

16 February 2009

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

MCEMarketReform@ret.gov.au

Dear Sir/Madam

RE: Exposure Draft of legislative amendments to the National Electricity Law (NEL)

The Energy Retailer Association (ERAA) welcomes the opportunity to comment on the Ministerial Council on Energy (MCE) Standing Committee of Officials (SCO) Exposure Draft of legislative amendments to the National Electricity Law (NEL) and the accompanying Explanatory Note related for public consultation on 23 December 2008.

The ERAA is the peak body representing the core of Australia's energy retail organisations. Membership is comprised of businesses operating predominantly in the electricity and gas markets in South Australia, Victoria, New South Wales, ACT, Queensland, Western Australia and Tasmania. These businesses collectively provide electricity to over 95 per cent of customers in the NEM and are the first point of contact for end use customers for both gas and electricity.

The purpose of the ERAA is to:

- Provide a public voice on all energy retail matters to government and industry bodies;
- Access key decision makers to affect national energy policy; and
- Ensure efficient development and implementation of national energy policy and markets.

Pass through of retailers' cost

The ERAA believes the proposed amendments to NEL fail to provide for the recovery of retailers' direct and indirect cost for smart meters.

The ERAA is concerned that retailers will be reluctant to participate in trials/pilots of smart metering if the costs they incur cannot be passed through to end customers. Any trials that involve customer responses would require the involvement of retailers to obtain the consent of their customers, data management, communication and feedback, and the presentation of the findings to industry and government. The ERAA strongly believes that to ensure the participation of retailers in relevant pilots/trials provision be made in these amendment to enable these retailer costs to be passed through.

In addition to the cost relating to pilot/trials, the ERAA has established that retailers will face significant additional costs as a result of the actual rollout of the smart meters.¹ Such cost increases would cover the upgrading of IT systems, handling of data, system changes, tariff changes, testing of systems and equipment, customer information campaigns and the hiring of outside consultants. The ERAA believes it is essential that retailers have the ability to pass through these costs to end customers.

The ERAA also remains concerned about the passing through to end customers of distributor cost relating to the smart meter rollout. This is an important issue for retailers as the pass through mechanisms and treatment of metering costs varies in each jurisdiction. We would note that in Queensland, costs relating to electricity network are not a direct pass through for retailers.

The ERAA strongly believes that if these legislative amendments do not provide an obligation for a full cost pass through of retailers' cost, there will be a number of negative impacts on the electricity market, such as

- The lessening of competition in the retail market as a result of retailers exiting the market;
- The stifling of innovation
- The potential undermining of the national roll-out of smart meters due to retailers having no incentive to promote the utilisation of smart meter functionality.

The ERAA considers the simplest and most efficient way of ensuring there is sufficient recovery of retailer costs is with the removal of retail price regulation.

Should governments be reluctant to abolish retail price regulation the ERAA is adamant that the proposed amendments to NEL ensure full cost recovery for the retailers. ERAA believes that where NEL is amended to empower the Ministers to direct the pilot/trials and rollout of smart meters, it should also ensure that there is an obligation for the pass through of cost for retailers.

The relevant Ministers and Regulators should ensure that there is an obligation for the pass through of these costs via an appropriate legislative or regulatory mechanism which is consistently applied across all jurisdictions. This may involve an explicit inclusion of these costs in the terms of reference provided by the Minister to the relevant jurisdictional regulators or for the full cost pass through mechanism to be gazetted.

¹ Frontier Economics '[Frontier Economics Interval Meter Implementation Costs Report - Stages 1&2](http://www.eraa.com.au/db_uploads/CombinedFrontierReports.pdf)' 29 Jul 2007 See http://www.eraa.com.au/db_uploads/CombinedFrontierReports.pdf

It is also important that the retailers are able to recover the costs in the period in which the costs are incurred. This may also require a ministerial or regulatory obligation that allows revision to a regulated price path, where the smart meter costs are incurred in the middle of price path period, and which were not allowed for in the original price determination.

Consistency with MCE objectives

The ERAA strongly recommends that the proposed NEL amendment must ensure any jurisdictional determination adopts the metering standard in the National Electricity Rules once a national standard for smart meters is determined.

The ERAA believes that contrary to the stated MCE objectives the proposed amendments to NEL could lead to a framework beset by jurisdictional inconsistencies. The Association is concerned that a Minister may define different metering and related standards, which would undermine the on-going energy market reform program, including National Energy Customer Framework.

As most ERAA members operate in more than one retail market such differences in the regulatory framework would lead to higher cost to end customers and an increase in the barriers to entry for new retailers.

The ERAA strongly supports the MCE objectives of transitioning to a contestable metering market once a rollout is completed. The ERAA considers that a competitive metering market is fundamental to the long-term involvement of retailers developing products related to the meters which meet the needs of the customer. The proposed amendments to the NEL fail to address this issue. The ERAA believes that any jurisdictional determination must make allowance for the transition to contestable metering market at the end of the rollout.

Should you require any further information in relation to this matter please feel free to contact me on (02) 9437-6180.

Yours sincerely

[Transmitted Electronically]

Cameron O'Reilly
Executive Director
Energy Retailers Association of Australia