

2 April 2008

Ms Wendy Heath
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Essential Services Commission
2nd Floor, 35 Spring Street
Melbourne VIC 3000

Dear Wendy,

ESC Review of Energy Regulatory Instruments

In response to your call for submissions (dated 22 February 2008) and our subsequent communications, this letter sets out SP AusNet's initial submission to the Commission's review of energy regulatory instruments.


SP AusNet support this review as we believe it is important that when consideration is being given to the detailed obligations and requirements to be included in the national regulatory regime, that the suite of Victorian energy regulatory instruments can be confidently assumed to accurately, unambiguously, and completely represent the Victorian approach.

In considering the Victorian instruments we have concluded that there are 3 dimensions regarding these instruments which must be taken into account:

- 1 updating and clarification of the existing instruments
- 2 changes that are, or will be required to support the AMI rollout
- 3 changes that may be required to support other ongoing or planned industry developments

In the attachment we have provided input on each of these three dimensions.

As the review progresses SP AusNet will be pleased to be involved either with respect to matters raised in this submission or regarding other matters. Please contact myself on 9695 6603 or Peter Ellis on 9695 6629.



Kelvin Gebert
MANAGER REGULATORY STRATEGY & COMPLIANCE

ESC Review of Energy Regulatory Instruments

SP AusNet Submission

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1 Current Regulatory Instrument Issues

SP AusNet has carried out a high-level assessment of current issues that may give rise to a need for changing the present Victorian instruments. In addition to those matters described below, we are certain that there will be other issues identified during the course of the Commission's review process, and still more will arise as the equivalent national instruments are developed.

The matters that we have identified so far are described under separate headings below.

Electricity Customer Metering Code (ECMC)

a Recognition of Metrology Procedure changes

The Joint Jurisdictional Review of metrology arrangements no doubt envisaged that the Rules and Metrology Procedure changes (to remove first tier metrology from the jurisdictional "codes" and integrate it into the national first tier metrology documents) would effectively permit the closure of these codes. However two decisions made during the revision of the Rules and Metrology Procedure have resulted in the need for a significant part of the ECMC (and other jurisdictional codes) to remain. These decisions were:

- There are a number of code clauses setting out obligations on customers with respect to metrology. These are very consistent across all state instruments and the RMEC/IEC agreed with the relevant industry Reference Group that these should be included in a national document¹. However, the Jurisdictions (through REMNOC) rejected this view.
- There are a number of code clauses relating to cost aspects of metering and data services. NEMMCO has obtained legal advice that these matters cannot be dealt with in the Metrology Procedure (although the AEMC has covered at least one of these matters in the Rules).

¹ We understand that the AAR national framework proposals recommend that these matters be covered in the envisaged Distributor-Customer Connection Agreements. However if the Commission envisages providing maximum support to a national framework then including these matters in a separate document during the review or in a clearly defined part of the ECMC would assist in progressing this approach.

Given the above, there is a need to redraft the ECMC to remove the matters being incorporated in the Metrology Procedure, but to retain provisions addressing the matters set out above. In this regard, it is noted that:

- NEMMCO has provided drafting support to the Commission (and other Regulators) in relation to the jurisdictional code changes envisaged; and
- the new Rules and National Metrology Procedure are to be effective from 30 June 2008.

In light of these considerations, SP AusNet envisages that with the assistance of the advice provided by NEMMCO through REMNOC, the Commission has processes in place to undertake the necessary drafting so as to avoid any overlap of metrology obligations in national and Jurisdictional instruments.

b *Un-metered supplies*

The National Metrology Procedure (and its predecessor Jurisdictional Metrology Procedures) have always provided detailed metrology arrangements for 2nd tier UMS (in Victoria - Public Lighting). In its coverage of 1st tier UMS, the ECMC has always required that the same metrology as that specified in the Metrology Procedure be used. However, whilst the energy consumption that is calculated and used as the basis of UMS billing relationships between the Distributor and the Retailer, and the Retailer and the customer, has always followed the same fundamental energy calculation approach as the Metrology Procedure, the specific details including accuracy requirements are different.

This situation was recognised by the Commission early in the FRC market in the UMS “Open Letter”, but the ECMC UMS metrology has never been updated to reflect the current non Metrology Procedure compliant energy calculation and billing approach. SP AusNet consider that the ECMC should be revised in the review to grandfather current 1st tier UMS metrology arrangements.

c *Meter reading and No Access*

There is no clear statements re the relevant obligations on the Retailer and the Distributor to obtain meter readings when a customer has denied access. The benchmark requirement on the Distributor has always been to notify the Retailer of the situation for retailer followup with their customer. In one of the outcomes of the Commission’s End-to End Review of 2005/06, the Commission gave some formal recognition of this approach by proposing to impose obligations on the Retailer re this customer contact. The proposed changes to the ECMC however did not proceed.

Although routine manual metering reading will ultimately be superseded by the rollout of AMI meters, access to premises for communications equipment service could become a major reason for site access, particularly if meter end communications equipment proves to be prone to failure.

Hence the process and relative obligations for site access should be made clearer.²

Electricity Customer Transfer Code (ECTC)

a Code generally superseded

This document was established before the CATS Procedures were finalised, but now most of the content is reproduced in the national CATS Procedures. The small number of aspects not specifically covered in the CATS Procedures (eg statement re ability of transfers to be done on estimates) would appear to not justify continuation of the ECTC. One option would be to transfer these aspects to the CATS Procedure, if necessary as a Jurisdictional Table of Difference.

b Transfers on estimates

It is recognised that where a customer moves out without notice and therefore without a final read, and another customer with a different Retailer moves in, the final read and the transfer read must be estimated. This exception to the “no transfers on estimates” rules in the ECTC is not recognised.

Gas Distribution Code

a meter field life extension

Whilst this Code defines a meter in-service compliance testing regime based on long established industry approach, an Australian Standard has now been established and is now recognised as the preferred default in-service compliance testing approach. We understand the Commission is aware of this development.

b UAFG process dates

Clause 2.4(b) is vague re the specific obligation on the Distributor and also establishes a timeframe which is not achievable relative to other steps in the UAFG process.

Electricity License

The License (Clause 11.1) recognises that a Distributor cannot be expected to prepare and provide an offer to a customer/retailer for connection within 20 business days until the Distributor has all the information required.

However for a small number of complicated installations the finalisation of this information can involve a number of internal and external iterations which can consume significantly more than 20 days. This process is the only way that the best outcome for the customer and the Distributor can be arrived at.

The current wording fails to recognise this and hence in these instances can lead to customer (and Commission) expectations which cannot realistically be fulfilled.

² Some similar matters will also arise in the consideration of access for mass meter exchange as part of the possible regulatory instrument changes for AMI rollout.

Retailer Code

Although the Customer bill is not directly a Distributor matter, there are two aspects of the customer bill details specified in the Retail Code which have Distributor impacts:

- As identified in the PO workshops, and reflected in the Operating Model under development, there is need for further consideration of customer bill arrangements for mass interval meter data as these will impact on data delivery requirements for AMI meters.
- Currently the Distributor is NOT identified against the Fault Number on the Customer Bill. This is causing issues because a number of customers ring this number expecting to get advice/input from their Retailer. The answering of the call by the Distributor's fault centre frustrates the customer and wastes fault centre resources.

Electricity Distribution Code

***a* Asset Management overlaps**

Some aspects of the requirements for asset management as defined in Section 3.1 are duplicated in the Electricity Safety Act and subordinate Regulations³.

***b* Quality of Supply**

Section 4 of the Code documents target voltage levels (and other supply quality measures). However, in mandating these it fails to address the practical and financial issues of achieving these measures in all situations. As areas of the network grow and load patterns change maintaining these targets in all areas, under all conditions, becomes extremely difficult. "Literal compliance" is virtually not possible⁴.

Current experience where the specified levels are difficult to achieve has shown that performance outside these levels is not material to some customers/customer segments. The limitations in achieving these levels have been recognised by the Commission in its consideration of the EDPR spending in the supply quality area.

***c* Voltage levels and variations**

- The Electricity Supply (Network Assets) Regulations specify recommended standard nominal voltage levels. The Code (Clause 4.2.1) states these apply unless "these regulations do not apply to the Distributor". We are unclear why these two sources of voltage levels are required as this can cause confusion.

³ These type of overlaps between the energy regulators requirements and those of the "technical" regulator are likely to cause larger issues when energy regulation is under national instruments and the technical regulation remains at the Jurisdictional level.

⁴ The identification of customers with supply quality outside the Code requirements will be significantly more visible when AMI meters are in place as these meters will "report" voltage issues.

- The table specifying Voltage Variations (Clause 4.4.4 Table 1) allows relaxation of steady state voltage variations for “Rural Areas”. The definition of “rural area” in this context appears to be inconsistent with the “rural feeder” concept used as the basis of supply reliability targets.
- Table 1 does not make it clear that the values contained therein are limitations at customer connections points NOT absolute limits. SP AusNet understand that a Distributor may have voltages at zone substations above the values specified, if this is the basis of the voltage profiles on feeders from the substation, but not impose these voltages on customers. Clarifying this distinction would aid interpretation of the voltage variation measurement requirements at zone substations (Clause 4.2.6).

d *Reliability of Supply - Distributor Targets*

SP AusNet consider that a review of the need for advertising of annual targets as required by Clause 5.1 should be undertaken to test its effectiveness and worth given the other approaches in place:

- Annual publication of the comparative performance that contains comprehensive information to a customer feeder level.
- Web based reporting by DBs
- Proactive media coverage by DBs in localised areas of activities to improve and/or explain supply reliability issues to customers.

e *Emergency Response Plan overlaps*

The requirements for emergency response plans in Section 8 are duplicated in the Electricity Safety Act and subordinate Regulations. Refer footnote 3

2 Changes associated with AMI

SP AusNet understands that the Commission has had a discussion with the Industry AMI Program Office (AMI PO) regarding the status of the AMI PO’s consideration and finalisation of the business requirements for Victorian AMI rollout and AMI related process change. The business requirements analysis underway by the AMI PO includes consideration of the means by which the relevant obligations will be applied and enforced. A key consideration in this context is the provision of clarity and regulatory certainty. It is understood that some obligations will be applied through Procedures made under the Rules, while some will need to be given force through Jurisdictional instrument changes, particularly in the shorter term until the national non-economic regulatory regime and instruments are in place.

The Commission has now recognised that the timeline for finalising these Victorian focussed business requirements extends beyond the July / August 2008 date that was initially suggested as the end date for the review.

The AMI PO and industry have also suggested that the finalisation of Victorian business requirements may be integrated or at least co-ordinated with the national business requirements definition (which will have to occur to allow the MCE’s national smart meter initiative to progress to implementation). The precise means of achieving effective co-ordination is yet to be considered and resolved. Hence, there is potential for even more delays in deciding the details of the enforceable

instrument changes. Whilst SP AusNet is supportive of the Victorian initiative to install AMI meters as soon as possible, it must be recognised that Victoria cannot proceed without taking into account the national program and its impacts.

In this context, SP AusNet notes that your email of 19 March suggests that the Commission may need to consult separately on some issues that may need to be addressed in a more timely manner. Whilst SP AusNet acknowledges the time constraints on the Commission, we consider that the Commission's approach must take into account, and respond to the possibility of subsequent changes at the national level. It will therefore be important for the Commission to adopt an approach that safeguards against the possibility of inconsistency emerging in aspects of the framework as work proceeds at the Jurisdictional and national levels.

3 Upcoming potential regulatory instrument issues

It is now understood that the assumption of responsibilities by the AER for non-economic distribution and retail regulation will not occur until late 2009. Hence there will be a further relatively long period before the national instruments to support this national regime are in place. Through this period the Jurisdictional Instruments will continue to be the sole source of obligations except for those which are already captured in the Rules and in NEMMCO managed Procedures made under the Rules.

However there are a number of national initiatives that are presently underway, or in NEMMCO and industry workplans, which will lead to new or revised processes and requirements within the period before the national AER and the associated AEMC drafted and managed documents are in place. These may require new or revised obligations which cannot be imposed by Procedures made under the Rules. Hence until the national regulatory instruments changes are in place these obligations can only be captured in Jurisdictional instruments.

Therefore over this relatively long period the Commission is likely to be involved in the consideration of requests for Jurisdictional instrument change to ensure that new obligations are captured or that "gaps" or "overlaps" do not occur between the Jurisdictional instruments and developing NEMMCO managed Rules Procedures and support documents.

In this context, it is worth noting the national initiatives that are presently underway or in workplans, and which could require the Commission's involvement are:

- **Retailer of Last Resort (ROLR):** A national Guideline governing the ROLR arrangements is under development by NEMMCO and industry for electricity. There has been some debate regarding the status of ROLR obligations, with some stakeholders expressing the view that these should be set out in a Procedure with associated Rules obligations. Obligations of Participants in Victoria may need to be established under Jurisdictional instrument(s) if the ROLR roles requirements remain in a non-mandatory NEMMCO Guideline. Deliberations on these matters are expected to be resolved some time between mid 2008 and early 2009.
- **Embedded networks:** A national Guideline is under development by NEMMCO and industry. There are a number of possible obligations relating to

development of embedded networks (for instance, meter provision and switching obligations) which may be required to be set out in Jurisdictional instruments as these are outside the scope of what can be established by NEMMCO thru Rules procedures. It is expected that the national Guideline will be settled in mid to late 2008.

- **Un-metered Supplies (UMS):** The industry and NEMMCO have identified a number of issues and uncertainties under the current UMS regime and are to establish a “project” to clarify and resolve these matters. Again, it may be necessary for some obligations relating to UMS to be set out in Jurisdictional instruments following the recommendation by NEMMCO and industry of a national consistent approach. The joint industry / NEMMCO project addressing these matters is expected to conclude in late 2008.
- **Victorian UoSA:** There is a strong industry desire to move the remaining transactions/processes in the Victorian B2B Scheme (Schedule 2) to the national arena by requesting the IEC to “take” these as national B2B Procedures under the Rules. This is likely to take place in the next 6 months. The concept of a B2B Scheme will then need to be removed from the Distribution Code and the UoSA.
- **Transfers and Cooling Off:** The Commission’s End-to End Review Project of 2005/06 made a recommendation that the current requirement not to submit a market transfer before end of the cooling off period was a major cause of process inefficiency and leads to timing and standing data issues which ultimately impact on customers. The Commission (under some pressure from customer representatives) suggested that it was not appropriate at the time to make any change. The recent industry/NEMMCO process review work has again identified this as a major issue and a submission to the Commission regarding a change is likely in the next 12 months.