any other documents may not be that helpful at a time of stress and high workload in the market during a RoLR event. The RoLR Procedures should contain what is needed to get the job done.

Draft National Energy Retail Law		
Part 6 – Retailer of Last Resort Scheme		
620	Breaches of RoLR Procedures	<p>The drafting suggests that AEMO may inquire and decide that a breach is material or not, and publish on a website. This is not good regulatory practice and lacks appropriate process.</p> <p>In a large RoLR event or a multi-fuel RoLR event the distributor/MDP has a significant amount of work to undertake and deliver in a short period of time in addition to business as usual services, it is possible that not all timeframes will be met depending on the size and complexity of the event. The NER, clause 7.2.8 requires compliance with retail transfer procedures and provides a process in writing with an opportunity for a party to respond and rectify the breach. We suggest that if there is not a satisfactory action plan or rectification of the breach then the website publication process could proceed. This would provide a fairer more balanced approach than currently drafted.</p> <p>(d) All <i>Registered Participants</i> and <i>Metering Providers</i> must comply with the <i>Market Settlement and Transfer Solution Procedures</i>.</p> <p>(e) If a <i>Registered Participant</i> or <i>Metering Provider</i> breaches the requirements of the <i>Market Settlement and Transfer Solution Procedures</i>, AEMO may send to that <i>Registered Participant</i> or <i>Metering Provider</i> a notice in writing setting out the nature of the breach.</p> <p>(f) If the <i>Registered Participant</i> or <i>Metering Provider</i> remains in breach for more than 5 <i>business days</i> after receipt of the notice from AEMO, AEMO must advise:</p>

Draft National Energy Retail Law		
Part 6 – Retailer of Last Resort Scheme		
		<p>(1) the authority responsible for administering <i>jurisdictional electricity legislation</i> in the <i>participating jurisdiction</i> in which the <i>connection point</i> to which the breach relates is located; and</p> <p>(2) the <i>AER</i>.</p> <p>The drafting of 620 should be amended to provide the breaching party with an opportunity to respond in similar manner to that provided in the NER in the excerpt from Clause 7.2.8 above, or in a similar manner to that already drafted in the NERL 522 e.g. to a retailer where AER is considering retailer authorisation revocation.</p>
634 (4)	Information that may be described in a Regulatory Information Instrument	<p>The recent Jackgreen event also highlighted that provision of feed in tariff eligibility or premium feed in tariff eligibility of the customers impacted by the RoLR event would have been useful.</p> <p>We suggest that the SCO consider requiring the failed retailer to advise the RoLR of the existence of any form of embedded generation and whether the customer is on a feed in tariff or premium feed in tariff.</p> <p>The customer classifications established under the NECF relating to small/large, business/residential and small market customer status may also be useful to include in this list.</p>
644 (a)	Contents of RoLR Plans	<p>The requirement on the AER to hold exercises at least annually and provide a report for each jurisdiction and fuel is onerous and costly for all involved. We suggest that the drafting provide the AER with more flexibility to conduct the exercises on a regular basis for a given RoLR plan. Alternatively the drafting could require the AER to undertake an exercise at least once every</p>

Draft National Energy Retail Law		
Part 6 – Retailer of Last Resort Scheme		
		three years.
650	Amendment of Schemes and Determination	Where the AER amends a RoLR cost recovery scheme or a RoLR cost recovery scheme distributor payment determination on application by or after consultation with the registered RoLR. The distributor’s payment obligation, billing and cashflow arrangements are also impacted by such decisions. Any amendment of the RoLR cost recovery scheme distributor payment determination must not occur without prior consultation with the impacted distributors.

Draft National Energy Retail Law		
Part 7 – Small compensation claims regime		
Section	Subject Matter	Comment
714 (1)	Claims for more than the maximum amount	<p>As drafted in (1) the distributor is not able to pay a claim that is above the maximum amount.</p> <p>The drafting limits the distributor to either reduce the claim to the regulated amount or reject the claim. Rejecting the claim may force small customers who wish to take the matter further to incur court costs. If the distributor were to pay an amount above the maximum this could be considered a breach of the law. The drafting is not in favour of appropriate customer service.</p> <p>We suggest that drafting in clause (1) (a) be amended to allow that distributor may reduce the claim to the maximum amount as opposed to must.</p>

Draft National Energy Retail Law		
Part 8 – Functions and powers of the Australian Energy Regulator		
Section	Subject Matter	Comment
812	Disclosure of confidential information	Section 28ZB is the NEL equivalent of section 812 of the NERL. A decision of the AER under section 28ZB in the NEL is subject to merits appeal to the Australian Competition Tribunal. So should a decision of the AER under section 812 of the NERL be subject to merits appeal. We suggest the drafting be amended to provide consistency with the NEL.

Draft National Energy Retail Law		
Part 9 – Functions and powers of the Australian Energy Market Commission		
Section	Subject Matter	Comment
		No comment

Draft National Energy Retail Law		
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Part 10 – National Energy Retail Rules		
Section	Subject Matter	Comment
		No comment

Draft National Energy Retail Law		
Part 11 – National Energy Retail Regulations		
Section	Subject Matter	Comment
		No comment

Draft National Energy Retail Law		
Part 12 – Compliance and performance		
Section	Subject Matter	Comment
		No comment

Draft National Energy Retail Law		
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Part 13– Enforcement		
Section	Subject Matter	Comment
		No comment

Draft National Energy Retail Law		
Part 14 – Evidentiary matters		
Section	Subject Matter	Comment
		No comment

Draft National Energy Retail Law		
Part 15 – General		
Section	Subject Matter	Comment
		No comment

Draft National Energy Retail Regulations		
Regulation	Subject Matter	Comment
		No comment

Draft National Energy Retail Rules		
Part 1 – Preliminary		
Rule	Subject Matter	Comment
103	meter	<p>A gas meter is a device that measures the volume of gas that passes through the meter to the customers premises. Temperature, pressure and heating value are all used to calculate the energy consumed at the premise from the measured gas volume. Data loggers, pressure regulators are all part of the metering equipment that is used to assist in the calculation of energy.</p> <p>For electricity, in an advanced interval meter environment, the measurement of the energy is recorded in back end systems with the use of communication interfaces and communication networks. Expanding the term ‘meter’ to ‘meters and associated equipment’ would allow the broader smart metering infrastructure to be included in the term.</p> <p>We suggest that the term ‘meter’ be expanded to ‘meter and associated equipment’ which is used to obtain the quantity of energy consumed at the customers premise.</p>
105 and	Business premise	Clause 105 provides a mechanism where a business customer and retailer may agree to aggregate premises to clarify that the customer is both a business customer and large

Draft National Energy Retail Rules		
Part 1 – Preliminary		
110	classification	<p>customer. However there is no obligation where this agreement is reached to advise the distributor.</p> <p>At the information forum, the RPWG made it clear that the distributors had the prime responsibility for recording this information.</p> <p>Clause 110 provides a mechanism for the distributor to reclassify and update the retailer and customer, there needs to be a similar obligation on the retailer in 105 to update the distributor.</p>
109	Distributor classification	<p>A distributor manages NMI's/MIRN's and provides average daily loads into the market. The distributor classifications are managed at the connection point level. Systems and processes manage the update of this information as required based on connection points and consumption. A change of customer would not trigger re-classification in the distributor's systems.</p> <p>Where these classifications revolve around customer and have flow on contractual impacts due to change of customer size or market/non market contracts, how are they to be managed when the consumption may fluctuate around the threshold amount?</p> <p>We are not recommending changes to the Rules, however there are a number of implementation issues that will need to be worked through.</p>

Draft National Energy Retail Rules		
Part 2 – Customer retail contracts		
Rule	Subject Matter	Comment
209 and 210	Estimated reads	<p>Clause 209 (1) (c) provides for estimated meter reads to occur outside of the metering rules framework.</p> <p>The metering rules have been established to ensure that the settlement of the wholesale market occurs in a rigorous and consistent manner, the metering rules provide a number of allowable methods of estimation. This estimated or substituted data if it is provided as the settlement ready data must be used for wholesale market settlement with the retailer and for the payment of network charges by the retailer to the distributor.</p> <p>Allowing alternative forms of estimated data by the retailer will serve to undermine the value of metering data provided by distributor to the retailer, or customer, on request and may result in customer confusion.</p>
213 (1) (v)	Contents of bills	<p>The drafting of (1) (v) should include the name and website address of the distributor. This allows the customer to recognise who their distributor is should they wish to seek information directly from the distributor, including fault and restoration information or metering data.</p>
216 (3)	Historical billing information	<p>The drafting in (3) allows the retailer to approach the distributor for historical billing information. However, the distributor cannot provide any form of summary information to support a retail bill as they are not aware of the retail tariff calculations specific to the customer, nor is the distributor privy to any other estimates provided under 209/210 that the retailer may have initiated.</p>

Draft National Energy Retail Rules

Part 2 – Customer retail contracts

		<p>The distributor’s obligation should be limited to the provision of metering data that has been processed in accordance with the metering rules.</p> <p>In clause (2) the retailer is able to recover costs from the customer for repeated requests for data or for the provision of data older than 12 months. The drafting in (3) prevents the distributor from recovering similar costs and is likely to result in any difficult or older data requests being passed to the distributor to avoid work in the retail business. The retailer should fulfil these data requests to the extent that they have the metering data, where they do not have the metering data, distributors should be able to recover reasonable charges from the retailer in accordance with the retailer’s ability to gain cost recovery. The drafting should be amended to allow the distributors the ability to charge for the provision of metering data consistent with the ability in the model terms and conditions Clause 14.2, Schedule 2.</p>
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Draft National Energy Retail Rules

Part 3 – Customer hardship regime

Rule	Subject Matter	Comment
		No comment

Draft National Energy Retail Rules		
Part 4 – Relationship between distributors and customers		
Rule	Subject Matter	Comment
403	Responsibilities of the retailer regarding the application for customer connection services	<p>In (3) (a), a request by the retailer to connect or energise a customer should be taken to be the deemed advice to the distributor that they have formed a contract.</p> <p>The drafting in (3) (b) must be amended to require the retailer who is acting on behalf of the customer to provide all the information necessary to the distributor to establish the connection service and for the distributor to meet its obligation. This may include certificates of electrical safety, required embedded generation details etc.</p>
410	Provision of Information	<p>A distributor needs to provide to the customer or their retailer on request, the customer's energy consumption or distribution charges information.</p> <p>We suggest the drafting be amended to the provision of the 'customer's metering data or distributor's charges'. The distributor is able to advise the metering data and how the distribution charges have been calculated.</p> <p>For gas where heating value and pressure corrections are used to convert the measured volume of gas into the customer's energy consumption it is better that the retailer respond to these questions as they have ultimately produced the bill for the customer. The distributor is able to advise the metering data and the distribution charges that they have calculated.</p>
411	Planned interruption	<p>In the definition of planned interruption we suggest the word 'planned' be inserted before maintenance of metering equipment.</p> <p>The reason for inserting the word "planned" i.e. to only include planned maintenance of metering equipment in the planned interruption is to avoid doubt that it excludes repair of faulty</p>

Draft National Energy Retail Rules		
Part 4 – Relationship between distributors and customers		
		<p>meters which are critical to the success of the AMI communication system. An element of AMI communication relies on data ‘hopping’ from meter to meter in serial transmission to a data collector. Faulty communication equipment in an individual customer meter may prevent data from other customer metering points from communicating with the data collector. We submit that such faulty meters or communication equipment would have to be repaired as soon as possible without the need to give four business days notice.</p> <p>The drafting proposed does not allow the distributor as meter provider to repair faulty meters or communication equipment without giving the customer at least four business days notice for planned interruptions. Whilst this requires a reasonable level of communication to the customer, this means that a number of customers (due to the serial data transmission) would need to be billed on substituted data for at least a week. We note the strong reservations that customer groups have with substituted data and the possibility (albeit a low possibility) that the substituted data occurs when retail prices are high resulting in a less desirable level of accuracy in the bill.</p> <p>To facilitate the high service level requirements under the Victorian AMI program and minimise the use of substitutes where meters are faulty, the maintenance requiring notification of the planned interruption should be limited to the planned maintenance of metering equipment.</p>
413 (2)	Planned Interruptions	<p>The ministerial determinations regarding a smart meter rollout are likely to involve an accelerated roll out of smart meters to a large number of customers. This would result in fewer and larger meter families than currently utilised in the field today.</p> <p>If these large families of meters are found to need significant upgrading or need to be removed from service due to lack of required accuracy then large scale planned maintenance work</p>

Draft National Energy Retail Rules

Part 4 – Relationship between distributors and customers

		<p>would result.</p> <p>We recognise the need to provide the customer with notification of the planned interruption to supply in this circumstance, however there needs to be some relaxation regarding time and date. These large programs provide the customer with an indication of when the interruption may occur, possibly even a week or 10 day block. However these replacements are managed efficiently as large scale projects and provide the customer with an avenue to raise concern or request a more exact timeframe in an opt out manner. If every meter replacement was requirement to have an appointment linked to a half hour time period, the costs would increase significantly.</p> <p>We suggest that the drafting be flexible for large scale maintenance programs for metering and associated equipment.</p>
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Draft National Energy Retail Rules		
Part 5 – Relationship between distributors and retailers – retail support obligations		
Rule	Subject Matter	Comment
502	Distribution charges	In line with our comments on NERL 602, we suggest that the term network regulatory approved charges be considered in preference to the use of the distributor’s distribution system. This would include the standard control and alternate control services, metering charges if required (under Chapter 6 or the Victorian Order in Council), any approved pass through events which would be appropriate for network charges to retailers under the NERL, NERR and schedules.
507 (1) (b) and (c)	Fault and emergency contact point	The distributor provides the retailer one number which covers the reporting of faults and emergency reporting by customers. Sub clause (b) and (c) should be combined to reflect industry practice.
508 (1)	Information on planned interruptions for the retailer	<p>Sub clause (1) as drafted places an obligation on the distributor to notify the retailer of all planned interruptions and give the retailer all information that the distributor is required to give to the customer within the same timeframe. Sub clause (3) contradicts sub clause (1) as the distributor is only obliged to provide premise level information if the retailer has requested it.</p> <p>The drafting intent is to make planned information available to all retailers regarding major or significant network outages, this could be done via a website and street or postcode level information. We believe the intent is not to replicate the customer notification letters to the retailers.</p> <p>The drafting in (1) (a) should be amended to make the information available to the retailers on planned interruption and should not link back to the individual customer time and date</p>

Draft National Energy Retail Rules		
Part 5 – Relationship between distributors and retailers – retail support obligations		
		<p>notification requirement in 413.</p> <p>The Victorian smart meter roll out uses a notification process in the B2B procedures to provide advance notification to the retailers of the smart meter exchange, prior to the notification to the customer. This transaction has not been developed in a manner that provides exactly the same information that is provided on the customer notification but was agreed via open and transparent consultation all that is required. This clause places an obligation on the industry to alter the IT systems and supporting procedures for minimal if any benefit.</p> <p>We suggest that Ministerial determinations to roll out smart meters should be exempt from this requirement and should continue to use the agreed industry B2B communications to provide advance warning to retailers.</p> <p>In gas we provide a list of sites to the retailers when we undertake planned interruptions, we do not provide exactly the same information to the retailers as described in 413.</p>
513 (1) and (2)	Notification of de-energisation	<p>The drafting of clause 513 is onerous and impractical, we suggest that it be deleted. If sub clause (1) were to remain it should at least be limited to the provision of the disconnection warning notification to the retailer on request or once electronic communications with every field worker has been implemented across all distributors.</p> <p>A distributor is allowed to de-energise on very limited grounds. The majority of de-energisations performed are request by retailers.</p> <p>The majority of distributor de-energisations are notified to customers when the restoration and cleanup work is being undertaken after a storm or widespread event. The field crew leaves the defect/disconnection warning notice at the premise when they assess that it is not safe to put</p>

Draft National Energy Retail Rules

Part 5 – Relationship between distributors and retailers – retail support obligations

		<p>the premises back on supply. This is a paper based system and it is difficult to obtain carbon copy paperwork from field trucks in the back office to generate the required notifications to retailers, particularly at a time when all the focus is on supply restoration and customer management.</p> <p>In addition the industry has been working towards mutual aid arrangements across distributors both within and across state boundaries to improve restoration times to customers in widespread events. If we were to develop IT interfaces from our field crews into the back office to generate these notifications, these would not be readily available for interstate or other local crews operating in our distribution network and the cost of standby systems for this event could be seen to be gold plating.</p>
514	Liability for retailer for ongoing charges	<p>The distributor should not be liable to the retailer for ongoing charges where there are health or safety issues, threats made to the distributor’s resources, or no access which limit the distributor’s ability to complete the request. The distributor should use reasonable endeavours to complete the work as requested taking into account the issues above and the protected periods etc but not be liable for the payments to the retailer where the distributor is not at fault.</p>

Draft National Energy Retail Rules		
Part 6 – De-energisation (or disconnection) of premises		
Rule	Subject Matter	Comment
614 (1) (b)	Restriction on de-energisation	A distributor does not know when a customer has made a complaint either directly to the Ombudsman or complained to the retailer first and then taken the complaint to the Ombudsman. The distributor’s obligation to not de-energise must be limited to the circumstances where the customer has made a complaint and the Ombudsman has notified the distributor of the complaint.

Draft National Energy Retail Rules		
Part 7 – Life support equipment		
Rule	Subject Matter	Comment
702 (2)	Cessation of requirement for life support equipment	Where a customer no longer requires life support and they inform the retailer, the retailer has an obligation to inform the distributor. We suggest that there be some time obligation on the retailer to advise the distributor e.g. within 5 business days.

Draft National Energy Retail Rules		
Part 8 – Prepayment meter systems		
Rule	Subject Matter	Comment
812	Illegal energy use	<p>If the retailer has organised the prepayment metering equipment and prepayment arrangements and the customer has illegally used energy, how does the distributor find out that they have been undercharging for network services?</p> <p>Where the retailer estimates a customer’s energy consumption in this circumstance, there should also be an obligation on the retailer to advise the distributor.</p>

Draft National Energy Retail Rules		
Part 9 – Exempt selling regime		
Rule	Subject Matter	Comment
		No comment

Draft National Energy Retail Rules		
Part 10 – Retail market performance reports		
Rule	Subject Matter	Comment
		No comment

Draft National Energy Retail Rules		
Part 11 – Retailer of last resort scheme		
Rule	Subject Matter	Comment
1110-1114	Processes for making RoLR procedures	Refer to comments - NERL 618, we recommend that clause 1110-1114 be deleted. Transfer of customers in a RoLR event is inextricably linked to retail transfer processes and system capability, including the arrangements to develop the estimated read data for the transfer. By the time the NECF is implemented in any jurisdiction, the RoLR processes will already have been implemented in both electricity and gas and should to the maximum extent possible be re-used within these retail market procedure frameworks.

Draft National Energy Retail Rules		
Part 12 – Consultation for the National Energy Retail Framework		
Rule	Subject Matter	Comment
1202	Retail Consultation Procedure	<p>The AER has a significant number of guidelines which are required to be developed under the NERL and NERR. The impact on the industry participants could be quite significant and costly.</p> <p>Further the implication of changes in such a large body of law and rules, needs to be considered in relation to the complexity and inconsistency that might arise with each of the application acts and the ongoing jurisdictional energy legislation.</p> <p>The Retail Consultation Procedure should reflect the Rules Consultation procedure in the NER and afford parties the opportunity to two rounds of consultation, detail of the comments made and how they have been handled in any revision of the proposed or updated instruments. This ensures a good quality, more rigorous document and avoids ambiguity and lack of clarity which might otherwise creep in. Our jurisdictional regulator provides two rounds of consultation at least.</p> <p>The drafting of 1202 should be aligned to the NER Rule Consultation Procedures and must also recognise the complexity and hierarchy of the local arrangements.</p>

Draft Model Standard Retail Contract		
Clause	Subject Matter	Comment
11 (a)	Meters	<p>For the purposes of obtaining meter readings, the customer needs to allow safe and unhindered access to meters and associated equipment, this includes communication interfaces and antennae etc to allow for remote reading.</p> <p>We suggest that the term meters be expanded to meters and associated equipment.</p>
Dictionary	distributor	Distributor means the operator of the network. This definition is inappropriate and inconsistent with the distributor as defined by the NERL. The drafting needs to be consistent across the entire framework.

Draft Model Terms and Conditions for Deemed Standard Connection Contracts		
Clause	Subject Matter	Comment
6.4	Life Support	<p>The life support clause should be a requirement in an electricity deemed standard connection contract and should not be a requirement for gas contracts.</p> <p>The reference to retailer should refer to the customer’s electricity retailer.</p> <p>In addition any change in the life support arrangements at the premise should be promptly notified to the customer’s electricity retailer or distributor, in a similar manner to the prompt updating sought in clause 6.2. As currently drafted there is no time obligation on the customer to notify that life support arrangements are required or that they cease to be required. It is very important that the customer assists to ensure that these records are accurate and complete.</p>
6.8	Obligations for a small generator	<p>The small generator clause should be a requirement in an electricity deemed standard connection contract and should not be a requirement for gas contracts.</p> <p>Where a customer in clause 6.8 (c) intends to connect a small generator, the customer must apply for a connection alteration prior to connecting and turning the generator on to allow the additional terms and conditions to be established and to allow for compliant metering arrangements to be in place.</p>
7	Our liability	<p>Clause 9.5 of the existing contractual arrangements between all customers and UED states that all customers should take precautions;</p>

Draft Model Terms and Conditions for Deemed Standard Connection Contracts		
Clause	Subject Matter	Comment
		<p>9.5 Taking precautions</p> <p>If you do not take reasonable precautions to minimise the risk of any loss or damage to your equipment, premises or business which may result from poor quality or reliability of electricity supply then your rights to recover damages may be adversely affected.</p> <p>Reasonable precautions may include, where appropriate, installing surge protection equipment or obtaining a back-up supply. In addition business customers have specific obligations to take precautions under the Distribution Code.</p> <p>We suggest that this drafting be inserted as a new clause (c) in the deemed standard connection contracts to reflect and be consistent with the current arrangements. These arrangements are important and warrant more than just a passing mention in note (e).</p>
Dictionary	Disconnection or de-energisation	The definition should be amended in a similar manner to proposed in the NERL -102, refer to our earlier comments.

Draft National Electricity Rules		
Chapter 6B - Retail Market Matters		
Rule	Subject Matter	Comment
6B.2.4	Statement of charges	<p>The drafting appears to have altered from NECF1 to a process that is impractical operationally. Billing systems are highly complex and often fairly inflexible. The drafting now requires the distributor in electricity and gas to only provide a bill on the 10th business day of the month as opposed to 'by' the 10th business day for each retail billing period for distribution service charges for the previous retail billing period.</p> <p>This drafting has the effect of disallowing current billing practices which have been in place for a decade and requires substantial expenditure. This drafting has the effect of using billing resources for 10 days a month and credit/remittance resources for 10 days a month and limits the ability to spread the workload over the month more efficiently.</p> <p>It also aligns the entire NEM and gas markets to the same practice unless there is agreement from all retailers that a distributor is able to continue with the current practice.</p> <p>From a retail point of view, they may receive all statement of charges for each fuel and jurisdiction in which they operate on the same day. The flow on effect is that all payments and significant value disputes need to be raised in a 10 business day window.</p> <p>If the current practices are not allowed to continue this may significantly impact the cost and timeframe to move to the NECF.</p> <p>We strongly recommend that there is some flexibility added into sub clause (a) 'to a retailer <u>on</u> <u>by</u> the 10th business day of each retail billing period...'. '</p>

Draft National Electricity Rules		
Chapter 6B - Retail Market Matters		
6B.2.5	Time and manner of payment	Clause (b) as drafted requires every electricity and gas retailer to pay the distributors on the same day of each month. As described in our comments on 6B.2.4, this requires all payments and remittance advises/reconciliations to be processed on the same day. If the drafting suggestion proposed in 6B.2.4 is adopted then this workload is able to be spread over a few days.
6B.3.2 (d) (3)	Tariff reassignment	<p>The ability for a distributor to reassign a network tariff is governed by the NER/distribution determinations, not by the MSATS or B2B procedures.</p> <p>The retail transfer procedures (MSATS procedures, B2B Procedures or metrology procedures) do not govern the tariff reassignment arrangement where the distributor initiates a tariff change or where the tariff change is at the request of the retailer. The distributor already has the obligation under the NER 7.2.8 to comply with the MSATS Procedures to provide the network tariff into the MSATS. Clause 6B.3.2 (d) (3) should be deleted.</p>
6B.3.3 (d)	Disputed statements of charges	<p>The drafting of Chapter 6B retail market matters requires all bills in the gas and electricity industry to be produced on the same day of the month unless parties can agree to a different retail billing period and if systems have this level of flexibility. Without this agreement all bills are produced on the same day and all disputes need to be managed and resolved within 10 business days of the retailer giving notice of the dispute.</p> <p>Depending on the level of complexity and volume of the disputes, disputes can take longer than 10 business days to work through. We suggest that it is more appropriate that the retailer <u>may</u> take a dispute for resolution under Chapter 8 than <u>must</u> take the dispute there after 10 business days. This allows the opportunity to work through the disputed items and if the</p>

Draft National Electricity Rules		
Chapter 6B - Retail Market Matters		
		<p>retailer considers that the distributor is delaying the process for some reason they are able to proceed to dispute resolution.</p> <p>On the converse, the retailer could also be seeking to delay payment by disputing line items on a bill. We suggest that the distributor and the retailer should both be able to engage the dispute resolution processes under Chapter 8.</p> <p>We suggest the words ‘The retailer must’ be replaced with ‘The retailer or the distributor may, if the disputes is not resolved’.</p>
6B.6.3	Credit rating for retailer	<p>The drafting of this clause is problematic:</p> <ul style="list-style-type: none"> • No retailer has ever advised us of their credit rating. We doubt that retailers are going to advise the distributor of a drop in credit rating, particularly where it may result in the need for credit support. There should be a prompt timing obligation placed on the retailer to advise within a few business days of both their initial credit rating and any change in credit rating. • The credit rating provided must relate to the legal entity that is billed by the distributor as opposed to a parent company. Until there is a need for credit support and there is agreement under 6B.7.2 for a different form of credit support, the credit rating assessments should use the billable, licensed retail entity in the first instance. • The clause should also allow the distributor to use credit rating information from an independent source in order to manage credit risk and not require the distributor to only use information advised by the retailer.

Draft National Electricity Rules		
Chapter 6B - Retail Market Matters		
		<p>We suggest that the drafting in 6B.6.3 be amended to ensure that these principles are met and that a distributor is able to use credit rating data gained from a reputable rating agency to manage credit risk.</p>
6B.7.4	Credit Disputes Support	<p>Where a retailer has not paid a distributor under 6B.2, Billing and Payment Rules, the distributor needs to wait for a further 35 (25 + 10) business days before making an access dispute under Chapter 10 of the NEL. By the time this process has commenced over two months has elapsed.</p> <p>Access disputes are not resolved quickly, failure to rectify this in a timely manner will result in higher RoLR pass through costs to all customers. Under this framework, all customers now pay for the distributor's bad debt and the RoLR's costs to service the customers of the failed retailer.</p> <p>We have made a number of suggestions to improve the enforcement regime and reduce the ultimate costs to customers in our submission in section 8.</p>
Chapt 10	Pass through event	<p>The term RoLR event has the meaning in the NERL. However the costs incurred as a result of the NERL RoLR event definition are not that clear.</p> <p>The policy intent conveyed to us at the information forum was that all of a distributor's service charges that are unpaid should be able to be recovered. This applies to a RoLR trigger or bad debt arising out of any trade sale arrangements which may be overlooked in any transfer of retailer authorisation. In addition the costs of managing the transfer of customers, generating estimated reads, undertaking reconciliation processes etc should all be captured regardless of</p>

Draft National Electricity Rules		
Chapter 6B - Retail Market Matters		
		<p>whether a ROLR event has occurred or been avoided by a trade sale.</p> <p>The drafting for a regulatory pass through of a RoLR event should clearly cover all of these scenarios and costs incurred by distributors - bad debt arising from a trade sale or a RoLR event and the costs of managing the transfers and information provision during the event.</p>

Draft National Gas Rules		
Part 21 - Retail Support Obligations between Distributors and Retailers		
Rule	Subject Matter	Comment
		Refer to our comments in the table above on the Draft National Electricity Rules relating to billing, payments and credit support. These comments apply equally to the drafting in the National Gas Rules. We have only provided additional specific gas comments in this section.
106 (2)	Statement of charges	<p>Clause (2) refers to the format of the statement of charges the distributor provides to the retailer.</p> <p>The transactional arrangements between the retailer and the distributor are governed by the Gas Interface Protocol in Victoria which resides under the Retail Market Procedures. Retailers, Distributors and AEMO are required to comply with this protocol.</p>

Draft National Gas Rules		
Part 21 - Retail Support Obligations between Distributors and Retailers		
		We suggest that the reference to metering procedures be amended to the Retail Market Procedures as this will include any metering processes intended and more appropriately includes the format of the statement of charges.
109 (4) (c)	Tariff reassignment	The ability for a distributor to reassign a network tariff is governed by the access arrangements, not by the retail market procedures or metering procedures. Clause 109 (4) (c) and the definition of metering procedures should be deleted.
133 (2)	Cost pass through for RoLR event	We query the reason for the difference in timing compared to RoLR events in the Victorian EDPD where an initial submission must be made within 60 business days and a further submission within 120 business days specifying the actual financial impact following wind up of the retailer. This approach allows slightly longer to obtain the final set of numbers from an administrator which could be an advantage. In addition, the EDPD requires the AER to make a decision on a pass through submission within 30 business days. There should be a requirement on the AER to make a timely decision following the 90 or 120 days submission in a similar manner to the EDPD.

Draft National Electricity Rules		
Chapter 5A - Electricity connection for retail customers and embedded generators		
Rule	Subject Matter	Comment
5A.A.1	Energy laws	<p>Chapter 5A resides in the National Electricity Rules which sit under the National Electricity Law. The references to national energy legislation and jurisdictional energy legislation do not work. The individual definitions in (a) and (b) are not linked back to those in the NERL. We believe that the intent is to pick up electricity laws at the national and jurisdictional level.</p> <p>Our point raised in the NERL regarding the coverage of jurisdictional energy legislation (or electricity legislation) also applies here.</p> <p>In providing customer connection services, the Road Management Act also forms part of the legislative framework in Victoria which applies.</p>
5A.B.2 (b) (3), (4) and (7) (iii)	Standing offer for basic connection services	<p>In clause (3), the standing offer should include the qualifications required for any contestable works that are provided by the customer directly engaging a party for example to move a meter and switch board etc.</p> <p>Similarly in clause (4) the safety and technical requirements that need to be complied with should refer to the customer and the provider of the contestable service rather than the distributor.</p> <p>Where the distributor undertakes connection work we are bound by licence conditions and safety and technical requirements. In the distributor's standing offer it would be more appropriate that these requirements are made clear to the customer's and their service providers in order for a connection to proceed smoothly.</p>

Draft National Electricity Rules		
Chapter 5A - Electricity connection for retail customers and embedded generators		
		<p>We recommend the following drafting amendments:</p> <p>(3) ' the qualifications required for carrying out the <u>contestable</u> work,...' and</p> <p>(4) ' ...to be complied with by the distributor <u>provider of the contestable service</u> or the customer (or both);...' and</p> <p>(7) (iii) "..... to be complied with by the distributor <u>provider of the contestable service</u> or the customer (or both);...</p> <p>Similar drafting amendments should be made in 5A.B.4 (c) (3) and (4).</p>
5A.D.3 (e) (1)	Application process	We suggest a drafting amendment that (e) (1) will be deemed to be satisfied where the distributor has completed the connection work within 10 business days. This will clarify that despite the work having been completed within the 10 business days timeframe, there is no need for the distributor to contact the connection applicant to advise that it was a basic or standard connection.
5A.E.1 (a) (1) (ii) and (2) (ii)	Connection charge principles	The terminology that the large customer must completely indemnify seems quite unusual. We understand that the intent of the drafting is that the large customer must pay the distributor the cost of the dedicated connection assets. We suggest that the drafting be amended to recognise the payment obligation of the customer for the connection.
5A.E.1 (b)	Connection charge principles	The businesses support the ENA submission on this matter. Refer also to our submission – section 5.
5A.F.4	Formation of contract	The effect of this provision is confusing. Any offer (be it standing or negotiated), once

Draft National Electricity Rules		
Chapter 5A - Electricity connection for retail customers and embedded generators		
		accepted, forms a contract with or without section 5A.F.4(a). All such contracts with a customer so formed from standing offers, and all negotiated contracts (other than those including negotiated supply terms), are integrated with and form part of a 'relevant customer connection contract formed under the NERL'. However the only customer connection contract formed under the NERL is a deemed standard distribution contract under section 306(1) and (2). AER approved standard connection contracts are formed according to the terms and conditions of the contract (not the NERL) – see section 312(1) and negotiated contracts are formed according to the common law (not the NERL). Accordingly, the only integrated contracts will be those with small customers or large customers for whom there is no applicable AER approved standard connection contract. All of the customers will have two contracts.
Schedule Part A (b)		In clause (b) most of the subclauses are already part of the model terms and conditions of connection and are deemed arrangements between all customers and the distributor. We understand that the connection contracts in this Chapter are appended to the model terms and conditions as requirement of the NERR, Schedule 2, clause 3.2.

Draft National Gas Rules		
Part 12 A - Gas Connection for Retail Customers		
Rule	Subject Matter	Comment
119A	Distributor	Refer to our comments on the nominated distributor, NERL 112 and the consistency of the term distributors used across the frameworks – NERL and NGL.
119A	Energy laws	Refer to our comments in the table above on the Draft National Electricity Rules relating to connections.
119R (5) (a)	Application process	Refer to our comments in the table above on the Draft National Electricity Rules relating to connections - 5A.D.3 (e) (1).
119V	Formation of the contract	Refer to our comments in the table above on the Draft National Electricity Rules relating to connections - 5A.F.4