

6 August 2009

Mr Harry Koller
Secretariat
National Stakeholder Steering Committee

Dear Mr Koller

NSSC - Policy Issues Consultation

The ERAA welcomes this opportunity to make an initial response to the Secretariat's Policy Issues Consultation paper. The views expressed in this submission are endorsed by ERAA members and we would welcome further discussion on these with the Secretariat as appropriate.

ERAA believes there is a lack of clarity in section 4.2 in defining the key policy issue that NSSC is seeking guidance from the MCE. ERAA suggests an alternative approach outlined in Appendix A.

In this submission, the ERAA provides feedback on the matters described at the top of page 8 of the issues paper under section 4.2. We also make some comments below on the over-arching policy question that influences many of the issues that derive from it; namely, what happens following the expiry of an exclusive mandate in a jurisdiction?

General comments

The ERAA recognises the difficulty in achieving consensus among stakeholder groups on some of the policy issues, however; retailers generally support the development of competitive outcomes in the area of Smart Metering Infrastructure (SMI) as they do in other parts of the energy supply chain.

This matter has prompted significant debate over the last few years. The ERAA believes that the factual and counterfactual arguments being put forward to assess the merits of retaining exclusivity following a mandated roll out of SMI, obscures the long term goal that the energy supply industry should be working towards; the enhancement of competitive outcomes wherever possible. .

The ERAA would contend therefore that the policy focus should be on ensuring that technological solutions and the regulatory architecture support the goal of competitive outcomes in the future. The presumption that SMI services are by default monopolistic in nature is not borne out in reality, nor is it the long term least cost solution. While an accelerated mandated roll out might be best achieved by assigning exclusivity to one party, this situation need not continue once a roll out is complete.

In a mandated situation the provision of SMI and services by a network operator should promote the economically efficient investment in, and operation and use of SMI and associated services and should not limit competition in retail markets.

Comments on issues identified in the paper

In this initial submission, the ERAA responds to the matters raised on page 8 of the issues paper below.

1. What SMIS might retailers wish to enable?

There are a range of services that retailers may wish to enable or access once SMI is deployed. For example:

- Access to the HAN or HAN management;
- Retailing and enabling IHD to a customer and customer message management; and
- Load control of certain appliances via communication links installed in the meter (for example, ZigBee).

Retailer's will develop new products and innovate based on their understanding of the capability of the SMI and their ability to cost effectively negotiate non-metrology services with distribution businesses or other third party service providers, provided that the SMI and associated services meet their requirements in terms of cost, access, control and performance. The ERAA would point out that it is not possible for retailers (or any market participant for that matter) to identify all of the potential services that could be developed through utilisation of SMI.

2. Infrastructure provision and customer service scenarios

The ERAA believes that policy should support flexibility to the maximum possible extent. Those scenarios described on page 7 of the issues paper in relation to switching describe potential outcomes that might arise following a discretionary or mandatory deployment of SMI. The table below summarises the ERAA's views on these scenarios and other variations that may potentially emerge. ERAA notes that these are preliminary views. Further consultation with members is required to provide a more complete framework for dealing with all non-metrology services going forward.

Issues paper scenario	Comments on issues paper scenario	Potential variations or alternatives
A	If access to the SMI is securely possible, the merits of not providing access to other industry participants are not apparent. This will limit the benefits of a mandated roll out.	Scenarios B and C are preferable. B2B processes for the SMMS, negotiated services using the Smart Meter Management System (SMMS) or the use of open protocols to local communication devices (such as ZigBee) would allow retailer services to be offered.
B	Residual control over load management services may be legitimately required by distributors (for example, to address safety requirements), however the basis for and nature of any residual control would need to be demonstrated and transparently managed, and be the subject of industry consultation.	The scope of switching services to distributors under a mandated roll out where access through the SMMS or at a local point is provided to assist with network management and planning should be agreed by industry inclusive of a framework outlining agreed scenarios under which such control scenarios would be available to a distributor and/or a retailer..
C	As above.	As above.

D	Where the distributor has deployed SMI on a discretionary basis, the distributor would be responsible for switching.	Under this scenario, there would be nothing limiting a distributor offering switching functionality to retailers. The ERAA presumes such a scenario would be unregulated from a cost-recovery perspective, since the deployment is discretionary and not part of any mandate. In this commercial setting therefore, the provision of additional services will assist the distributor to fund the discretionary roll out. However, there are questions on how the national smart meter framework would apply and how responsibility for the provision of customer related service functions be defined.
E	The retailer would be responsible for switching unless a dedicated circuit was required to maintain load control of hot water (for example).	This scenario exists at present. Where a distributor sought switching services (e.g. for controlled loads) such services (or other services for example outage detection) could be enabled by seeking such services from the retailer or its service provider. It is also possible that the service provider of SMI is the distributor itself and any additional services sought could be negotiated with the retailer or retailers responsible in the market for SMI in its network area.

3. Current regulatory treatment

There are examples where small customers at present receive additional SMI related functions controlled by market participants, which are in excess of basic meter services. The ERAA considers that additional services offered to customers in the NEM should be made on the basis of commercial agreement between the service provider (the distributor and/or retailer) and the customers themselves. Customers would consent to the nature and cost of any incremental service and are afforded the protection of existing retail and distribution codes and fair trading provisions.

The ERAA does not believe additional regulation of the services enabled by SMI is necessary (the chief exception being safety regulation in the case of remote de and re energisation).

4. Merits of proposed responsibilities

Responsibilities during a mandated and exclusive roll out

Under a mandated regional or jurisdictional roll out of SMI where the distributor is responsible for the deployment of infrastructure, data capture services, quality of supply measurement and (generally) meter maintenance functions would be the responsibility of the distributor during any period of exclusivity. There is potential for energy measurement (non-market data??) to be undertaken by a third party during a mandated roll out period also.

However, ERAA is of the view that there is merit for the provision of non-metrology services related to customer service functions to remain with the retailers. The distributor

would continue to provide the mandated infrastructure to the retailers. ERAA recognises that there are some non-metrology functions that are also critical to distributor in their network and safety management. The joint use of the SMI infrastructure for such functions would need to be further defined, as proposed in Appendix A. and . This arrangement would enable a contestable provision of non-metrology services that could be offered by retailers through:

- A distributor under B2B services;
- A distributor via a negotiated agreement; or
- Third parties accessing local communication functionality (ZigBee).

Responsibilities following the expiry of a mandated period

Following the end of a roll out and any period of exclusivity, any accredited party could be responsible for SMIS delivery. In this environment, distributors or other service providers could deliver SMIS through the existing SMMS, their own SMMS or a number of alternatives.

The switch to this open contestability would be greatly enhanced, and more cost effective, if the proposed contestability for non-metrology services during the mandated period are already embedded in the market and business systems and processes and regulatory provisions.

As discussed in the next section, ERAA is firmly of the view that the national regulatory framework should have full contestability as a default position with transitional provisions in the Rules for periods of exclusive infrastructure rollout and data provisions where there is a jurisdictional mandate.

5. Arguments for and against proposed responsibilities

As discussed at the beginning of this submission, regardless of the costs and benefits of exclusive or contestable SMI provision or whether a mandated roll out is specified or otherwise, the policy objective in relation to SMI should be to maximise the potential for competitive outcomes to arise in the delivery of services and products enabled by SMI.

In jurisdictions where no mandate is in place (nor intended), questions around responsibilities should not arise, since all SMI is provided on a commercial basis and customers are free to select service providers that meet their needs. However, in the interest of preserving a nationally consistent approach to the provision of SMI, enforcement of a subset of national SMI functions, performance and processes should be considered for non-mandated rollout of SMI.

Where a mandate (and exclusivity granted to a single set of market participants) is in place, at the conclusion of the roll out, a return to competitive SMI provision and associated services should be firmly committed to. This will influence those assigned with exclusive responsibility for the initial deployment to implement SMI that will:

- Be flexible enough to compete with new service providers when exclusivity concludes;
- Maintain costs at a level that will withstand competitive pressure in the future;
- Encourage the development of service levels sought by customers of SMI (including end-use customers through retailers); and
- Create a commercial environment where incremental or additional services desired by retailers can be negotiated and implemented in advance of the conclusion of the mandate period.

6. *Legal consequences and liability*

Responsibility for data capture and load management are governed by existing regulation (the NER, Metrology Procedures, Distribution Code etc.) in the case of a mandated roll out.

Non-metrology services, to the extent that safety is not compromised, can be governed through commercial agreement between service providers (retailers or distributors) and customers with customer consent to the application of services offered. It is envisaged that oversight of de energisation and re energisation will be managed as required through existing energy safety legislation and the National Energy Consumer Framework (NECF).

Currently, there is no regulatory framework for switching outside of traditional load management functions, yet such technology has been trialled in a number of jurisdictions.

In short, the ERAA does not believe that the liabilities associated with post mandate SMI competition are insurmountable, and obligations on Responsible Persons and their accredited service providers would extend to other market segments and operate as they do today.

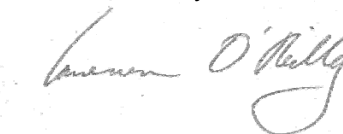
Conclusion

This initial submission in response to the policy issues paper reflects the ERAA's general view that the deployment of SMI should minimise the cost imposition on consumers and maximise service and innovation and competition enabled by this technology. In the case of a mandated roll out undertaken by a single party for a defined geographic area, our view is that such a deployment proceeds with the understanding that exposure to competitive forces in the medium term is likely and desirable. Participants in the market for SMI will through commercial negotiation develop efficient solutions to issues around roles, responsibilities, control and liability of SMI and the services it provides.

The ERAA would welcome further discussion of the views put forward in this response as well as other matters contained in the issues paper.

Please contact me on (02) 9437-6180 to facilitate such discussions.

Yours sincerely



Cameron O'Reilly
Executive Director
Energy Retailers Association of Australia

Appendix A

4.2 Responsibility for smarting meter infrastructure services

Smart Meter Infrastructure Services (SMIS) can be broadly categorised as:

- 1) Energy measurement services such as collection and delivery (functions 1-7, 9, 10, 11);
- 2) Meter maintenance functions (functions 25,26 and 29);
- 3) Customer Service functions comprising of Load management (switching) (functions 8/14,12,13 and 16)
- 4) Quality of supply measurement (data capture)(functions 19 and 20)

Further discussions of this categorisation are in Appendix D.

The key uncertainty in the MCE policy is on the question of how "flexibility" in contestability of smart meter should be accommodated in the national regulatory framework and the drafting and/or revision of the Rules.

It seems clear from the MCE decision in June 2008 that where the provision of smart meter is mandated, the distributor would have the exclusive right to:

- Provide smart meter infrastructure with national minimum functionality ;
- Operate and maintain the infrastructure; and
- Collect and disseminate energy data for market settlement and billing.

However, the MCE policy also implies that the provision of smart meter services (other than data services), as distinct from the infrastructure, may not need to be exclusive.

This MCE policy can be expressed in the following diagram, where mandated service is shown in Box A and Box B relates to non-data related functions.

A: Mandated Services

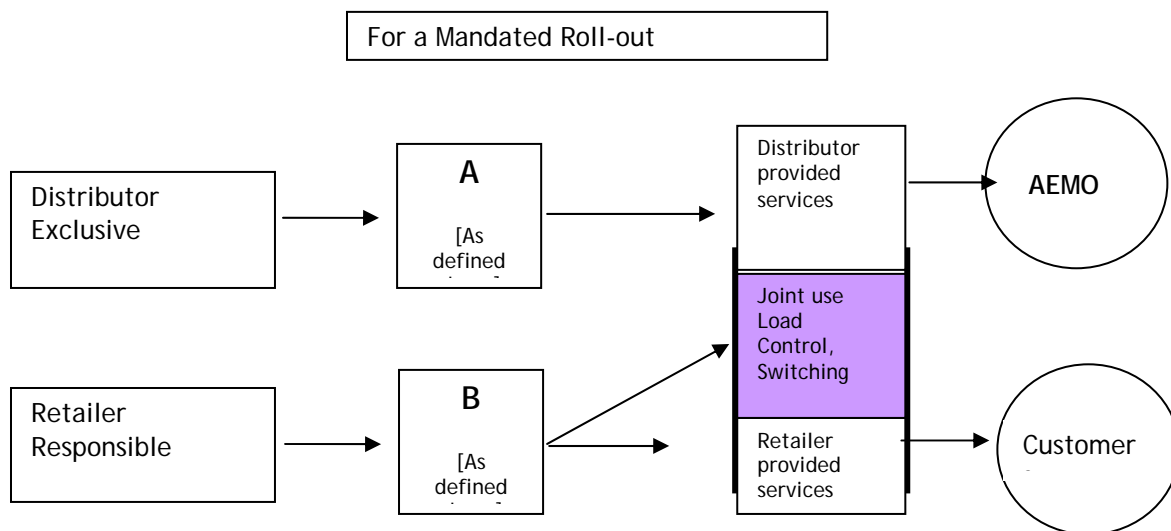
Infrastructure
Meter Data
(functions 1-7, 9, 10, 11, 25,26 and 29)

Functions 1-7, 9, 10, 11

B: Customer Services

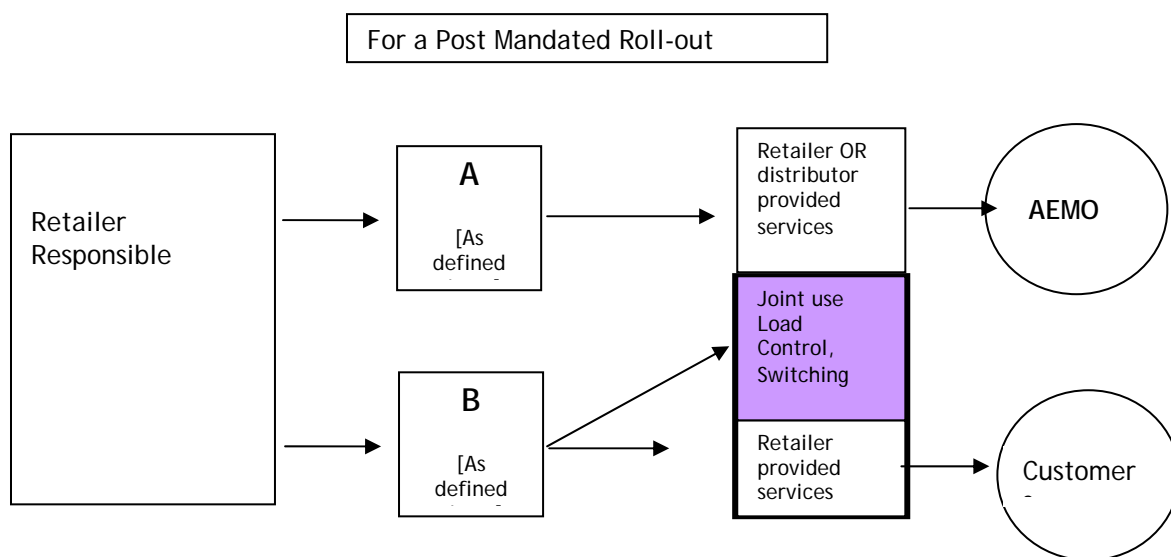
Customer services(8/14,12,13 and 16 etc)Functions
8/14, 12, 13 and 16

This interpretation of SMI provision would meet the intent of “flexibility” for contestability envisaged in the MCE policy in that the regulation would recognise the exclusive role of the distributor to rollout smart meters and provide meter data services and the infrastructure; and enable the retailers to provide services that utilises the DB’s infrastructure to deliver customer related smart meter functions. As the technology evolves, the retailers may choose to provide some of the infrastructure themselves or through an agent. The following diagram demonstrates this principle.



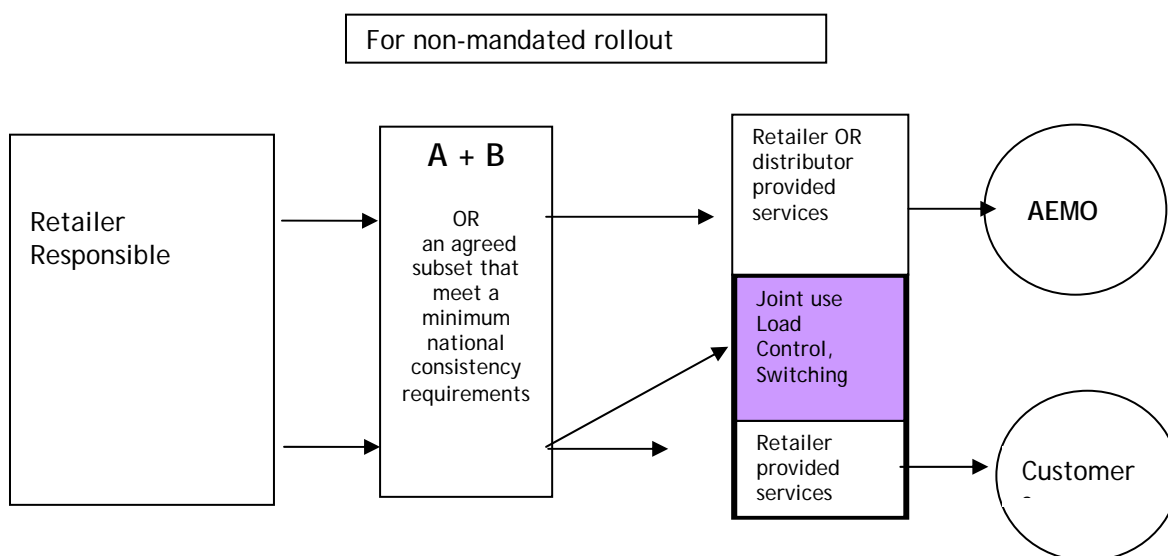
This approach does raise an issue that can be resolved through the NSSC working groups. That is, some of the customer related services provided by the retailers might be required by the distributor for network asset management and operation purpose, which in some cases, could impact the safety and emergency management. The diagram above shows that some form of industry agreed protocol and regulatory provisions would be required to define the joint use of such customer SMI functions.

The MCE policy on “flexibility” for contestability would also be met, as the approach would allow a cost and time efficient transition to a full contestability post mandate of the smart meter rollout. In this case, the provision of both infrastructure and data would also be subject to contestability where the service provider would have the option of using distributor infrastructure or provide its own, as shown in the following diagram.



As a consequence of switching to a full contestable environment, issues relating to potential stranded assets would require consideration as part of the drafting of the national regulatory framework for SMI.

Currently, the MCE policy of mandate will only apply where benefits outweigh the cost. The following diagram demonstrates the application of a consistent national regulatory framework to those jurisdictions that does not mandate a rollout.



From the discussion above, the “flexibility” for contestability, as foreshadowed in the MCE policy paper, could best be provided with in the regulatory framework and Rules that:

- Assumes a “Non-Mandate” environment with retailer as the responsible person for the provision of smart meters, where it is commercially viable;
- Derogates the distributor to be the responsible person for the provision of “Box A” functions, where mandate is applied; and
- Provides a nationally consistent rules, procedure and process for the rollout of smart meters, whether it is mandated or non-mandated.

NSSC seeks guidance from MCE if the proposed approach is consistent with the policy requirements for “flexibility” for contestability as foreshadowed in its June 2008 decision.