



Australian Energy Market Commission

DRAFT RULE DETERMINATION

NATIONAL ELECTRICITY AMENDMENT (REDUCING CUSTOMERS' SWITCHING TIMES) RULE

NATIONAL ENERGY RETAIL AMENDMENT (REDUCING CUSTOMERS' SWITCHING TIMES) RULE

PROPONENT

Australian Energy Market Operator

26 SEPTEMBER 2019

RULE

INQUIRIES

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ABOUT THE AEMC

The AEMC reports to the Council of Australian Governments (COAG) through the COAG Energy Council. We have two functions. We make and amend the national electricity, gas and energy retail rules and conduct independent reviews for the COAG Energy Council.

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SUMMARY

1 The Australian Energy Market Operator (AEMO) submitted a rule change request to the Australian Energy Market Commission (AEMC) on 24 May 2019. The rule change request seeks minor clarifications to the national electricity rules (NER) and the national energy retail rules (NERR) to enable AEMO to implement changes to its processes which facilitate customers changing retailers.

Context

2 On 3 December 2018, the AEMC and AEMO provided joint advice to the Council of Australian Governments (COAG) Energy Council in response to a request from the Senior Council of Officials. It addressed improvements to the customer transfer process in the NEM, taking into account the related recommendations 8 and 9 of the Australian Competition and Consumer Commission (ACCC) Retail Electricity Pricing Inquiry Final Report (REPI).

3 The current customer transfer process is outdated. It results in customers having to wait significant periods to access products and services they want and provides opportunities for losing retailers to conduct save activity. The ability of retailers to rely on a save strategy potentially inhibits competitive outcomes, as rather than proactively retaining customers, retailers may instead offer loyal customers nothing until they look to transfer.

4 AEMO's high level design proposes to create market processes that will provide for customers to transfer electricity retailers within two days (after the end of the cooling-off period) irrespective of their metering type — being an accumulation or advanced meter. This process will cease retail save activity and allow customers faster access to prices and products that they want.

5 In developing the advice AEMO and the AEMC highlighted that the changes are largely within AEMO's control through procedure changes. The only changes required to the rules are clarifications and to make sure that consumer protections are adequate for a circumstance where more customers may change retailers based on self-reads and estimated reads. Given the nature of the rule change it is possible to progress them simultaneously.

Draft determination and rule

6 The draft determination and draft rule are consistent with AEMO's rule change request. These changes facilitate the implementation of AEMO's high level design by removing elements of the Rules which prevent a faster transfer process and clarifying existing provisions. These changes are in the long term interests of consumers because they simplify the Rules and in doing so increases transparency and certainty within the customer transfer process.

7 The Commission's draft rule determination is to make a more preferable draft rule (the draft rule) with amendments to that proposed by AEMO. While the draft determination and rule achieve AEMO's intent, the Commission has, in some instances, varied the mechanism by which the intent was achieved.

8 The draft rule:

- Amends clause 7.8.9(e) of the NER to move the provisions regarding installation of replacement metering installation from the *Market Settlement and Transfer Solution (MSATS) Procedures* to the *Meter Churn Procedures*, where it more appropriately fits.
- Delete clause 7.8.9(e)(1) of the NER to facilitate AEMO's customer transfer high level design and facilitate a two-day customers transfer process, and further, to remove any ambiguity between clauses 7.8.9(e)(1) and clause 7.6.2 regarding metering coordinator appointments by the financially responsible market participant.
- Amends Clause 4.2(a)(iv) of the model terms and conditions for standard retail contracts to clarify when a contract ends where a customer transfers to the same retailer's market retail contract, or to another retailer's standard or market retail contract.

9 The Commission has not made changes in regard to the following issues raised by AEMO:

- Clause 21(1) and (3A) of NERR regarding meter read types and use of metering data.
- Clause 21(4), 30, 31 of NERR regarding the overcharging and undercharging processes.
- Clause 4.2(b) of the model terms and conditions for standard retail contracts to facilitate transfers on estimate meter reads.
- prohibiting retailers from containing provisions in their market retail contracts that only allowed final bills, and therefore transfers, on actual meter reads. A change to the rules is not required because such provisions would be inconsistent with AEMO's MSATS procedures under the proposed high level design and therefore the retailer would be unable to comply with those procedures.

10 The Commission concludes that no changes are required to these clauses to facilitate AEMO's implementation of the High Level Design and that the current Rules provide a sufficient level of consumer protection. Instead, where industry has expressed doubt regarding the interpretation of these clauses, the Commission has provided clarifications within this draft determination.

11 The Commission has not adopted AEMO's proposal to remove the ability of retailers to recover any undercharged amount as a result of a customer transfer (Clause 30 of the NERR). The undercharge and overcharge provisions act together provide rights to customers and retailers to recover revenue when a bill was inaccurate. Removing the undercharge provision would increase risks for retailers, especially with the likelihood of a greater number of transfers occurring on the basis of estimated reads.

12 We note that some participants have called for a formal cost benefit analysis of the proposed rule change. The Commission considers that the changes consist of clarifications to existing provisions or enablers to AEMO's proposed high level design. There are therefore zero or minimal costs as a result of this rule change and a formal cost benefit analysis is unnecessary. The Commission notes that implementation of AEMO's procedure changes will occur through its own procedure change consultation process including consideration of the national electricity objective (NEO).

13 Submissions to this draft determination are due by 7 November 2019.

Commission view on AEMO's changes

- 14 The Commission reiterates its support for AEMO's procedure changes from its joint advice to COAG EC. In particular, the Commission supports the move to:
- A much faster process for customers to change retailers. The Commission considers that well-functioning competitive markets allow for customers to change providers promptly. Furthermore, if the time to change retailers remains high, the Commission considers there may be a need to revisit several current features of the retail rules. For example:
 - retailers currently have significant flexibility to change prices under variable price contracts. This may not be sustainable in a market where customers are not able to easily change retailers quickly in response to price rises.
 - retailers currently are only required to notify customers a short time in advance of price changes (or benefit periods expiring). However, this time may need to be significantly extended if customers cannot respond to short notification periods by changing retailer quickly and easily.
 - Remove features of the customer transfer process where the losing retailer is notified in advance of a customer changing retailer. The Commission does not consider this is a feature of a well-functioning market. As a general principle, the market transfer processes should not facilitate retailers conducting save activity. This is consistent with the Commission's recommendations in the 2014 Review of Electricity Customer Switching, and subsequently the ACCC's recommendations in the REPI.
- Roll out of advanced meters and reduced customer switching times**
- 15 Many stakeholders considered that the long-term solution to an efficient customer transfer process is the roll-out of advanced meters. The Commission generally supports this position and continues to encourage the market to roll-out advanced meters as quickly as possible. To this end the Commission has committed to:
- Monitoring advanced meter roll-out. Beginning in the last quarter of 2019 the Commission will consult with industry to identify potential barriers to the roll out of advanced meters and the use of smart meters to deliver the maximum possible benefits to customers. It will also commence gathering quarterly data from industry, AER and AEMO on the status of the roll out.
 - Review into competition in metering arrangements. The Commission committed to commence a review of competitive metering arrangements in December 2020 when it made the Competition in metering rule.
- 16 The Commission also notes that AEMO's high level design is consistent with and supports a better transfer process for customers with advanced meters. The removal of notifications of losing retailers will prevent save activity and the enhanced process for customers which exercise their cooling-off rights facilitates faster transfers for these customers because transfers can occur prior to the cooling-off period ending.

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1 CONTEXT OF AEMO'S RULE CHANGE REQUEST

This section provides the context to Australian Energy Market Operator's (AEMO) rule change request, including:

- existing customer transfer procedures
- the AEMC and AEMO joint advice to Council of Australian Governments (COAG) Energy Council in December 2018
- AEMO's customer transfer high level design and consequential rule change request
- the rule making process and consultation on this draft rule determination.

1.1 Existing customer transfer procedures

Consumers in the National Energy Market (NEM) are able to transfer between electricity retailers to obtain better and/or more suitable deals for their circumstances. The customer transfer process facilitates this process. AEMO's Market Settlement and Transfers Solution (MSATS) Customer Administration and Transfer Solution (CATS) procedures contain the core requirements and obligations of retailers and other parties to undertake and complete retail customer transfers. The National Energy Retail Law (NERL) and National Energy Retail Rules (NERR) contain consumer protection requirements that relate to retail customer transfers. This includes the provision of information, cooling-off periods, explicit informed consent and customer billing.

The customer transfer process for those consumers with an advanced meter installation, which is remotely read each day, generally currently occurs quickly (within a few days).

Across the NEM there are approximately 73 per cent of customers¹ who have a manually read meter (an accumulation or manually read interval meter — Type 4A, 5, 6 meters — Appendix D explains the different types of electricity meters in the NEM.). These meters are required to be manually read around every 91 calendar days.² Consequently, these consumers can wait up to 90 days for their transfer to complete and access the savings or new products available from switching retailers. This is unless the consumer opts for a one off special meter read.³

The delay in these customer transfers, combined with existing processes which notify the losing retailer, allow the 'losing' retailer to conduct save activity. This may undermine retailers' incentive to maintain competitive prices for existing customers. It also may compound the confusion experienced by the consumer in the interim when they are unsure who their electricity provider is.

The main elements of the existing market customer transfer process and procedures are provided in appendix c.

1 AEMO, Appendix A, Retailer Transfer Process in the NEM: High Level Design, May 2019, p.6.

2 AEMO Electricity Rule Change Proposal, Customer Transfers in the NEM, May 2019, p.7

3 AEMO, Appendix A, Retailer Transfer Process in the NEM: High Level Design, May 2019, p.9

1.2 AEMC and AEMO joint advice to COAG Energy Council

On 3 December 2018, the AEMC and AEMO provided joint advice to the COAG Energy Council in response to a request from the Senior Council of Officials. It addressed improvements to the customer transfer process in the NEM, taking into account the related recommendations 8 and 9 of the Australian Competition and Consumer Commission (ACCC) Retail Electricity Pricing Inquiry Final Report (REPI).⁴

The ACCC recommendations were:

- Recommendation 8 — AEMO should amend its procedures so that losing retailers are only given a loss notification on the actual date of transfer of financial responsibility for the customer to the new retailer and limit save activity.
- Recommendation 9 — The AEMC should make changes to speed up the customer transfer process to ensure that customers move to new offers quickly and limit save activity.

The AEMC and AEMO joint advice noted that changes should be made to the customer transfer process and the changes must extend beyond the proposed recommendations by ACCC. This was because there are a range of issues with the customer transfer process that may be allowing for, or contributing to, opportunities for parties to delay a customer transfer to conduct save activity. It also noted that the existing customer transfer process is outdated and is in need of review if customer expectations and competition in the retail market are to be improved.⁵

The advice proposed a number of actions, including:

- AEMO continue to monitor and enforce non-compliant retailer behaviour of the existing procedures.
- AEMO produce a high level design and the required associated rule changes for a customer transfer process that streamlines existing processes and improves competition in the retail market. This high level design should:
 - enable a process that allows a customer to transfer retailers within two days after the end of the cooling-off period⁶
 - have regard to the appropriate timeframes for notification and meter read options as recommended by the ACCC.
- Be guided by the following principles:
 - that there is a simple, easy and timely customer transfer process for consumers
 - the supporting procedures are streamlined, transparent and provide certainty for participants
 - the obligations for parties are clear, enforceable and can be reported on
 - that any changes have regard to the implementation and ongoing costs.

4 ACCC, *Retail Electricity Pricing Inquiry Final Report*, June 2018.

5 AEMC & AEMO, *Joint AEMC and AEMO advice to the COAG Energy Council: customer transfers*, December 2018.

6 The cooling-off period is 10 business days as defined in clause 47 of the NER.

The advice also noted that any associated rule changes need to take into account and consider:

- customer protection issues, including billing and contract information
- energy billing and settlement
- enforcement arrangements including reporting of breaches by the AER.⁷

At its December 2018 meeting, the COAG noted the AEMC and AEMO joint advice and work program to address improving customer transfers.⁸

1.3 AEMO's high level design for customer transfers

Following the advice to COAG Energy Council AEMO proposed a high level design that provides a timely and improved customer transfer process. It is premised on the ability of customers being able to transfer electricity retailers within two days after the end of the cooling-off period irrespective of metering type.

A detailed description of AEMO's proposed high level design is provided in Attachment A to the rule change request.⁹ The main elements of the changes to the procedures and transfer process, outside operational process improvements include:

- Limiting customer transfer change requests in MSATS to change of retailer only.
- Removing the need for notification of a pending transfer to the losing retailer.
- Removing the need for next scheduled meter read and clarifying other meter read options are available for use. Particularly related to those customers with manually read interval and accumulation meters.
- Obligations for ensuring data is delivered to support the customer transfer process is also proposed to be the responsibility of the Metering Coordinator (MC) for the connection point.
- Review of provisions for error correction and management of concurrent transfer change requests.

AEMO notes that it will also consider the reporting requirements to reflect compliance with the new process, including for:¹⁰

- AEMO to report on time taken between raising a customer transfer change request and completion in MSATS.
- AER to include new reporting requirements in the *Retail Performance Reporting Procedures and Guidelines* that require retailers to provide information when they have first contact with a customer for a transfer.

7 Joint AEMC and AEMO advice to the COAG Energy Council: customer transfers, December 2018, pp. 5-6.

8 www.coagenergycouncil.gov.au/meetings

9 AEMO, *Retailer Transfer Process in the NEM, High Level Design*, May 2019. See: www.aemc.gov.au/rule-changes/reducing-customers-switching-times.

10 AEMO, *Retailer Transfer Process in the NEM, High Level Design*, pp. 29-30, May 2019. See: www.aemc.gov.au/rule-changes/reducing-customers-switching-times.

In considering the changes required to the existing customer transfer process, AEMO in consultation with the AEMC had regard to existing work and previous reviews and rule changes. These include:¹¹

- AEMC rule change on customer self reads
- roll-out of competition in metering
- AEMC rule changes and review of arrangements for customer switching/estimated reads
- ongoing consumer data right work.

AEMO is also required to separately assess its proposed high level design against the NEO and undertake a consultation process in accordance with the NER consultation procedures.

1.4 AEMO's rule change request

On 24 May 2019, AEMO submitted a request to the AEMC to amend the National Electricity Rules (NER) and the NERR. The rule change has been submitted to support the delivery of AEMO's proposed high level design for a timely and improved customer transfer process, and the associated changes to its procedures.¹²

AEMO's rule change request seeks clarifications related to existing obligations and rights of parties in the NER and NERR to support the proposed changes to AEMO's MSATS CATS procedures. Specifically:¹³

- Clause 7.8.9(e)(1) of the NER be removed. Where there is a requirement for appointment of these metering roles, AEMO proposed that this could be achieved following the completion of the customer transfer, via a separate change request.
- Clause 7.8.9(e)(2) of the NER be amended to move the provisions to the meter churn procedures. The clause relates to an alteration or replacement of a metering installation.
- Clause 21(1) of the NERR be amended, if required, to accommodate the use of estimates for a final bill where the retail market procedures allow for use of an estimation.
- Clause 21(3A) of the NERR be amended, if required, to extend the ability for a small customer to provide a customer self read for a customer transfer and final bill.
- Clause 21(4), 30 and 31 of the NERR be amended to accommodate over charging as a result of an estimate read. AEMO propose that the losing retailer:
 - should be required to adjust a customer's bill when a material inaccuracy in estimate has resulted in a materially higher final bill to the customer
 - would not be entitled to re-bill a customer following a transfer if it is subsequently identified by the losing retailer that the customer was under-charged.
- Clause 4.2(b) of the NERR of model terms and conditions of standard retail contracts be amended to clarify that a customer may transfer retailers using an estimate as the final meter read.

11 Attachment A, *Joint AEMC and AEMO advice to the COAG Energy Council: customer transfers*, December 2018, p. 11.

12 AEMO, *Retailer Transfer Process in the NEM, High Level Design*, May 2019. See: www.aemc.gov.au/rule-changes/reducingcustomers-switching-times.

13 AEMO Rule Change Proposal, *Customer Transfers in the NEM*, pp. 11-12

- an additional provision could be included in the NERR to prohibit the inclusion of clauses in market retail contracts by retailers that only allow a final bill to be issued using an actual meter read (and not an estimate).

1.5 The rule making process

On 4 July 2019, the Commission published a notice advising of its commencement of the rule making process and consultation in respect of the rule change request.¹⁴ A consultation paper identifying specific issues for consultation was also published. Submissions closed on 1 August 2019.

The Commission received 22 submissions as part of the first round of consultation. Issues raised in submissions are discussed and responded to throughout this draft rule determination. Issues that are not addressed in the body of this document are set out and addressed in Appendix A.

1.6 Consultation on draft rule determination

The Commission invites submissions on this draft rule determination, including the more preferable draft rule, by **7 November 2019**.

Any person or body may request that the Commission hold a hearing in relation to the draft rule determination. Any request for a hearing must be made in writing and must be received by the Commission no later than 3 October 2019.

Submissions and requests for a hearing should quote project number ERC0276/RRC0031 and may be lodged online at www.aemc.gov.au.

All enquires on this project should be addressed to James Hyatt on (02) 8296 0628 or James.Hyatt@aemc.gov.au.

¹⁴ This notice was published under s.95 of the National Electricity Law (NEL) and 251 of the National Energy Retail Law (NERL).

2 DRAFT RULE DETERMINATION

This chapter outlines:

- the Commission's draft rule determination
- the rule making test for changes to the NER and NERR
- the assessment framework for considering the rule change request
- the Commission's consideration of the draft rule against the national electricity objective (NEO) and national energy retail objective (NERO).

2.1 The Commission's draft rule determination

The Commission's draft rule determination is to make a more preferable draft rule (the draft rule) with amendments from that proposed by AEMO. The draft rule:

- Amends clause 7.8.9(e) of the NER to move the provisions regarding installation of replacement metering installation from the *Market Settlement and Transfer Solution (MSATS) Procedures* to the *Meter Churn Procedures*, where it more appropriately fits.
- Delete clause 7.8.9(e)(1) of the NER to facilitate AEMO's customer transfer high level design and facilitate a two-day customers transfer process, and further, to remove any ambiguity between clauses 7.8.9(e)(1) and clause 7.6.2 regarding metering coordinator appointments by the financially responsible market participant.
- Amends Clause 4.2(a)(iv) of the model terms and conditions for standard retail contracts to clarify when a contract ends where a customer transfers to the same retailer's market retail contract, or to another retailer's standard or market retail contract.

The Commission has not made changes in regard to issues raised by AEMO in respect to:

- Clause 21(1) and (3A) of NERR regarding meter read types and use of metering data as these clauses already facilitate AEMO's implementation of the high level design and provide a sufficient level of consumer protection. This is because the existing arrangements allow for estimated reads to be used for any bill, including final bills.
- Clause 21(4), 30, 31 of NERR regarding the overcharging and undercharging processes as these clauses already facilitate AEMO's implementation of the high level design and provide a sufficient level of consumer protection. These clauses provide incentives to both the winning and losing retailer to gain an accurate final meter read, as well as processes that effectively allow retailers to manage risks for cases of under or overcharging.
- any changes required to the model terms and conditions for standard retail contracts to facilitate transfers on estimated meter reads as we saw no barriers in the existing provisions to transfers on estimate meter reads.
- prohibiting retailers from containing provisions in their market retail contracts that only allowed final bills, and therefore transfers, on actual meter reads. A change to the rules is not required because such provisions would be inconsistent with AEMO's MSATS procedures under the proposed high level design and therefore the retailer would be unable to comply with those procedures.

The proposed commencement date for the amendments to the NER is the date of publication of the final determination. There is no need for any transitional or delay in the commencement of these amendments as AEMO in conversation with the Commission is of the view that the existing Meter churn procedures currently cover the requirements of the clause.

The amendments to the model terms and conditions for standard retail contracts, have transitional arrangements to make the changes effective three months after publication of the final determination (currently scheduled for 19 December 2019). The Commission considers this time frame appropriately balances the time needed for retailers to implement the changes while promptly realising the benefits of the changes.

A summary of the Commission's reasons for making this draft rule determination are set out in section 2.4. Further information on the legal requirements for making this draft rule determination are set out in Appendix B.

2.2

Rule making test

2.2.1

Achieving the NEO and NERO

Under the NEL the Commission may only make a change to the NER if it is satisfied that the rule will, or is likely to, contribute to the achievement of the national electricity objective (NEO).¹⁵ This is the decision making framework that the Commission must apply. The NEO is:¹⁶

to promote efficient investment in, and efficient operation and use of, electricity services for the long term interests of consumers of electricity with respect to:

- (a) price, quality, safety, reliability and security of supply of electricity; and
- (b) the reliability, safety and security of the national electricity system.

Under the NERL, the Commission may only make a change to the NER if it is satisfied that the rule will, or is likely to, contribute to the achievement of the national energy retail objective (NERO).¹⁷ This is the decision making framework that the Commission must apply. The NERO is:¹⁸

to promote efficient investment in, and efficient operation and use of, energy services for the long term interests of consumers of energy with respect to price, quality, safety, reliability and security of supply of energy.

The Commission must also, where relevant, satisfy itself that the rule is "compatible with the development and application of consumer protections for small customers, including (but not limited to) protections relating to hardship customers" (the "consumer protections test").¹⁹

¹⁵ Section 88 of the NEL.

¹⁶ Section 7 of the NERL.

¹⁷ Section 236(1) of the NERL.

¹⁸ Section 13 of the NERL.

¹⁹ Section 236(2)(b) of the NERL.

Where the consumer protections test is relevant in the making of a rule, the Commission must be satisfied that both the NERO test and the consumer protections test have been met.²⁰ If the Commission is satisfied that one test, but not the other, has been met, the rule cannot be made. There may be some overlap in the application of the two tests. For example, a rule that provides a new protection for small customers may also, but will not necessarily, promote the NERO.

2.2.2 Making a more preferable rule

Under s. 91A of the NEL and 244 of NERL, the Commission may make a rule that is different (including materially different) to a proposed rule (a more preferable rule) if it is satisfied that, having regard to the issue or issues raised in the rule change request, the more preferable rule will or is likely to better contribute to the achievement of the NEO and NERO.

In this instance, the draft rule is a more preferable rule because the Commission has made an additional change to that proposed by AEMO and has chosen not to adopt all of AEMO's proposed changes.

2.2.3 Making a differential rule

As the rule relates to parts of the NER that currently do not apply in the Northern Territory, the Commission has not assessed the rule against the additional elements required by the Northern Territory legislation.²¹

2.3 Assessment framework

The Commission has considered the following principles to assess whether the rule change request meets the NEO and NERO:

- Provides adequate consumer protections related to retail customer transfers and supports consumer choice of retail energy market products and services.
- Improves transparency and certainty of market processes including:
 - Certainty on the process for customer transfers and clarity on the suite of meter read options available to retailers and customers for customer transfers.
 - The benefits to consumers, retailers and other relevant market participants from improving outdated processes that are contributing to delays and failed transfers.
- Reduces regulatory and administrative burden including the extent to which the changes improve AEMO's MSATS market systems and processes, retailers, and other relevant parties.

²⁰ That is, the legal tests set out in s. 236(1) and (2)(b) of the NERL.

²¹ From 1 July 2016, the NER, as amended from time to time, apply in the NT, subject to derogations set out in regulations made under the NT legislation adopting the NEL. Under those regulations, only certain parts of the NER have been adopted in the NT. (See the AEMC website for the NER that applies in the NT.) National Electricity (Northern Territory) (National Uniform Legislation) Act 2015.

2.4 Summary of reasons

The draft rule made by the Commission is attached to and published with this draft rule determination. The key features of the draft rule were outlined in section 2.1. Having regard to the issues raised in the rule change request and during consultation, the Commission is satisfied that the draft rule will, or is likely to, contribute to the achievement of the NEO and NERO for the following reasons:

- by facilitating AEMO's high level design, the amendments made to the NER are likely to improve the retail customer transfer process by removing regulatory and administrative processes that were outdated and contributing to delays and failed transfers.
- the clarifications made in this determination regarding the use of estimate reads for final bills and the amendment made to the model terms and conditions for standard retail contracts will increase transparency and certainty within the transfer process.

This rule also meets the "consumer protection test" of the NERO. It does so by strengthening the consumer protections in the model terms and conditions for standard retail contracts relating to customer transfers.

Further detail on the draft rule and the Commission's reasons for making it can be found in chapters three to six.

3 ROLE APPOINTMENT FOR METER CHURN IN CUSTOMER TRANSFER REQUESTS

This chapter outlines:

- AEMO's proposed procedure change, as set out in the high level design
- AEMO proposed NER changes, as raised in the rule change request
- stakeholder views to the consultation paper
- the Commission's analysis and draft decision.

3.1 AEMO's proposed procedure change

AEMO proposed in the high level design to amend the existing customer transfer procedures so that only the retailer role can be nominated to change until a customer transfer is complete. This will remove the ability for:

- the retailer to nominate a metering coordinator (MC) in the same request as a customer transfer
- parties to object, delay or prevent a customer transfer from occurring due to role nomination
- participants to be notified of a pending transfer prior to the transfer being complete.

AEMO consider this will speed up customer transfers and limit losing retailers save activity.

3.2 AEMO's proposed NER changes

To facilitate the procedure changes, AEMO proposed that Clause 7.8.9(e)(1) of the NER be removed. The existing rule provides that *MSATS procedures* must include provisions that enable an *Incoming Retailer* to nominate a MC to be appointed at a connection point. AEMO proposes that the appointment of metering roles be achieved following the completion of the customer transfer, via a separate change request.

The rationale for this change, as outlined in the rule change request, is because:²²

- The existing role nomination in MSATS of a MC as part of the customer transfer process enables it to object and hence delay or suspend a customer transfer request from occurring. As noted, objections suspend the proposed change request until the relevant objection is cleared or the change request is cancelled. For example, an MC may object because it does not agree to be appointed to a connection point.
- The requirement in the NER can only be achieved in theory and not in practice.²³
- The clause provides a level of technical detail and requirement that is unsuitable for the NER and likely to lead to inefficient processes and confusion, regardless of future design of procedures for customer transfers.

²² AEMO, *Electricity Rule Change Proposal, Customer Transfers in the NEM*, May 2019, p.10.

²³ This is due to the need for a metering data provider (MDP) to be suitably qualified and accredited following their appointment (accreditation required for type 5 and 6 metering can only provide metering data for those metering types).

- The customer transfer design is likely to continue to evolve and the NER should provide AEMO with flexibility for the design of MSATS procedures, which are subject to rule consultation requirements.

AEMO also proposed moving Clause 7.8.9(e)(2) of the NER from the *MSATS procedures* to the *Meter churn procedures*, or be removed if deemed unnecessary.²⁴ Clause 7.8.9(e)(2) of the NER requires that the *MSATS procedures* include provisions that enable the installation of metering equipment as soon as practicable after a customer transfer to a new retailer.

3.3 Stakeholder views to the consultation paper

3.3.1 Clause 7.8.9(e)(1) of the NER

Stakeholder views provided to the consultation paper can be grouped into three general positions. These are:

- That existing NER provision 7.8.9(e)(1) related to role appointment and meter churn does not necessarily restrict changes to the customer transfer procedures.²⁵
- That clause 7.8.9(e)(1) hinder retail customer transfers and agree for its removal as long as the process is in the procedures.²⁶ Endeavour Energy stated that removing the clause allows AEMO to define the more technical detail and requirements for managing transfers in the MSATS procedures. This will allow for better flexibility as the customer transfer design evolves. Additionally, the MSATS procedures are subject to consultation requirements and therefore any impacts can be managed through that process.
- That there could be clarification to remove some existing ambiguity of clause 7.8.9(e)(1). Rules or processes should allow incoming retailers to arrange and streamline a meter replacement as close as possible to FRMP churn date.²⁷

3.3.2 Clause 7.8.9(e) of the NER

PIAC, Origin Energy, Plus ES and the EWOSA opposed the removal of the clause from the NER entirely.²⁸ No submissions opposed moving the clause between AEMO procedures.

3.4 Commission analysis and draft decision

This section contains for NER clause 7.8.9(e)(1) specifically and the whole of clause 7.8.9(e):

- a description of the existing arrangements
- the Commission's considerations and analysis of the issue
- the draft determination position.

²⁴ *Meter churn procedures* contains matters relating to an alteration or replacement of a metering installation.

²⁵ Submissions to the consultation paper: Public Interest Advisory Centre (PIAC), pp. 1-2; Ombudsmen of New South Wales (EWON), pp. 1-2; Ombudsmen of South Australia (EWOSA), p. 2; AGL, pp. 3-4; Simply Energy, pp. 1-2; Energy Queensland, p. 2; Momentum Energy, p. 5; Alinta Energy, p. 4.

²⁶ Submissions to the consultation paper: Ausgrid, p. 2; Endeavour Energy, p. 1; and Vector, pp. 1-2.

²⁷ Submissions to the consultation paper: EnergyAustralia, pp. 1-2; Plus ES, pp. 1-2.

²⁸ Submissions to the consultation paper: PIAC, p. 2; Origin Energy, p. 4; Plus ES, p. 2; EWOSA, p.2.

3.4.1 **Clause 7.8.9(e)(1) of the NER**

Background

Clause 7.8.9(e)(1) was introduced in the Meter Replacement Processes rule change in 2016. At the time, retail customer transfers were typically 30 calendar days but could take up to 65 business days.²⁹ It was therefore considered that prospective MC appointments would facilitate faster meter replacements occurring after a customer transfer because by being notified in advance the MC would be able to organise a meter replacement in advance of a customer transfer occurring.

Commission draft decision

The draft rule removes Clause 7.8.9(e)(1) from the NER. The Commission considers that the clause allows for MC objections that slow down or cancel customer transfers and this is inconsistent with AEMO's proposed high level design. Furthermore, under AEMO's high level design, prospective MC appointments will provide little benefit because the transfer process will be reduced to two days and therefore the MC would only be provided with a small additional timeframe to organise a meter replacement. The Commission also notes that recent changes to meter installation Rules require meters to be installed within 6 or 15 business days, depending on the installation type.³⁰

The Commission notes that separate to the issue of prospective MC appointments the NER provides certainty regarding appointment of an MC after a customer transfer. Specifically, NER clauses 7.2.1 and 7.6.2 currently dictate the process for MC appointment by the winning retailer as soon as they become the FRMP, as contained in AEMO procedures. Additionally, under AEMO's high level design MSATS will allow for retrospective appointment of MCs by the winning retailer. This means that the winning retailer can appoint the MC from the date that it becomes the FRMP for that connection point and therefore any delays in meter churn or contractual issues can be avoided.

3.4.2 **Clause 7.8.9(e)(2) of the NER**

Commission draft decision

The Commission sees this clause as necessary to ensure the timely installation of new and replacement meters after a customer transfer has been completed in MSATS by AEMO. Therefore, it is not deemed appropriate to delete this clause.

The Commission notes that the *MSATS procedures* are generally concerned with the recording of, and financial responsibility for, energy flows at a connection point and the assignment of market participant roles. Whereas the *Meter churn procedures* generally deal with matters relating to an alteration or replacement of a metering installation. Therefore, the clause more appropriately sits in the Meter churn procedures and the draft rule provides this movement.

²⁹ AEMC, 2014, Review of Electricity Customer Switching Final Report, p. i.

³⁰ Clause 7.8.10A, B and C of the NER.

4 METER READ TYPES AND USE OF METERING DATA

This chapter outlines the Commission's considerations of meter read types and use of metering data for customer transfers. It is structured as follows:

- AEMO's proposed procedure change, as set out in the high level design
- existing arrangements
- AEMO's proposed NERR changes
- stakeholder views to the consultation paper
- the Commission's analysis and draft decision.

4.1 AEMO's proposed procedure change

AEMO proposed changing and clarifying the meter read options available to consumers and retailers in the MSATS CATS procedures. This is to facilitate the objective of two day retail customer transfers.

AEMO proposed to remove the ability for retailers to transfer customers on the next scheduled meter read. This is the periodic meter read that is scheduled to occur every three months for customers with accumulation meters. The other existing meter read options will remain available for use for a retail customer transfer. These are:

- remote meter read (for type 4 meters)
- last billable read (or previous read)³¹
- special read (actual read taken on consumer's premises)
- estimate (or otherwise known as substitute read) provided by the:
 - MDP generated, in accordance with AEMO's *Metrology procedures*
 - customer self read.

4.2 Existing arrangements

The sections below outline the existing arrangements for customer transfers and final billing in relation to:

- estimate reads in customer transfers and final billing
- the use of customer self read estimates
- final bills based on estimates.

4.2.1 Estimate reads in customer transfers and final billing

The existing regulatory framework does not prohibit the use of any meter read types proposed by AEMO in section 4.1 above. In particular, the Rules do not prohibit the use of estimate meter reads — MDP generated or customer self reads — for a customer transfer and the related final bill.

³¹ This is allowed to be used without the consent of the losing retailer if within a given period. AEMO's *High level design* currently proposes this to be 15 days.

Currently, Clause 20 (1) (ii) and (iii) and Clause 21(1) and (2) of the NERR provide that a retailer may base a small customer's bill on an estimation of the customer's consumption of energy. This is allowed provided certain conditions are met, one of which is obtaining customer consent. The estimates allowed for billing under this rule include a customer self read³² or an MDP generated estimate. Clause 20 and 21 apply to both standard and market retail contracts.³³

Market practice has dictated what is commonly used for customer transfers, rather than what is allowed for in the Rules. That is, the majority of the market has not used estimate readings for a customer transfer despite the Rules not prohibiting their use for a final bill. Hence, there may be a mismatch between what is perceived as allowed under the Rules and what is actually allowed, namely the use of estimated reads for final bills.

4.2.2 Customer self read estimates

Clauses 21 (3A) to (3H) of the NERR relate to customer self reads. These clauses set out the requirement on retailers to adjust an estimated bill based on a small customer's reading of the meter where requested by the customer. These clauses apply to small customers with electricity accumulation meters, under both standard and market retail contracts.³⁴

Under these clauses, when a bill has been issued as an estimate, retailers must inform relevant small customers that they may provide their own reading of the meter as the basis for requesting an adjustment to their bill.

The Rules do not prescribe how the retailer and customer would take the self read. It is therefore up to the retailer to:

- provide instructions to the customer on how readings from their metering installations are taken
- subsequently validate the reading for billing purposes.

For example, some have established online portals to facilitate these processes.

4.2.3 Final bills based on estimates

It is important to note that the term *bill* is not defined in either the NERR or NERL. There is no distinction made in the NERR between a standard bill and final bill. Therefore, the reference to *bill* in the NERR and NERL includes a final bill.

For the avoidance of any doubt, the use of the term *bill* in the NERR should be taken as a reference to both a standard and final bill. Any clauses which include a reference to *bill* is taken to be applicable to both a standard and final bill.

It follows that, because an estimate read can be used as the basis for a small customer's bill,³⁵ an estimate can be used for a final bill. This estimate read includes both an MDP

32 As defined in subrule (3A).

33 In the case of clause 21, only to the extent a market retail contract provides for estimation as the basis for the small customer's bill.

34 To the extent a market retail contract provides for estimation as the basis for the small customer's bill.

35 Provided the circumstances in Clauses 20 and 21 of the NERR are met.

estimate read and a customer self read. From this, a customer may switch retailers using an estimate reading (provided the circumstances are met).

4.3 AEMO's proposed NERR change

AEMO consider that clarifications could be made to the NERR to state that estimate reads are able to be used as the basis for retail customer transfers, especially given existing market practices to not use them (as noted above). Specifically, AEMO are proposing that:

- Clause 21(1) be amended, if required, to accommodate the use of estimates for a final bill where the Retail Market Procedures allow for use of estimation
- Clause 21(3A) be amended, if required, to extend the ability for a small customer to provide a customer self read for a customer transfer and the resulting final bill.

4.4 Stakeholder views to the consultation paper

Some retailers questioned whether estimated reads are currently allowed to be used for the purposes of final billing. Retailers also raised issues about whether the detriments of inaccuracy from using estimates for final billing would outweigh the benefits from improved timeliness.³⁶

EWON noted that gas customers are routinely transferred on estimate reads, both MDP generated and customer self reads, at present. EWON and PIAC both noted that customers should be able to make an informed choice on what they prefer regarding the method meter reading for a customer transfer.

Some stakeholders focussed on the use of self reads for network billing:

- AGL considered that should customer self reads be used by retailers for the customer transfer, that it should be mandated as the basis of all network to retailer billing
- Ausgrid, Endeavour Energy, Plus ES and Vector opposed this requirement
- EnergyQueensland stated that networks can validate and use customer self reads for network to retailer billing, as they currently facilitate in Ergon and Energex distribution networks.

4.5 Key issues and considerations

AEMO's proposed changes to the existing customer transfer procedures, which aim to reduce transfer times down to two days irrespective of a customer's meter type, will mainly affect consumers with metering installations that need to be manually read.³⁷ Consumers with remotely read interval or smart meters are likely to experience limited change.³⁸

Currently consumers with manually read metering generally have to wait for their next scheduled meter read for their transfer to complete. This is unless the consumer opts for a

36 Submissions to the consultation paper: ERM Power, p. 3; Aurora Energy, p. 1; EnergyAustralia, p.3; Origin Energy, p. 5; Red/Lumo Energy, pp. 1-3.

37 Type 6, 4A and 5 metering installations, Appendix D describes the different types of electricity meters in the NEM.

38 This is because their data is collected remotely, provided to the market daily and can transfer quickly now.

one off special meter read, or they had a meter read shortly before they decided to switch retailers and the winning and losing retailer consent to its use (known as last billable read).

Under the changes proposed to the customer transfer procedures, these consumers will be able to take advantage of two day transfer period by utilising the suite of existing meter read options that are currently available to transfer retailers.

4.5.1 Use of estimated reads

The Commission notes the issues raised by retailers regarding the legality and benefits of using estimated reads for the purposes of final billing and customer transfers. The change to AEMO CATS procedures does not prescribe the type of meter read option that must be used. Rather, it describes and facilitates a suite of meter read options that are available to a retailer in consultation with their customer. The only meter read option that is proposed to be removed by AEMO is the next scheduled meter read. This is because the customer transfer not being completed until the next periodic meter read, which could be as late as 90 days away, is incompatible with two-day retail customer transfers.

Under AEMO's high level design, winning retailers in discussion with each customer will be able to select whether to use a:

- remote meter read (for type 4 meters)
- last billable read (or previous read)³⁹
- special read (actual read taken on consumer's premises)
- estimate (or otherwise known as substitute read) provided by the:
 - MDP generated, in accordance with AEMO's *Metrology procedures*
 - customer self read.

The Commission understands that estimated reads are used in the market today. Traditionally these have been estimated reads generated by the Metering Data Provider — that must be in accordance with the existing AEMO meteorology procedures.⁴⁰

More recently, with the introduction of the ability of customers to take a self-read for billing purposes, there is more likely to be increased use of this type of read for transfers. Also, as noted by EWON, both estimated and customer reads have been used for some time for gas retail customer transfers and consequently for final billing.

The Commission also notes that many retailers⁴¹ consider MDP generated estimates are not as good quality as a customer self read. The Commission considers that these parties should work with AEMO to review and update these procedures if and where necessary.

39 AEMO proposes the ability for this to be used without the consent of the losing retailer if within a given period. AEMO's *High level design* currently proposes this to be 15 days.

40 AEMO's *Metrology Procedure Part B: Metering Data Validation, Substitution and Estimation* contains the Rules on when and how metering data is substituted (which has the same meaning as 'estimated' in the NERR).

41 Submissions to the consultation paper: ERM Power, EnergyAustralia, Origin Energy, Simply Energy, AGL, RED/Lumo Energy.

It is also recognised that some customers do not like the use of estimated reads⁴² and a self or last billable read may not be possible for that customer. The Commission notes that in these circumstances AEMO has flagged the removal of the MSATS obligation to lodge transfers immediately. This is only to provide retailers with flexibility to remain compliant in the very small number of circumstances where holding the request back until the next periodic read is required.

4.5.2 Use of customer self reads

Customer self read for network to retailer (settlement) billing

Stakeholders noted some concerns that a mismatch may arise between the meter reading used by a retailer to bill a customer and that used by a network to bill a retailer due to the use of customer self reads. This issue is explored below.

The existing NERR clauses do not prescribe how customer self reads are to be used regarding network to retailer billing arrangements.

The Commission understands some retailers have agreements in place for the network to use the self read generated by the customer and some networks are putting in place arrangements to facilitate the use of these customer self reads.⁴³ In other cases, the network will bill the retailer based on the MDP generated estimate.

At this stage the Commission is not considering regulating the use of self reads for network billing, consistent with the 2018 *Estimate meter reads* rule change.⁴⁴ This is because differences between self reads and MDP estimates that arise are likely to affect all retailers as both undercharges and overcharges. Therefore, the Commission does not consider this will present material risks to retailers because discrepancies are likely to balance across all participants. Additionally, gaining retailers have the ability to manage the risk associated with self reads by choosing whether they use them for customer transfers.

Also, the Rules do not preclude customer self-reads from being used for market settlement where it is allowed by AEMO's *Metrology* and *Retail market* procedures. Arrangements would need to evolve between retailers and network business for the use of these self reads for billing purposes.

Customer self read for retailer to customer billing

Retailers may use a customer self read for the billing purposes relating to customer transfers. For clarity, this means that the:

- losing retailer may use a small customer's self read estimate as the basis of their final bill
- winning retailer may use this reading as their start reading.

⁴² As noted in EWON's submission to the consultation paper (p. 3) and in the AEMC's 2018 *Estimated meter reads* rule change.

⁴³ EnergyQueensland's submission to the consultation paper.

⁴⁴ See: <https://www.aemc.gov.au/rule-changes/estimated-meter-reads>.

However, the Commission has concerns in the situation where the losing and winning retailer use different meter readings for a transfer. This is because the same customer may be billed off different reads.

The Commission sees it as prudent that retailers make arrangements within back end market processes for self reads to be shared between the losing and winning retailer to avoid such mismatches.⁴⁵ There is an incentive to do so as every retailer will be both the winning retailer and the losing retailer in the customer transfer process. If such arrangements can not be made, and customer billing mismatches occur, then the Commission or AEMO may need to regulate the use of the same meter reading to be used by both the winning and losing retailer for all customer transfers.

The Commission considers this is not ideal because the regulations would be onerous on all parties and could result in a costly outcome compared to more efficient and effective business-to-business industry led processes.

4.6 Conclusion and Commission draft decision

The existing Rules framework does not prohibit customers from transferring on the use of a suite of meter read options. This includes estimated reads generated in accordance with the Metrology procedures and customer self reads.

The Commission considers the clarifications posed by AEMO for clause 21 (1) and 21 (3A) regarding their application and use for billing purposes are best made in this rule determination and do not require any changes to the NER.

⁴⁵ This may be facilitated by AEMO's B2B processes as part of their procedure change, or by any other method the market finds efficient.

5 OVERCHARGING AND UNDERCHARGING RULES

This chapter outlines:

- the existing arrangements in the NERR for overcharging and undercharging
- AEMO's proposed NERR changes in light of its high level design
- stakeholder views to the consultation paper
- the Commission's conclusion and draft determination position.

5.1 Existing arrangements

Clause 21(4) of the NERR requires retailers to provide for an adjustment on customer bills for overcharging where the:

- small customer was issued a bill based on an estimate
- retailer subsequently issues a bill based on an actual meter reading or on metering data.

This is a civil penalty provision and applies to standard and market retail contracts.

Clause 30 (undercharging) and 31 (overcharging) of the NERR provide a mechanism by which a retailer may either recover from a customer an undercharged amount or reimburse an overcharged amount, regardless of how it occurred. This framework applies to both standard and market contracts.⁴⁶

For undercharging, a retailer may recover from the customer the amount undercharged, given compliance with certain information provisions.⁴⁷ The amount that can be recovered is limited to the amount undercharged in the nine months prior to the date that the customer is notified of the undercharging.⁴⁸

For overcharging, the retailer must inform the customer that they have been overcharged equal to or above the threshold (\$50 or amount determined by the AER) within 10 business days after the retailer becomes aware of the overcharging. This is a civil penalty provision.⁴⁹

If the amount overcharged is equal to or above the overcharge threshold:⁵⁰

- a retailer must repay that amount as reasonably directed by the small customer
- if there is no direction, credit the next bill
- where the customer has ceased to obtain services from the retailer, the retailer must use its best endeavours to refund that amount within 10 business days.

If the overcharge is less than the threshold the retailer must still refund the customer, but it does not have to do so as reasonably directed by the small customer.⁵¹

⁴⁶ Prepayment meter market retail contracts are exempted from this framework.

⁴⁷ Clause 30(1).

⁴⁸ Clause 30(2)(a) to (d). Also, if the undercharge was the customers fault, the 9 months time limit does not apply.

⁴⁹ Clause 31(1) of the NERR.

⁵⁰ Clause 31(2) of the NERR.

⁵¹ Clause 31(3) of the NERR.

The customer and losing retailer can request an actual meter read if there is a billing dispute, as set out in Clause 29 of the NERR.⁵²

5.2 AEMO's proposed NERR changes

AEMO proposed that clarifications could be made to Clause 21 (4) and 31 of the NERR to accommodate overcharging as a result of an estimate read. This is due to the expected higher number of instances of customer switching on estimates in AEMO's transfer process proposed in the high level design.⁵³

AEMO also proposed that Clause 30 of the NERR should be amended such that the losing retailer would not be entitled to re-bill a customer following a transfer on an estimate read if it is subsequently identified by the losing retailer that the customer was undercharged.

5.3 Stakeholder views to the consultation paper

Stakeholder views on the consultation paper regarding AEMO clarifications to the overcharging provisions were:

- 1st Energy, EWON, Simply Energy, AGL and Red/Lumo Energy did not think clarifications are required to overcharging Rules to support changes to customer transfer process.
- EWOSA suggested that the refund occurring "within" 10 days, or five business days given EFTPOS functionality available today.

All stakeholders were opposed to AEMO's proposal for not allowing retailers to recover an undercharge as their removal is likely to expose retailers to some financial risk and change incentives if removed for transfers.⁵⁴

5.4 Commission analysis and draft decision

The Commission agrees with the majority of stakeholders that no clarifications to the overcharging Rules are required to accommodate more customer transfers on estimates. This is because the existing provisions are working effectively at present.

The Commission has chosen not to adopt AEMO's proposal on the undercharging provisions. This is because removing the ability for a retailer to recover any undercharge, but having to refund any overcharge would create additional financial risks to retailers.

However, the Commission does consider there will be a need to monitor the outcomes of this framework. The Commission will work with the AER, AEMO and industry more broadly in the lead up to AEMO's high level design taking effect to determine the best approach to this monitoring. This is likely to include monitoring of the materiality of over and undercharging that occur from estimated reads and analysis of the alignment of the meter read types (e.g. self or MDP generated) used for customer transfers and market settlement.

⁵² Clause 29 of the NERR sets out the process for both standard and market retail contract billing disputes.

⁵³ AEMO *Electricity Rule Change Proposal, Customer Transfers in the NEM*, p. 19, May 2019, p.10.

⁵⁴ Submissions to the consultation paper: EWON, p. 4; Origin Energy, p. 7; Simply Energy, p. 3; AGL, p. 4; Red/Lumo Energy, p. 9; Aurora Energy, p. 3; Momentum Energy, pp. 3-4; EnergyAustralia, pp. 3-4; Energy Queensland, p. 2.

6 OTHER ISSUES

This section addresses other issues that relate this rule change, including:

- retail contracts
- cooling-off periods
- other considerations in retail customer transfers
- monitoring and compliance.

6.1 Retail contracts

6.1.1 Standard retail contracts

AEMO proposed that some amendments may need to be made to the existing model terms and conditions of standard contract to facilitate transfers using estimate meter reads. Specifically, Clause 4.2 (b) of model terms and conditions of standard retail contracts in the NERR.

Clause 4.2(b) of the model terms and conditions of standard retail contract states that if a retailer gives a termination notice but safe and unhindered access to a customer premises to conduct a final meter reading (where relevant) is not provided, the contract may not end until a final meter reading is carried out. AEMO proposed to amend "where relevant" to "where required under the relevant Retail Market Procedure."

The Commission considers this clause only relates to customers moving out of premises and not to any retail customer transfers, including those transfer using estimate meter reads. Therefore, no changes were considered necessary to the model standard retail contract to facilitate AEMO's high level design or to enhance existing consumer protections.

Change to Clause 4.2(a)(iv)

The Commission conducted broader analysis of the model terms and conditions for standard retail contracts in the context of AEMO's high level design and considers there is a need to amend Clause 4.2(a)(iv). This clause ends a customer contract with the losing retailer when a customer transfers to, and starts buying energy from, the winning retailer. However, the existing clause excludes when a customer moves from the losing retailer's standard or market retail contract to the winning retailers standard contract.

Therefore, the Commission has amended the clause to clarify that it applies when:

1. the customer transfers to a new retailer's standing or market offer, or
2. the customer changes from a retailer's standing offer to a market offer.

6.1.2 Market retail contracts

AEMO proposed that an additional provision could be included in the NERR to prohibit the inclusion of clauses within market retail contracts that only allow final bills to be issued on the basis of actual meter reads.

The Commission agrees with the intent of AEMO's proposal. However, the Commission considers no rule change is required because provisions of market retail contracts with such a clause will be inconsistent with AEMO's proposed high level design, and accordingly, the retailer would be unable to comply with the MSATS procedures.

6.2 Cooling-off periods

The NERL dictates that electricity contracts must have a cooling-off period. The NERR currently prescribes this period to be 10 business days. During this period a small customer has the right of withdrawal from a market retail contract. The NERR provision was put in place at the commencement of the NECF and aligns with the Australian Consumer Law (ACL) provisions for unsolicited sales.

AEMO are proposing to align NERR provisions⁵⁵ and MSATS procedures such that a customer transfer request can be made within the cooling-off period. In AEMO's high level design, if a customer exercises its cooling off rights, the transfer can be reversed such that the customer returns to the losing retailer. This functionality is not available in the existing MSATS procedures.

Retailers highlighted the need to consider if this 10 day cooling-off period is appropriate given the changes to the market and customer transfer procedures since the clause was written.⁵⁶ Energy Consumers Australia (ECA) stated that cooling-off periods should be preserved but run in parallel, where possible, to customer transfers. This will deliver a faster and more convenient switching experience for consumers while maintaining important consumer protections.

The Commission has decided to make no changes to the existing cooling-off period provisions. The Commission agrees with (ECA) that the changes AEMO are making in the high level design strike an appropriate balance of supporting faster customer transfers, providing consumers with the associated benefits, while maintaining a sufficient level of consumer protections.

6.3 Other issues for customer transfers

Other issues have been raised by stakeholders in conversations with the Commission during consultation. These issues include:

- life support customers
- concession and hardship scheme customers.

⁵⁵ Clause 57(2) of the NERR.

⁵⁶ Submission to the consultation paper: Red/Lumo Energy, p. 5; Momentum Energy, p. 3.

6.3.1 Life support customers

Existing arrangements

Retailer obligations

A retailer who registers a customer as requiring life support equipment must advise the customer that if he/she changes retailer, then that customer should advise their new retailer of the requirement for life support equipment.⁵⁷ However, this doesn't apply where:⁵⁸

- the customer has previously advised the distributor of the requirement for life support equipment
- the customer advises the retailer of that fact
- the retailer confirms that with the distributor.

Distributor obligations

A distributor who registers a person as requiring life support equipment must advise the customer that if he/she changes retailer, then that person should advise their new retailer of the requirement for life support equipment.⁵⁹

Where a distributor becomes aware that a customer has transferred to a new retailer, the distributor must notify the new retailer that the person requires life support equipment.⁶⁰

Commission analysis and draft decision

Both retailers and distributors have obligations under rule 126 of the NERR to maintain details of registrations and de-registrations of customers requiring life support equipment. These arrangements work regardless of how quickly a transfer occurs or the type of meter read it occurs on. The Commission therefore does not consider that changes to the Rules for life support customers are necessary.

6.3.2 Concession and hardship schemes

Concession scheme customers currently have to tell their new retailer of their circumstances when transferring in all jurisdictions other than South Australia. In South Australia, the customer has to contact the Department of Human Services.

Hardship schemes are administered by each individual retailer in accordance with the NERR. Hardship scheme customers have their hardship provisions cease when they change retailers and will have to inform the winning retailer of their circumstances.

These processes will not change with the implementation of AEMO's high level design and therefore the Commission is not proposing any changes to the hardship provisions.

57 Under subrule 124(1)(b)(vii) of the NERR.

58 Under subrule 124(2) of the NERR.

59 Under subrule 124(4)(b)(vii) of the NERR.

60 Under subrule 124B(2)(b) of the NERR.

6.4 Monitoring and compliance

The Commission reiterates the recommendation made by the AEMC and AEMO in the December joint advice. That is, that AEMO continue to monitor compliance with the existing procedures and produce a high level design, and associated rule changes for an improved, streamlined and transparent customer transfer process for the retail energy market.⁶¹

The compliance framework under the existing customer transfer process could be improved. Given that the new framework will need a more robust monitoring and compliance framework and the room for improvement in this area, the Commission will work with AEMO and the AER in the time before the final determination on enhancing this regime.

⁶¹ AEMC & AEMO, *Joint AEMC and AEMO advice to the COAG Energy Council: customer transfers*, December 2018.

ABBREVIATIONS

AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
Commission	See AEMC
MCE	Ministerial Council on Energy
NEL	National Electricity Law
NEO	National electricity objective
NERL	National Energy Retail Law
NERO	National energy retail objective
NGL	National Gas Law
NGO	National gas objective

A SUMMARY OF OTHER ISSUES RAISED IN SUBMISSIONS

This appendix sets out the issues raised in the first round of consultation on this rule change request and the AEMC's response to each issue. If an issue raised in a submission has been discussed in the main body of this document, it has not been included in this table.

Table A.1: Summary of other issues raised in submissions

STAKEHOLDER	ISSUE	AEMC RESPONSE
Concerns regarding AEMO's proposed procedure changes		
Alinta Energy (pp. 1-6)	<p>Alinta questions whether AEMO has adequately considered or assessed the whole of market impact from its proposed changes. In particular the transfer of financial responsibility that occurs through the customer transfer transactional process.</p> <p>Also, Alinta noted that AEMO's proposal to remove meter read types (such as next scheduled read) and to separate out the appointment of metering roles introduces limitations on participants and inefficiencies along with operational and administrative burden.</p>	<p>These issues are outside of the scope of this rule change. However, the Commission recognises these concerns and encourages participants to engage with AEMO through its procedure change process.</p>
Ausgrid (p. 1)	<p>Ausgrid's view is that the relevant procedures must allow for certain parties to object to the transfer, or a solution should be developed to allow the incoming retailer access to the last billable meter read date. This objection would apply to retrospective transfers only.</p>	<p>The Commission has been in regular discussions with AEMO on the issues raised by stakeholders, in both formal and informal forums. The Commission and AEMO will continue to collaborate throughout the rule and procedure changes.</p>
Endeavour Energy (p. 3)	<p>Given, AEMO proposal to remove the ability to object to retail transfers on last billable reads, Endeavour Energy wished to highlight that the last billable meter read date is currently not always visible to the new retailer. Therefore, either participants</p>	

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	<p>be allows to raise an objection if the proposed retail transfer date does not align with the last billable meter read date or the solution is designed to make the last billable meter read date visible to the new retailer.</p>	
<p>ERM Power (pp. 1-4)</p>	<p>ERM Power appeal to the Commission to carefully consider the costs to the industry to implement the proposed changes. Retailers would be required to make costly systems changes, including quoting tools for recording online consent to transfer on estimated meter reads, billing systems and systems that interface to the market.</p> <p>Moreover, ERM believe the Commission should consider the rule change implementation costs in the backdrop of the inevitable roll out of smart metering, which is likely to produce broader efficiency gains in reducing switching times.</p> <p>ERM are opposed to AEMO's proposal to remove the next scheduled meter read, and clarifying the meter reads options that are available for use for a customer transfer.</p>	
<p>TasNetworks (p. 1)</p>	<p>TasNetworks would like the AEMO to consider timing the changes to be aligned with existing projects rather than be run as a stand alone project. They noted that project costs would be reduced if this rule change is delivered within the Five Minute Settlement rule change, effective 1 July 2021, or Global Settlement rule change effective 6 February 2022.</p>	
<p>EnergyAustralia (p. 4)</p>	<p>EnergyAustralia suggested increasing the interval of the next scheduled read date from 90 to 30 days. This would render the significant delay that can be experienced because of the current</p>	

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	next scheduled read date process inconsequential. Any consideration of this would need to factor in the future reduction in accumulation meters as more advanced meters are installed.	
Energy Queensland (pp. 1-3)	Energy Queensland questions why AEMO is removing the next scheduled read options as they believe some customers and retailers would be satisfied with continuing to use this method. It is also seeking clarification regarding diagrams in the high level design document.	
Origin Energy (p. 2)	Origin has raised concerns with AEMO's proposed high level design. This includes the proposed removal of CR1500, visibility of the next schedule read date and notification of a pending transfer as well as marketing approaches and obligations on current MC's to provide transfer data.	
Opposed to limiting retailer save activity		
Aurora Energy (p. 2)	Aurora Energy contends that limiting retailer save activities restricts the capacity to resolve instances where customers have not been fully informed over their potential transfer. There is a consumer protection value in retaining triggers for customer save activities.	The Commission does not consider losing retailer notification and save activity is an appropriate means of protecting consumers. The losing retailer is a competitor to the winning retailer and is therefore not an appropriate party to provide consumer protection advice or information regarding the transfer.
Red/Lumo Energy (p. 4)	Red/Lumo Energy argue that a faster transfer process essentially eliminates the ability for companies to carry out important discussions on sensitive accounts. This includes sensitive accounts such as where a perpetrator of family violence manipulative systems and transfer processes of utility accounts against victims to contribute to the debt or transferring the	Where there are consumer protection issues with customer transfers these should be reported to, monitored and enforced by the appropriate regulatory authority.

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	account out of an affected customer's name without their knowledge. Therefore, Red/Lumo consider that the removal of the notice period altogether requires further analysis to fully understand its broader impact.	
Change in customer (Customer move-in and move-out)		
Ausgrid (p. 2)	Ausgrid stated that where a new customer move-in read, the transfer should only be permitted using an actual read. This is because any substitution would be based on the previous customers usage. Ausgrid does not believe this would significantly impact the transfer of the customer because there are existing tight timing obligations (up to two business days) on the LNSP to provide a move-in read.	Change of customer (move-in and move-out) transfers are not within scope of this rule change. AEMO noted in its rule change request that they may be able to look at the framework for move-in transfers for efficiency gains as part of its consultation process on its high level design.
Endeavour Energy (p. 2)	The rules should make transfer for a customer move-in scenario only allowed on an actual meter read.	
Metrology Procedures		
Endeavour Energy (p. 2)	The rules should make it clear that customers and retailers are not allowed to dispute the substituted read with the MDP or Network if the substitution was calculated as per the <i>Metrology Procedure</i> . Instead, we believe that allowing customers and retailers to agree on a customer self read or on another substitution generated by the Retailer.	The Commission is not currently looking to change any mechanisms of the bill disputes understand and market retail contract. Also, the Rules already provide for a customer and a retailer to agree on a customer self read or on another substitution generated by the retailer under Clause 20(1) of the NERR.
Transfers in error and transfers without consent		
EWON (pp. 4-5)	Removing the notification to the existing retailer will have the	As noted by EWON, transfers in error and without

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	<p>unintended consequence of increasing instances of transfers in error and transfers without consent. Customers have regularly informed EWON that it was because of their existing retailer calling them to query the reason for a transfer that they became aware of an error. This early warning often allows customers to stop an unauthorised transfer before it completes.</p> <p>Removing this opportunity will mean that unauthorised transfers that would have otherwise been stopped will go through. This in turn will increase the risk of disconnections as a result of customers being unaware that another retailer has become responsible for the site and is billing electricity charges.</p>	<p>consent occur now and are likely to continue to be an issue across the market. The Commission notes that:</p> <ul style="list-style-type: none"> with the increase in advanced meters, which allow two day transfers without any rule or procedure changes, the issue raised by EWON would occur and would need an industry based solution AEMO is trying to address this issue with its proposal to remove the ability for the 'old' retailer to object to a customer returning to them when they were churned away in error we will work with industry, especially jurisdictional ombudsmen to monitor any increase in these transfers.
Retailers' debt management activities		
<p>Energy Consumers Australia (ECA) (pp. 1-4)</p>	<p>ECA previous experience has shown that energy retailers can be quick to transfer these debts on to debt collectors, potentially resulting in the consumer having a default listed on their credit report.</p> <p>The pragmatic solution of the AER's voluntary Sustainable Payment Plans Framework ensures that the consumer continues to pay their outstanding debt to their old retailers while allowing them to switch to a tariff that better suits their needs. Only 18 retailers have adopted the framework to date.</p>	<p>While the issue of retailers' debt management activities is outside the scope of this rule change, the Commission acknowledges this is an area of concern.</p> <p>We will be working with consumer groups, the ECA, the AER and industry more broadly to add this issue into our monitoring regime. This will include debt levels and transfer of these to debt collectors before and after the implementation by AEMO of</p>

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	ECA noted that the AEMC should include requirements for the reporting by retailers on the number of debts from former customers that have been transferred to debt collection agencies and an aging profile of these debts.	
SACOSS (p. 4)	SACOSS believes it is important that customers receiving the support of their retailer to pay off their debt and reduce their ongoing energy costs (through payment plans and other supports), are aware that they will lose those supports once they have transferred retailers.	it's high level design.
Monitoring, compliance and enforcement		
ECA (pp. 1,3)	ECA supports AEMO's proposal new reporting requirements in relation to switching timeframes. These would allow market bodies to monitor implementation, with the AER to provide advice to the AEMC about non-compliance and enforcement action. The new requirements would be introduced in the Retail Performance Reporting Procedures and Guidelines.	The Commission agrees in principle, as in the joint advice to COAG Energy Council, that the compliance framework under the existing customer transfer process could be improved.
EnergyAustralia (p. 4)	<p>EnergyAustralia believes that ensuring the AER have more oversight of objections and increased enforcement powers when objections are deemed to be not in a customer's best interest. The AER should be reviewing objections data more frequently and taking note of trends that are leading towards inappropriate behaviour.</p> <p>It is apparent that increased oversight and enforcement by the AER would be an additional alternative to any of the proposed rule changes, as the changes are partially made to deter poor behaviour and misconduct by market participants.</p>	Given that, the new framework will need a more robust monitoring and compliance framework and the room for improvement in this area, the Commission will work with industry, AEMO, the AER and ombudsmen, in the time before the final determination on enhancing this regime.

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EWOSA (p. 2)	EWOSA is keen to ensure that the AER is still in a position to be able to ensure compliance for the updating of MSATS.	
Rule and procedure change approach		
Momentum Energy (pp. 2-3)	<p>While Momentum Energy agree that the rule changes required to implement the AEMO high level design appear minimal, it is not ideal to be considering rule changes in parallel with procedure changes which have not been fully consulted on or finalised. Momentum is of the view that there is no urgency or immediate market failure that justifies this rapid approach to such an important change, which will likely have significant system impacts and costs to most market participants.</p> <p>Additionally, the recent introduction of the default market offer has reduced the risk of customers being stranded on uncompetitive offers and consequently the need to ensure that they can switch more quickly has been removed.</p>	<p>In developing the advice AEMO and the AEMC highlighted that the changes are largely within AEMO's remit through procedure changes. The only changes required to the rules are clarifications and checks that consumer protections are adequate for a circumstance where more customers may change retailers based on self-reads and estimated reads. Given the nature of the rule change it is possible to progress them simultaneously.</p> <p>Additionally, the Commission notes that the default market offer only caps a retailer's standing offer and that customer can still be stranded on uncompetitive market offers.</p>
Cost benefit analysis of the rule change		
Origin Energy (p. 1)	Origin are concerned that the changes proposed by AEMO will result in significant modifications which will be costly for retailers and ultimately consumers. For this reason, it is imperative that the AEMC ensure that any changes to the rules are supported by a clear quantitative assessment that shows that the market and consumer benefits clearly outweigh the industry costs.	The Commission considers that the changes consist of clarifications to existing provisions or enablers to AEMO's proposed high level design. There are therefore zero or minimal costs as a result of this rule change and a formal cost benefit analysis is unnecessary. The Commission notes that stakeholders are able to raise the issue of the costs
Red/Lumo Energy	Red/Lumo consider that the Commission should undertake a	

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	proper cost benefit assessment of this rule, as it must assess the potential costs, benefits and any unintended consequences of implementing any change. This is especially pertinent given industry's recent experiences.	of implementing AEMO's procedure changes within the procedure change consultation.
In-flight SOs during a FRMP churn		
Plus ES (p. 3)	The instances of in-flight SOs (taken to mean service orders) are projected to increase with the proposed changes to the customer switching process. The Rules and associated procedures should clearly define the market expectation. Consideration should be given to the impacts to the customer and associated compliance requirements. Therefore, it is important that participants are still notified and allowed to Object to Retrospective Transactions.	The Commission is of the view that cancellation of in-flight service orders due to a customer transfers currently occur in the market today. These include customers with type 4 meters, or customers with accumulation meters transferring on a special read.
AGL (p. 4)	AGL is unclear of how the losing retail is expected to manage and potentially cancel any pending de-energisation service orders raised against the customer. If the losing retailer does not receive notification until the transfer has occurred, the losing retailer will have extremely short timeframe to issue a cancellation of a disconnection which may increase the occurrence of wrongful disconnections.	The Commission is sympathetic that these instances may occur more frequently with a short transfer timeframe. However, the market is in a good position to put in place, or improve existing, systems to deal with these types of circumstances to ensure a good customer experience and compliance with the Rules.
Meter Installation Timeframes NER clause 7.8.10B & C (meter exchange)		
Plus ES (p. 3)	Retailer has 15 business days from when they received the small customer request for a meter to be installed when falling agreement for meter exchange installation timeframes. Clarification is sought by Plus ES when the timeframe begins. Is it: <ul style="list-style-type: none"> • when the FRMP churn is completed in MSATS, or 	This issue is outside the scope of this rule change.

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	<ul style="list-style-type: none"> when the customer approaches the incoming FRMP and requests the meter installation. 	
Eliminating the Objection to Debt by current retailer in Victoria		
Simply Energy (p. 4)	Simply believes that in order to meet the objective in its entirety, Victoria should be aligned with the other jurisdictions in relation to the Objection by current retailers for bad debt. This would result in a seamless process across all NEM jurisdictions and quicker customer switching times, considering Victoria has only one per cent of accumulation meters left in its population.	<p>The Commission agrees that Victoria should align its regulations with NECF jurisdictions.</p> <p>We note that AEMO has flagged in its high level design that it is in discussions with the Essential Services Commission of Victoria about how these changes will impact Victorian consumers.</p>
Inclusion of gas transfers in this rule change		
AGL (p. 2)	AGL raised that they consider the AEMC and AEMO should also consider including gas transfers in this rule and procedure change process.	Retail gas customer transfers are out of scope for this rule change other than changes to consumer protections within the NERR. The Commission considers the NERR changes in the draft rule are fit for purpose for the gas market.

B LEGAL REQUIREMENTS UNDER THE NEL AND NERL

This appendix sets out the relevant legal requirements under the NEL and NERL for the AEMC to make this draft rule determination.

B.1 Draft rule determination

In accordance with s. 99 of the NEL and s. 256 of the NERL the Commission has made this draft rule determination in relation to the rule proposed by AEMO.

The Commission's reasons for making this draft rule determination are set out in chapter 2.

A copy of the more preferable draft rule is attached to and published with this draft rule determination. Its key features are described in chapter 2.

B.2 Power to make the rule

The Commission is satisfied that the more preferable draft rule falls within the subject matter about which the Commission may make rules. The more preferable draft rule falls within s. 34(1)(a)(i), (a)(iii) and (aa) of the NEL and sections 32, 237(1)(a)(i) and (a)(ii) and 237(2)(ia) of the NERL] as it relates to regulation of the operation of the national electricity market, the activities of persons participating in the national electricity market or involved in operation of the national electricity system, the provision of energy services to retail customers, the activities of persons involved in the sale and supply of energy to customers and the use of interval meters and smart meters. Further, the more preferable draft rule falls within the matters set out in Schedule 1 to the NEL as it relates to item 27 (the metering of electricity) and 29 (regulation of persons providing metering services).

B.3 Commission's considerations

In assessing the rule change request the Commission considered:

- it's powers under the NEL and the NERL to make the rule
- the rule change request
- submissions received during first round consultation
- the Commission's analysis as to the ways in which the proposed rule will or is likely to, contribute to the NEO and NERO.

There is no relevant Ministerial Council on Energy (MCE) statement of policy principles for this rule change request.⁶²

The Commission may only make a rule that has effect with respect to an adoptive jurisdiction if satisfied that the proposed rule is compatible with the proper performance of Australian

⁶² Under s. [33 of the NEL/ 73 of the NGL/ 225 of the NERL] the AEMC must have regard to any relevant MCE statement of policy principles in making a rule. The MCE is referenced in the AEMC's governing legislation and is a legally enduring body comprising the Federal, State and Territory Ministers responsible for energy. On 1 July 2011, the MCE was amalgamated with the Ministerial Council on Mineral and Petroleum Resources. The amalgamated council is now called the COAG Energy Council.

Energy Market Operator (AEMO)'s declared network functions.⁶³ The more preferable draft rule] is compatible with AEMO's declared network functions because it is unrelated to them, and therefore cannot be incompatible with those functions.

B.4 Civil penalties

The Commission cannot create new civil penalty provisions. However, it may recommend to the COAG Energy Council that new or existing provisions of the NEL or NERR be classified as civil penalty provisions.

The draft rule does not amend any clauses that are currently classified as civil penalty provisions under the NEL or National Electricity (South Australia) Regulations, or the NERL or the National Energy Retail Regulations. The Commission does not propose to recommend to the COAG Energy Council that any of the proposed amendments made by the draft rule be classified as civil penalty provisions.

B.5 Conduct provisions

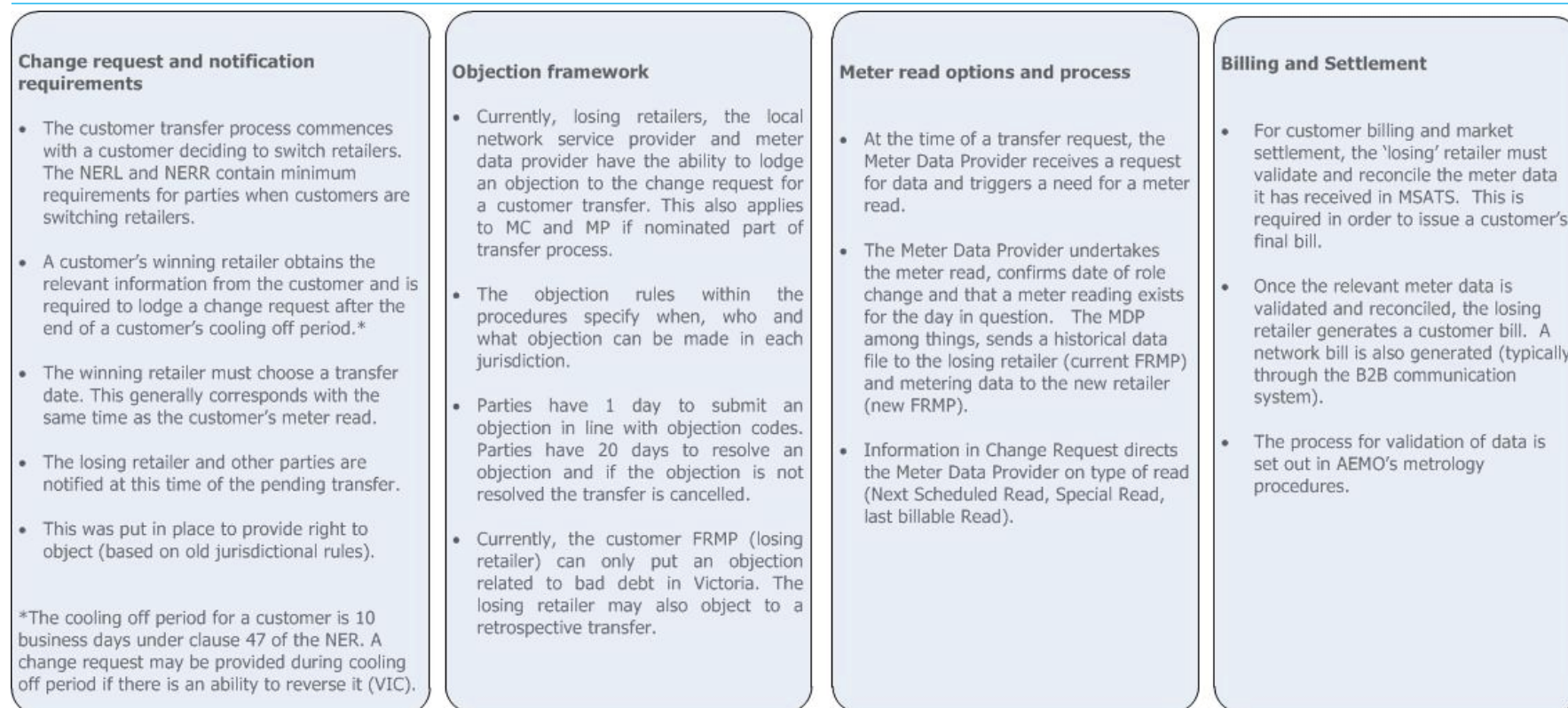
The Commission cannot create new conduct provisions. However, it may recommend to the COAG Energy Council that new or existing provisions of the NEL or NERR be classified as conduct provisions.

The draft rule does not amend any rules that are currently classified as conduct provisions under the NEL or National Electricity (South Australia) Regulations, or the NERL or the National Energy Retail Regulations. The Commission does not propose to recommend to the COAG Energy Council that any of the proposed amendments made by the draft rule be classified as conduct provisions.

⁶³ Section 91(8) of the NEL.

C EXISTING CUSTOMER TRANSFER PROCEDURES

Figure C.1: High level overview of MSATS retail customer transfer procedures and process



Source: AEMC

D ELECTRICITY METER TYPES IN THE NEM

In 2015 the Commission made the Competition in Metering Rule which involved significant amendments to the NER and the National Energy Retail Rules (NERR). The new rules commenced on 1 December 2017 and introduced a competitive framework for metering services in the NEM.

Different electricity meter types measure usage in different ways.

There are three electricity meter types generally used by small customers in the NEM classified under the NER. They are:

- **Type 6 accumulation meters** — Currently most small customers use these meters. They record the total amount of energy used since the meter was installed, and must be read manually. Customers are billed on the additional usage since the last meter reading, which usually occur every three months. Customers with this basic meter are limited to simple retail tariff structures and are restricted in their ability to understand or manage their energy usage in order to reduce their electricity bills.
- **Type 5 interval meters** — Interval meters measure electricity usage every 30 minutes and this data is stored on the meter until it can be collected manually. These meters can support some services for customers, such as different tariff arrangements, but they cannot be remotely read and controlled. As such, there is limited ability for customers with interval meters to understand and manage their electricity usage in real time.
- **Type 4 (advanced) meters** — Type 4 meters record electricity usage in intervals of 30 minutes or less. They are two-way digital communication systems that automatically send usage data to the required parties through their remote communications function. This automated communication ends the need for manual meter reads and give customers greater control over their electricity usage and billing arrangements, and a choice of services.

From 1 December 2017 every new meter installed — and all replacement meters — for small customers must be a type 4 meter (subject to two exemptions discussed below). To be classified as this type of meter, the device must be capable of providing the services set out in the minimum services specification set out under the NER.

- **Type 4A advanced meters (with deactivated communications)** — a type 4A meter is a meter that is capable of providing the services in the minimum services specification but has its communications deactivated and therefore cannot be remotely read and/or managed.

The Competition in Metering Rule provides that a type 4A meter can be installed in place of a type 4 meter in certain circumstances. Type 4A meters can be used in two situations. Firstly, where there are no telecommunications networks that enable remote reading of the meter. Secondly, where the small customer refuses to have a new or replacement meter with active remote communications installed.