

12 February 2015

Mr John Pierce
Chairman
Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

Dear Mr Pierce,

Consultation Paper – Implementation advice on the shared market protocol (Reference EMO0029)

The NSW Distribution Network Service Providers, Ausgrid, Endeavour Energy and Essential Energy (the NSW DNSPs) welcome the opportunity to provide comments on the proposed implementation of a shared market protocol (SMP) that will allow parties to communicate in relation to the services offered by smart meters. We understand the purpose of the consultation paper is to develop a draft rule change request for consideration by the COAG Energy Council and that the final advice (and draft rule) will be provided at the same time as the final rule determination on the expanding competition in metering and related services rule change request (metering rule change).

The NSW DNSPs have been actively involved in the consultations on the framework for open access and communication standards review (which recommended the adoption of a SMP) as well as the current metering rule change. In particular, we have sought to ensure that the changes out of these two processes results in an outcome that supports the principles of customer choice and enablement. As such, our position is that this outcome requires effective regulatory and market arrangements that support the ability for networks to continue to deliver a reliable, safe and secure network through the achievement of the National Electricity Objective (NEO).

We note that the consultation paper is seeking comment on the governance and roles and responsibilities of parties using the SMP that should be included in the National Electricity Rules (NER) as part of the draft rule change request. Our stated position in previous submissions is that light handed regulation is appropriate for basic meter services¹ (as distinct from new smart meter functionality) and it is likely to better contribute to the achievement of the NEO than if these services were unregulated.

This is because the NEO establishes objectives that include efficient investment in the networks and operations, including security and reliability of supply. Accordingly, we submit that primary and secondary smart meter functionality, which includes functionality that would otherwise be utilised for efficient network operation and greater security for customers (including life support customers), would adversely impact on these objectives if left unregulated and subject to commercial negotiation only.

Under this arrangement there is the potential for DNSPs to become “price takers” if they were to retain existing network services (including load control where integrated into an existing meter), when a network meter is churned.

¹ We note that in AEMO's Minimum Functionality of Advanced Meters – Advice to COAG Energy Council November 2014 it classifies services previously recommended by the NSW DNSPs as basic meter services, as a mixture of primary and secondary services and advanced smart meter functionality as value-added services.

This is because most network services (such as direct load control) which are currently provided through existing metering installations under the proposed AEMC arrangements would only be activated in an advanced metering system following successful negotiation of commercial terms, however, the DNSP will have no opportunity to select an alternate provider of these services placing it in a relatively weak negotiating position.

The NSW DNSPs acknowledge that it is possible for DNSPs to have some counter-veiling market power if they are able to by-pass the meter to obtain access to the network service (which the AEMC has indicated will be a feature of the metering rule change). However, we note that this is only likely to be a credible option where the DNSP is seeking to retain existing network services, and there is the practical ability for the DNSP to retain the asset rather than paying the new provider for the service.

Therefore, in order to provide DNSPs with any counter-veiling market power to negotiate terms of access to network services with what is in effective a monopoly provider, the AEMC will need to ensure that through its legal drafting, DNSPs' assets cannot be removed without either the DNSP's consent or first negotiating access arrangements with the DNSP. In other words, the AEMC will need to ensure that its drafting matches this stated policy intent.

In relation to the case for light handed regulation, it is our understanding from the AEMC that the option for small consumers to engage their own Metering Coordinator (MC) is not included in the core arrangements of the metering rule change at this time. The AEMC has previously stated in its *Framework for open access and communications review final report*² that:

"If the competition in metering rule change request determines, for instance, that only retailers can appoint the MC, or determines not to implement the separate MC role, then the competitive discipline provided by a consumer's ability to choose would be removed. In this case, we consider that a form of light-handed regulation to govern access negotiations for all parties should be considered as part of the competition in metering rule change request. This might take the form of:

- a set of high level negotiation principles in the NER that guide the commercial negotiations for access and access charges to smart meter functionality; and
- an appropriate dispute resolution process, such as that in Chapter 6 or Chapter 8 of the NER, be applied to resolve disputes."

As a result, the NSW DNSPs consider that there is a need for light handed regulation of basic smart meter functionality due to:

- the potential for market power imbalances to develop under the proposed meter contestability framework;
- uncertainty regarding DNSPs ability to negotiate access on competitive terms; and
- the need for DNSPs to retain existing network functions and enforce this approach.

This may be as minimal as requiring the MC to negotiate terms and conditions of access "in good faith" and on "fair and reasonable terms." The NSW DNSPs note that provisions such as this currently exist under clause 7.2.3 (e) –(g) of the NER with respect to the terms and conditions upon which a Local Network Service Provider (LNSP) agrees to act as the Responsible Person with respect to Type 5-7 meters.

² AEMC 2014, Framework for open access and common communication standards, Report, 31 March 2014, Sydney, p 41.

Given the AEMC's view that AER enforcement of compliance with negotiating principles is likely to be undesirable in the context of delivering access arrangements³, the NSW DNSPs suggest that Chapter 8 of the NER could offer a more appropriate dispute resolution for disputes that arise between the MC and any authorised party seeking access to smart meter functions.

We also support that the parties that will have access to the SMP should be required under the NER to be accredited by the Australian Energy Market Operator (AEMO) to protect against risks of unauthorised access and breaches of customer privacy. In addition, network services and network data need to be accommodated in any revised accreditation process to mitigate against risks that might impact networks if metering commands such as load control signals are not acted upon. We also suggest that the NER should also state that the MC must also comply with the relevant jurisdictional requirements. For example, in NSW this would mean adhering to the NSW Service and Installation Rules, being accredited as an Accredited Service Provider (ASP) and with each DNSP, as required by the NSW Government's ASP scheme.

In terms of governance of the SMP, The NSW DNSPs favour a participant led model with a re-constituted Information Exchange Committee (IEC) with new membership and governance arrangements enshrined in the NER. In particular, the objective, powers of the re-constituted IEC and basis for selection of the committee should be clearly set out in the NER.

We submit that the makeup of the committee should be a reflection of the parties that will interact with the SMP (including Retailers, DNSPs, MCs, consumers and AEMO). The membership and voting arrangements need to be clearly structured so that no one industry participant can dominate the decision making; and all relevant parties should have an opportunity to agree the voting arrangements in advance of implementation

The strength of this approach is that all relevant parties are part of the decision making process. Unlike the alternative approach of AEMO being given responsibility for changes to the SMP no single organisation, including AEMO, can deliberately or inadvertently enforce their interests above those of all users of the SMP.

By their very involvement in the provision and use of these services, a governance structure that is based on the providers and users of services covered by the SMP will identify and implement the needed changes to the protocol quicker than alternatives being considered by the AEMC. This will better facilitate competition and innovation in demand side provision and participation, two of the principles that the AEMC have identified.

The presence of consumer representatives in the re-constituted IEC will bring consumer protection and consumer concerns into the heart of the decision making process in a way that could not be achieved by an approach where AEMO was responsible for the SMP. As a result, the participant led approach also better achieves the principle of consumer protection identified by the AEMC.

An approach where the industry leads the way on industry processes but no single group or organisation within the industry can determine changes would also seem to be a less interventionist and more proportionate form of regulation that still achieves the objectives the AEMC seeks than alternatives the AEMC included in its consultation paper.

³ AEMC 2014, Framework for open access and common communication standards, Supplementary paper – regulatory framework, 24 February 2014, Sydney, p 17.

It will also be important that the arrangements that determine the membership of the committee cannot be altered without careful consideration being given to related aspects of the governance arrangements. This could be promoted by inclusion of these arrangements in the NER where a change would need to achieve the NEO.

The NSW DNSPs have identified some approaches to selecting members for the re-constituted IEC in a way that achieves the principles the AEMC has outlined for this review. However, we have not had time to sufficiently explore these approaches with other members of the industry. We would prefer to engage with Retailers, consumer groups and MCs through the Energy Networks Association (ENA) in order to test our ideas with these groups before presenting them to the AEMC for its consideration. We seek the AEMC's guidance on whether it is open to the ENA/NSW DNSPs undertaking this engagement and presenting more detail for its consideration at a subsequent date.

In terms of the SMP itself, its purpose is to setup a system that allows parties to communicate with each other regarding services that will be offered by advanced metering infrastructure.

The main requirements for DNSPs are that the network business has the ability to send and receive data from multiple MCs, Retailers and other market participants; that data is transferred according to agreed processes and timeframes and; control of some smart meter functionality continues to be made available to the DNSPs via consistent systems and processes, or via multiple interfaces to MCs, Retailers and other market participants. This will include the prioritisation for services within the SMP, including load control signals when operated by both the network and the MC.

Alongside the need to retain network functions is the ability to ensure that agreed processes are in place to allow MCs to receive instructions to operate these functions. For example all MCs would need to be able to receive load-limiting instructions to avoid the possibility of supply interruptions and damage to network equipment on that segment of the network. This would include interfaces and agreed message structures and business rules for the prioritisation and timing of instructions during emergency situations.

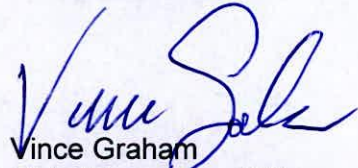
We also submit that there is a need for the current B2B e-hub to be maintained beyond the implementation of the SMP. This is to accommodate current market participants that have no plans to operate in the smart metering environment, but will continue providing basic type 5 or 6 metering services (including meter reads and sample testing). Accordingly, it would make sense to allow these participants to continue to operate in the current B2B e-hub. The solution would be for AEMO to develop a translation from the B2B e-hub to the SMP interface to service these market participants. It would be unfair to place additional costs on current market participants who may not offer the new services in the SMP.

The NSW DNSPs understand that the next step in the consultation process on the SMP is a draft Rule for consultation on 23 April 2015 (close of submissions on 21 May 2015), with the final AEMC advice on the SMP provided to the COAG Energy Council on 2 July 2015. Given the interdependencies with the metering rule change (and the fact that the actual SMP technical architecture will not be released by AEMO until February) we submit that industry should be provided with sufficient time to review the legal drafting of the SMP rule change in light of the aforementioned interdependencies. Accordingly, the AEMC should allow at least six weeks of consultation on the draft SMP Rule.

In addition, as noted by the ENA in its submission to the AEMC on its metering rule change implementation plan, some market participants will need up to 18 months for process changes and systems implementation following the finalisation of the SMP and associated procedures. This should be reflected in both the SMP and metering rule changes.

If you have any further queries or would like to arrange a meeting to discuss our submission please contact Mr Murray Chandler, Group Manager Network Technology & Innovation at Networks NSW on (02) 9269 7210 or murray.chandler@ausgrid.com.au

Yours sincerely,



Vince Graham
Chief Executive Officer
Ausgrid, Endeavour and Essential Energy

