



11 February 2009

Manager, MCE Secretariat
Department of Industry, Tourism and Resources
GPO Box 9839
Canberra ACT 2601

61 Mary Street
Brisbane QLD 4000
PO Box 15107
City East QLD 4002
Phone 07 3228 8222
Fax 07 3228 8118
Website www.ergon.com.au

By email: MCEMarketReform@ret.gov.au

Dear Sir/Madam,

COMMENTS ON PROPOSED AMENDMENTS TO THE NATIONAL ELECTRICITY LAW IN RELATION TO MANDATED ROLL-OUT OF SMART METERS AND RELATED PILOTS AND TRIALS

Ergon Energy Corporation Limited (Ergon Energy) welcomes the opportunity to provide comment to the Ministerial Council on Energy's (MCE) Standing Committee of Officials (SCO) on its proposed legislative amendments to the National Electricity Law (NEL) and accompanying Explanatory Note to provide heads of power for jurisdictional Energy Ministers to mandate the roll out of smart meters and related pilots and trials which were released for stakeholder comment on 23 December 2008. This submission is provided by:

- Ergon Energy Corporation Ltd (EECL), in its capacity as a distribution network service provider in Queensland; and
- Ergon Energy Queensland Pty Ltd (EEQ), in its capacity as a non-competing area retail entity in Queensland.

In this submission, EECL and EEQ are collectively referred to as 'Ergon Energy'.

Ergon Energy is a member of the Energy Networks Association (ENA) and as such, supports the ENA's submission on this issue. Ergon Energy welcomes the collaborative approach being taken by the MCESCO in seeking stakeholder comment, and agrees that the underlying regulatory arrangements for the roll-out of smart meters in National Electricity Market jurisdictions should remain within a consistent national framework.

Ergon Energy recognises that MCESCO is seeking to implement its policy intent:

- to require distributors to conduct trials, assessments and pilots and obtain information necessary to for each jurisdiction to review their smart metering policies in 2012; and
- to require distributors to roll out smart metering in accordance with the policy of each jurisdiction.

Ergon Energy is supportive of the objectives of the MCESCO and the intent of the policy. However, the formulation, conduct and interpretation of technology trials, cost benefit assessments, and end-to-end pilots are complex. As a result, distribution businesses are ideally suited to propose the scope of a pilot program that best suits the network's and customer's circumstances and is technically and commercially feasible. Accordingly, Ergon Energy supports NEL amendments that incorporate the ability of the distribution business to contribute to the development of a Ministerial Metering Determination. Ergon Energy also supports the inclusion of a requirement for Ministers to consult with stakeholders and consider submissions prior to making a final Ministerial Metering Determination.

The MCESCO's proposal contemplates that a Minister may confer broad functions and powers on the AER for decisions and directions in relation to trials, assessments and pilots. These powers go beyond those currently set out in the National Electricity Rules (Rules). Ergon Energy believes that in keeping with the current regulatory framework, any decision/direction of the AER should be limited to matters of economic regulation or compliance in the Rules.

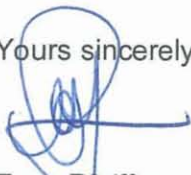
Ergon Energy is concerned with proposed section 118B(4)(c) which states that a Ministerial pilot metering determination may require the relevant distributor/s to provide information derived from a smart meter trial or a smart meter assessment, to a person specified in the determination or make such information publicly available. While Ergon Energy understands the benefits of sharing key findings of the pilots, it is important that the NEL amendment disclosure requirements preserve the right of commercial confidentiality and are consistent with current legislative obligations regarding confidentiality.

Ergon Energy questions the need for a metering determination to override contracts or agreements. At this stage, without further explanation of the reasons for this requirement, Ergon Energy sees no need for such a provision that could create substantial commercial uncertainty and risk. Ergon Energy also questions whether a determination can legally override contracts and agreements unless the determination is written in law, regardless of whether the right to make the determination is included in the NEL. If this clause remains, then at a minimum there should also be a requirement for the Minister to take into account existing contracts and agreements in terms of transitional arrangements at the time of the determination.

The MCESCO proposal is silent on the establishment of exclusivity. While the draft legislation would create obligations on distribution business the trial or roll out smart metering, it does not create an exclusive right for them to do so. Ergon Energy endorses the MCE's Statement of Policy Principles that distributors will be exclusively responsible for mandated smart metering roll-outs, at least for the roll-out period. Ergon Energy expects that such provisions will be placed in the Rules through Rule changes approved by the AEMC and guided by the MCE's Statement of Policy Principles.

Ergon Energy looks forward to participating in future discussions and providing further comment in relation to smart meters. If you have any questions or require any further information on the matters raised please contact Jenny Doyle, Manager Regulatory Affairs – Tariff Strategy, on (07) 4092 9813.

Yours sincerely



Tony Pfeiffer
General Manager Regulatory Affairs

Telephone: 07 3228 7711
Facsimile: 07 3228 8130
Email: tony.pfeiffer@ergon.com.au