

Our ref: 0743-1608241381-573

11/09/2024

Mr Ben Barr  
Chief Executive Officer  
Australian Energy Market Commission  
GPO Box 2603  
Sydney NSW 2000

Dear Mr Barr

### **ERC0378 – Directions Paper - Accelerating Smart Meter Deployment**

Thank you for the opportunity to comment on the additional consumer safeguards outlined in the Directions Paper and Draft Rules. The comments contained in this submission reflect the views of the Energy & Water Ombudsman NSW (EWON), Energy & Water Ombudsman Queensland (EWOQ) and Energy & Water Ombudsman South Australia (EWOSA).

We are the industry-based external dispute resolution schemes for the energy and water industries in New South Wales, Queensland and South Australia.

We have collectively reviewed the Directions Paper and Draft Rules and generally support the additional customer protections proposed.

We are encouraged that our initial feedback has contributed to improved consent provisions, improved information concerning any proposed tariff change and the consideration of a flat standing offer tariff.

There are, however, a few areas of concern, opportunities for clarification with the proposed customer protections, including the potential temporary nature of them. These concerns, along with some other points are discussed in detail below.

If you require any further information regarding our submission, please contact Mr Jeremy Inglis, Manager Policy and Research (EWOQ) on 07 3212 0630, Dr Rory Campbell, Manager Policy and Systemic Issues (EWON) on 02 8218 5266 or Mr Antony Clarke, Policy and Governance Lead (EWOSA) on 08 8216 1861.

Yours sincerely

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**Jane Pires**  
**Energy and Water Ombudsman**  
**Queensland**

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**Sandy Canale**  
**Energy & Water Ombudsman**  
**South Australia**

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**Janine Young**  
**Energy & Water Ombudsman**  
**New South Wales**

We broadly support the two key reforms to provide enhanced safeguards for the period of the planned accelerated meter program 2025-2031.

- 1. Customers would need to give explicit informed consent for a retail tariff structure change following a smart meter deployment**
- 2. Designated retailers would be required to offer flat tariffs to customers with smart meters, with this measure being implemented by jurisdictions.**

### **1. Customers would need to give explicit informed consent for a retail tariff structure change following a smart meter deployment**

The first reform that customers would need to give explicit informed consent (EIC) for a retail tariff structure change following a smart meter deployment is an improved protection above simply information provision and issuing a tariff change notification. This requirement provides an opportunity for genuine engagement with customers and supports a pathway to customers making informed choices. This would represent a significant improvement over the consumer experience today.

We think three years is a reasonable timeframe, but it is important that customers are informed of this three-year period at its commencement and again when it is coming to an end, so they know what choices are available to them.

We support the strengthened requirement that retailers are required to give “an estimate of what the customer’s historical bill would have been under the new varied retail tariff structure, compared to the bill they received under their existing tariff”. We support the application of this proposed new customer protection to all situations where smart meters are being installed and the situations listed in which it does not apply.

We must avoid reforms that potentially entrench or widen disadvantage where consumers have not received a smart meter in this transition period. We understand the EIC requirement is limited to the rollout period only, which could leave customers behind who aren’t able to get a smart meter until after 2030. This may result in those customers being moved onto cost-reflective tariffs without the same protections afforded by having an informed choice, being able to monitor their usage and compare offers tailored to their situation.

We would prefer that this be a permanent customer protection given the number of basic meters that won’t be replaced because of site remediation issues and costs, risking particularly vulnerable customers being left behind. Customers that have these issues shouldn’t be penalised or treated differently to those that have their smart meter replaced during the acceleration period (or for three years or so after it).

As outlined in our earlier submission to the draft determination not addressing these gaps is likely to impact customers including:

- those unable to remediate their site to have a smart meter installed, such as renters or experiencing financial vulnerability;
- those who, through no fault of their own, were customers of a retailer that did not complete the requirements of the relevant DNSPs LMRP; and
- those located in (likely older) embedded networks, if a retailer subsequently becomes the seller to that customer or group of customers and wants to upgrade the meter(s) or
- if possible subsequent rule changes or changes to Australian Energy Regulator guidelines require embedded network operators to replace accumulation meters with smart meters.

There is no justification to treat consumers in these situations differently from those who have their accumulation meter replaced by a smart meter during the “acceleration period” and we strongly recommend that these protections be extended beyond 2030 to customers in these circumstances.

In its current form we anticipate this issue will present as customer complaints regarding explicit informed consent (EIC) to our schemes, in particular cases where a customer is transferred in error.

While an early implementation date is encouraged, we understand that January 1 2025 may be too soon for retailers to adjust their systems accordingly, which risks creating unintended consequences if not implemented properly.

While we agree that the explicit informed consent period would encourage retailers to provide customers with “detailed and useful information explaining how they may be able to benefit under a proposed new retail tariff structure”, we supported the information requirements on retailers previously outlined in the Draft Determination.

We would also like to reiterate previous concerns noting the exclusion of customers of embedded network operators from the draft rule, which places these consumers at a further disadvantage compared to “on-market” electricity consumers. Mechanisms to address these gaps and imbalances is warranted.

## **2. Designated retailers would be required to offer flat tariffs to customers with smart meters, with this measure being implemented by jurisdictions.**

We welcome the AEMC now considering opportunities to introduce a requirement of a flat standing offer tariff. We understand the need for jurisdictions to implement this reform and look forward to their ongoing engagement on this important issue for consumers.

We note the Queensland Government has announced support to implement these enhanced consumer protections including introducing regulations to enable customers to revert to a flat tariff. The timing is somewhat unclear, noting an election is scheduled in October.

[Miles Government win in stopping energy retailers' smart meter sting - Ministerial Media Statements](#)

While we wait to observe what approach is taken in other states, we would encourage the AEMC to consider ways to support greater consistency in approaches for the benefit of consumers and retailers:

- It would be helpful if the rules could clarify expectations around the flat tariff standing offer.
- Is the flat tariff intended to be available for a limited time (per transitional rules) 3, 5yrs or ongoing?
- Inconsistencies across jurisdictions could create confusion for customers if they see others interstate getting something that they can't
- Inconsistencies may also add to costs for retailers. That said, we believe the benefits of this requirement would outweigh the costs and minimise the potential for “bill shock”.
- Inconsistent outcomes for customers with existing smart meters compared to customers receiving smart meters moving forward – customers with existing smart meters will not have access to flat tariffs unless this measure is implemented.

We would encourage the AEMC to consider what kind of protections should be available to consumers if a local instrument isn't established. We also noted this requirement applies only to “designated retailers”, and query if this approach is sufficiently broad enough in each jurisdiction to support consumers.

**Additional comments:**

We are encouraged by these developments to enhance the consumer safeguards accompanying accelerated smart meter deployment. We also support the approach to consider broader issues relating to tariffs and tariff variations in other processes, such as the “Electricity Pricing for a Consumer-Driven Future” review, including changes to existing network tariff arrangements.

In terms of the assessment criteria outlined, we consider they are sound, but the applications of the “customer protections test” could be stated more explicitly.

As your paper suggests, there are worthwhile benefits of increased adoption of smart meters for consumers including:

- the amount of information available on their energy use,
- allowing customers to better understand and manage their bills,
- access to new and better retail service options, and
- enabling low emissions technology.

However, customers have different preferences and should be able to exercise choice.

We understand the proposed increased customer protections will involve costs to retailers as they will bear the risk of passing through cost reflective network tariffs as flat retail tariffs to customers. This risk will likely be more acute for smaller, non-vertically integrated retailers. We also acknowledge the potential for higher electricity prices as retailers will need to cover this risk. However, we also note the retailer led rollout has been going on since 2017 with slow uptake and often inadequate information being provided to customers about the benefits or otherwise of having a smart meter. If metering rollout is to accelerate, risks to customers need to be mitigated. We consider the regulatory approach that risks should be allocated to those agents best able to manage or reduce them should apply. Retailers are in a better position to manage the risks from the smart meter rollout and changes to tariffs than consumers.

The regulatory approach should also begin from the position or assume that consumers have inadequate information (too much, too little, inaccurate, difficult to understand) and need better information to make the appropriate choices for their circumstances.

Overall, its pleasing to see the progress on these two reforms and we trust our comments in our previous submission on the Draft Determination, particularly regarding the customer protections, are still being considered before the Final Determination expected in November. For ease of reference: testing and inspecting legacy meters, customer information, communications-enabled smart meters, site remediation and customer switching issues were raised. [ewo\\_joint\\_submission.pdf \(aemc.gov.au\)](#)

**Case examples received by our schemes reinforcing the issues customers are currently experiencing:**

The customer concerns are about his high billing. He says his most recent monthly bills have increased 89%. A smart meter was installed to the property December 2023. He lives on his own, he is away 11 days of the month, there is no change within the home. He did not understand how this has increased his billing.

Customer received a quarterly bill for \$1600, which is excessively high. The bill has not been higher than \$700 per quarter. He has lived at the property for 10 years. A smart meter was installed at the property. The bill has not been that high since living there.

Customer made a complaint about receiving misleading information regarding a tariff change. Upon receiving his invoice, he discovered increased rates and a new smart meter service charge that was never communicated to him beforehand. He also mentioned that he was not made aware of the demand charges. Customer says he would have never agreed to have a smart meter installed if he had known about these charges.

Customer complaint about receiving misleading information regarding a tariff change. Dissatisfaction with the price change associated with the smart meter installation, stating it was not communicated to her beforehand. After meter replacement, she said they received their highest bill ever for the period from February to May 31. Upon checking, she noted demand charges and a peak rate that was 8 cents higher than their previous plan. Customer said that their usage is 7% lower compared to last year however her bills have increased.

Customer complaint about high bill after the installation of a smart meter. Customer received a bill in early June for \$1400. Highlighting a 200 to 300% increase in the amount.

Customer says they used to pay 32 cents any time, now 15 cent demand charges btw 4-9pm and 34 cents for peak usage. Bills used to be in credit and since smart meter installation and tariff change bills are over \$130. Customer believes tariff change was not communicated clearly and tariff variation letter was not transparent.

The customer contacted a retailer in April 2024 to sign up to a flat tariff plan that was advertised on its website. He was offered a different plan with higher rates and demand charges. He was confused by the information the retailer gave about why he could not sign up to the flat tariff plan. The retailer indicated that the flat tariff plan was not available to new customers and was "locked" to the people already on it. The retailer also indicated that its availability was restricted by the network. The matter was referred to a senior team at the retailer in the first instance.

The customer researched retailers online to choose a new energy plan in June 2024. He found a plan he liked which was based on a flat tariff. When he contacted the retailer, the retailer said he would have to sign up to a plan based on a time of use tariff first but could later switch to a flat tariff plan once he was their customer. After he had transferred to the retailer, he rang them to change to the flat tariff plan. The retailer advised that he was given wrong information when he was told he would be able to change to the flat tariff plan. The matter was referred to a senior team at the retailer in the first instance.

The customer was advised by his electricity retailer that the basic meter at his property is to be replaced with a smart meter even though it appears to be working fine. He was also advised that he will be on the distributor's time of use which was much more expensive than his current flat rate. The customer contacted other retailers and was advised the same thing and he felt as if he had no choice but to have the smart meter installed and did not see how it would benefit him due to the increase in rates. The customer was advised by his electricity retailer that there was the possibility of being placed on one of three tariffs, however it could not confirm which one he would be placed on. He also contacted the distributor, and it advised him that his electricity retailer would determine the tariff. The customer was concerned that he had limited information and was being forced into changing his meter with new rates but could not be given information about how it would impact him.

The customer has a smart meter and was with retailer A which billed him on a flat rate for his electricity consumption. He contacted retailer B and was offered a flat rate. He accepted the offer and arranged to transfer to retailer B, however it then contacted him to advise that he would be billed on a time of use tariff. He disputed this with retailer B, however, was advised that it was the only option for the meter installed at his property. The customer reviewed the distributor's website and noted that it said that he could choose whether he be on a time of use tariff and further research on government websites state that "If you have a smart meter, you can stay on a flat rate". The customer raised this with retailer A however it told him that they can't take back the billing rights to the property until the 10-day cooling off period had passed and that it could not put him back on a flat rate because the account was closed, and they no longer offered this.

A customer installed solar panels at their property in March 2023 and a new meter was installed on 11 May 2023. He was previously on a flat rate tariff and wanted to continue on this, however he received an email from his electricity retailer on 20 May 2023 to advise that his plan was changing to a time of use tariff. He contacted the retailer and advised that he was not informed of the change to his tariff structure. It advised him that the tariff was not set by it, and it would need to apply to the local distributor to change the tariff back. The next day he received a text message from the retailer to advise that the distributor had declined to change the tariff back to a flat rate and it would remain on time of use. The customer contacted his local distributor on two occasions, and it advised that it does not set the billing structure, that the retailer are the ones that determine the rate and structure of how a customer is billed. He contacted his electricity retailer again, and it advised that the meter data provider that installed the meter would not allow the flat rate tariff to be used. He considers that he was only advised that the tariff may change, and that the electricity retailer and their meter data provider know that a flat rate tariff is not possible after a meter exchange, that he should have been informed of this before the meter was exchanged.

A customer agreed to a free meter upgrade by his electricity retailer and was advised that there would be no costs associated with it or any changes to his tariff. He received a rate rise notification from his retailer and researched transferring to a different retailer. He was advised by a prospective retailer that the tariff type had been changed on the national meter database from a single flat rate tariff to a demand tariff. He considers that this was without his knowledge or informed consent. He contacted his electricity retailer and requested that it rectify the error, however it declined and advised that he could not go back to a single rate tariff now that the meter had been changed. The retailer offered to apply a \$300 customer service gesture to his account in recognition of the poor customer service that the customer had experienced.

A customer contacted her electricity retailer and requested for her meter to be exchanged. The retailer arranged for this to occur and sent her a notification that her rates might be changed after the new meter is installed. When she received her first bill, it was on time of use rates, which she considers was not clearly explained to her. She requested that her account be billed on flat rates, however it advised her that it was not possible as the distributor determines the tariff at the property, however when she contacted the distributor, it advised her that retailers can charge customers under a different rate or request that the tariff be changed.

The customer received letters dated 2 and 30 October 2023 informing him that his retailer proposed to undertake a new meter deployment. The customer believed that his flat rate tariff would be unchanged and that his retailer's letters implied he would have a choice of tariff structure because the letters stated "your electricity tariff structure may change following the upgrade .... If this happens, we'll let you know." After the meter exchange the retailer sent the customer a letter informing him the tariff was changed to a single rate tariff. The retailer sent a further letter to the customer 5 days later informing him the tariff was changed to a Time of Use tariff. The customer felt the retailer's October 2023 letters were misleading and that he had been denied a choice of tariff structure.

The customer complained that his retailer sent a meter replacement technician to his property to install a smart meter without prior notification. The customer explained he then received a letter from his retailer notifying him of the planned smart meter upgrade, but the letter did not indicate there may be changes in how he was billed. The customer queried this with his retailer and was told verbally and in writing that there would be no changes to his tariff or rates. The customer then agreed to the meter exchange and the smart meter was installed. The retailer then sent the customer a letter advising his tariff had changed from a flat rate tariff to a Time of Use tariff. The customer calculated that he would be financially disadvantaged by the change to a Time of Use tariff. He contacted his retailer and was advised he could not return to a flat rate tariff and could not be billed on the rates prior to the meter exchange.

The customer received two letters from his retailer informing him the retailer proposed to undertake a new meter deployment. The retailer's letters did not inform the customer about any impact to his tariff. After the meter exchange his retailer informed him that his tariff was changed to Time of Use tariff. The customer felt he had been misinformed by his retailer and the retailer's meter coordinator. The customer would not have agreed to the meter exchange if he was made aware of the change of rates to Time of Use tariff.