



6 August 2009

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Dear Sir/Madam,

COMMENTS ON SECOND EXPOSURE DRAFT 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 the second exposure draft legislative amendments to the National Electricity Law (NEL) and accompanying National Electricity Amendment (Ministerial Smart Meter Roll Out Determination) Transitional Rule 2009 which were released for stakeholder comment on 9 July 2009. 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 is supportive of the development of a national framework in relation to the roll-out of smart meters in National Electricity Market jurisdictions.

Ergon Energy supports the MCESCO policy responses to refer cost recovery and economic regulation issues to the Australian Energy Market Commission (AEMC) to provide advice on Chapter 6 of the National Electricity Rules (the Rules) and consult with key stakeholders in relation to smart meters. This will provide distributors with greater certainty that a metering determination made by a jurisdictional minister is sufficient to constitute a regulatory change event under the Rules and initiate cost pass through provisions (particularly in respect of pilot metering determinations where materiality thresholds may be of key concern from a cost recovery perspective).

Ergon Energy notes that MCESCO has addressed distributors' concerns in regard to the lack of a requirement for consultation by ministers in its policy response to submissions on the first exposure draft. Ergon Energy supports the introduction of proposed new sections 118C, 118B(2), 118E(2) and 118F requiring Ministers to consult with stakeholders before making a pilot and roll-out determination and have regard to submissions prior to making a final Ministerial Metering Determination.

Ergon Energy notes that MCESCO has addressed the issue of confidentiality in its Policy Response to submissions made on the first exposure and introduced section 118B(2)(a). However, Ergon Energy is unclear as to how having regard to the National Electricity Objective (NEO) will serve to protect commercially sensitive and confidential information as it does not appear to offer sufficient accountability.

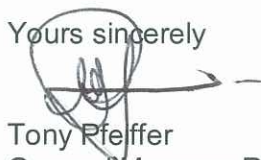
Ergon Energy appreciates the benefits of sharing key findings of pilots, and the added protection the proposed National Electricity Law (NEL) amendments afford to distributors in complying with a Ministerial determination. However, Ergon Energy questions whether stronger provisions are required in the NEL to preserve commercially sensitive information. Ergon Energy considers the proposed section 118B(5) does not necessarily require a Minister to collect and publish in a way that protects such information. Such commercially sensitive information in the public arena may threaten a business's financial viability and credibility, and as a result such businesses may have an aversion to contract with distributors in a ministerial pilot. Accordingly, Ergon Energy supports NEL amendments which require any information intended for public release to be provided and released in a manner that protects the identity of a business provider.

While Ergon Energy recognises expediting legislative amendments may assist jurisdictions proceed with planned smart meter pilots and trials (and provide a means for distributors to initiate cost-pass through provisions), Ergon Energy considers the same timing drivers do not apply for smart meter roll-outs, and expediting legislative amendments for roll-outs may be premature considering some aspects (such as technical and operational considerations, definitions and supporting rule changes) required for a robust and supporting smart metering regulatory framework is still under development. Therefore Ergon Energy submits that the proposed amendments to the NEL could be limited to smart meter pilots and trials, to allow further opportunity for consultation in developing key aspects of the broader smart metering framework.

Further, while Ergon Energy agrees with the MCESCO policy intent that distributors should be exclusively responsible for mandated smart metering roll-outs (at least for the roll-out period), Ergon Energy questions whether the proposed initial Rule change relating to roll-outs of smart meters is required at this time, given that for most jurisdictions a smart meter roll-out is not likely in the short to medium term, and that further work is considered necessary to address exclusivity beyond the mandated roll-out period. Ergon Energy therefore suggests that the proposed initial Rule change concerning roll-outs could be delayed to allow further opportunity for consultation in developing key aspects of the broader smart metering framework and supporting rule changes.

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



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