



**St Vincent de Paul Society**  
NATIONAL COUNCIL  
*good works*

# **Customer Protections and Smart Meters**

## **Issues for Victoria**

August 2009

May Mauseth Johnston

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## List of Abbreviations

|       |   |
|-------|---|
| ABS   | Australian Bureau of Statistics                         |
| AEMA  | Australian Energy Market Agreement                      |
| AEMC  | Australian Energy Market Commission                     |
| AEMO  | Australian Energy Market Operator                       |
| AER   | Australian Energy Regulator                             |
| AIMRO | Advanced Interval Meter Roll out                        |
| AMI   | Advanced Metering Infrastructure                        |
| B2B   | Business to business                                    |
| CLCV  | Consumer Law Centre Victoria                            |
| CPI   | Consumer Price Index                                    |
| CPP   | Critical Peak Pricing                                   |
| CPRS  | Carbon Pollution Reduction Scheme                       |
| CRA   | Charles River Associates                                |
| CSO   | Community Service Obligation                            |
| CUAC  | Consumer Utilities Advocacy Centre                      |
| DEWHA | Department of Environment, Water, Heritage and the Arts |
| DLC   | Direct Load Control                                     |
| DLCC  | Direct Load Control Contract                            |
| DOI   | Department of Infrastructure                            |
| DPC   | Dynamic Pricing Contracts                               |
| DPI   | Department of Primary Industries                        |
| EDC   | Electricity Distribution Code                           |
| EMCa  | Energy Market Consulting Associates                     |
| ERC   | Energy Retail Code                                      |
| ESC   | Essential Services Commission                           |
| ESV   | Energy Safe Victoria                                    |
| ETF   | Early Termination Fee                                   |
| EWOV  | Energy and Water Ombudsman Victoria                     |
| GSL   | Guaranteed Service Level                                |
| GST   | Goods and Services Tax                                  |
| GWh   | Giga Watt hour  |
| HAN   | Home Area Network                                       |
| IHD   | In-home display   |
| IMRO  | Interval Meter Roll out                                 |
| KWh   | Kilo Watt hour  |
| MCE   | Ministerial Council on Energy                           |
| MRC   | Market Retail Contract                                  |
| MWh   | Mega Watt hour  |
| NECF  | National Energy Customer Framework                      |
| NEL   | National Electricity Law                                |
| NEM   | National Electricity Market                             |
| NEMR  | National Energy Marketing Rules                         |
| NER   | National Electricity Rules                              |
| NERL  | National Energy Retail Law                              |
| NERR  | National Energy Retail Rules                            |
| NSMP  | National Smart Meter Project                            |
| OIC   | Order in Council  |
| PV    | Photo Voltaic   |
| RPWG  | Retail Policy Working Group                             |
| SECV  | State Electricity Commission of Victoria                |
| SM    | Smart Meter   |

## Customer Protections and Smart Meters – Issues for Victoria

|      |                                |
|------|--------------------------------|
| SMI  | Smart Meter Infrastructure     |
| SRC  | Standard Retail Contract       |
| SVDP | St Vincent de Paul             |
| TOU  | Time of Use                    |
| WDP  | Wrongful disconnection payment |
| WEC  | Winter Energy Concession       |

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## Introduction

This report, Customer Protections and Smart Meters – Issues for Victoria, is the first of a series of five reports investigating jurisdictional and National Energy Market (NEM) issues pertaining to customer protections, Community Service Obligations and regulation in light of smart meter infrastructure.

Attached to this report is an extensive **Background Paper** discussing smart meters and associated consumer issues more broadly. Throughout the report references are made to issues outlined in the Background Paper. This Background Paper will also be attached and referenced in the second report of this project, looking at issues pertaining to NSW. The third report will discuss Queensland issues and the fourth will investigate issues for South Australia – focusing on both Smart Meters and Direct Load Control solutions. The project will produce a fifth, and final report aimed to inform the MCE, Federal Government and regulators about smart meter related consumer issues. This final report will collate recommendations and advocacy positions as they arise from consultations on the jurisdictional reports.

### Structure of the report

Section 1 provides a brief outline of the Victorian smart meter program and key energy market characteristics, ranging from consumption levels to price trends to disconnection levels.

Section 2 examines the current Victorian customer protections in comparison to the proposed National Energy Customer Framework (NECF) in light of smart meters. This section contains 40 recommendations, most of them recommending amendments to the NECF.

Section 3 discusses some of the economic regulation aspects of smart meters. It focuses on cost allocation issues and the pass through of benefits to consumers in particular. This section produces 6 recommendations, mostly directed at the Ministerial Council on Energy (MCE) and the Australian Energy Regulator (AER).

Section 4 documents consumption patterns and explore the potential financial impacts of time of use tariffs on the average Victorian household as well as the average Victorian pensioner household. The analysis also examines the overall cost impacts on Victorian households and details the relationship between quarterly electricity bills and median fortnightly income. The final part of this section discusses issues arising in relation to energy concessions and makes 3 recommendations for changes to the Victorian concession framework.

Section 5 discusses customer protections embedded in Victorian legislation: the ban on late payment fees for standing offer contracts, the wrongful disconnection payment, the ban on use of prepayment meters and the regulatory approval and auditing processes for hardship policies. It also proposes a jurisdictional assistance scheme for customers experiencing significant financial disadvantage from being transferred from a two-rate tariff (peak/off-peak) to a time of use tariff. This section produces 5 recommendations (two directed at the Victorian Government and three proposing amendments to the NECF).

Section 6 provides concluding remarks in relation to the Victorian framework versus the NECF and the adequateness of the proposed protections for energy markets characterised by full retail competition, deregulated retail prices and smart meter enabled dynamic tariff offers.

Appendix 1 presents a summary table of the 54 recommendations made in this report.

## ***1. The Victorian Market***

### **1.1 Smart meters in Victoria**

Victoria was the first jurisdiction in Australia to commence an assessment of a state-wide rollout of smart meters and the Victorian Advanced Metering Infrastructure (AMI) project therefore preceded the National Smart Meter Project (NSMP).

In 2004 the Victorian regulator, the Essential Services Commission (ESC), mandated the rollout of manually read smart meters throughout Victoria. This program was known as the Interval Meter Rollout (IMRO) program.

However, the Department of Infrastructure (DOI) had the view that developments in the metering technology meant that the functionalities of IMRO could be expanded to produce more overall benefits. Subsequently in 2005, DOI together with the energy distribution businesses and retailers commissioned a cost-benefit study to examine the net societal benefits for adding advanced functionality to the IMRO mandate. This became known as the Advanced Interval Metering Rollout (AIMRO) study.

CRA International and Impaq Consulting undertook the analysis that established that there was a societal business case for adding two-way communications, remote meter reading and remote connection/disconnection to the functionalities mandated by IMRO. They also recommended an acceleration of the rollout, aiming for a schedule of around four years for all Victorian consumers.

In early 2006, the Victorian Cabinet approved the mandate of the new Victorian Advanced Metering Infrastructure (AMI) and an amendment to the Electricity Industry Act (2000) was passed later that year, providing the Government with the powers to make Orders in Council (OIC) to establish requirements for the AMI deployment. The Government utilised these powers when they approved the minimum state-wide functionality specification for AMI, as well as a framework for the regulated cost recovery process.<sup>1</sup>

The Victorian Government has stated the following objectives for the AMI program:<sup>2</sup>

**Vision:**

That all residential and small business electricity consumers across Victoria have access to the benefits that smart meters and the full capabilities of AMI enable.

**Benefits:**

A) Consumers: Increase options for consumers to better manage their energy use and understand greenhouse gas emissions.

B) Retailers: Encourage new and innovative products and prices, enable improvements to customer service, competition and wholesale trading.

C) Distributors: Deliver operational efficiencies, improve network management and utilisation; defer augmentations and optimise investment.

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<sup>1</sup> For more information on minimum functionality specifications, see Background Paper, Section 3.

<sup>2</sup> Department of Primary Industries, *Presentation to Victorian AMI Project Stakeholder Forum*, December 2007. Available at DPI website.

The current schedule for rolling out smart meters to Victorian households and small businesses is presented in table 1 below.

**Table 1**  
**Rollout timelines for the Victorian smart meter project**

| Date             | Percentage of meters to be installed |
|------------------|--------------------------------------|
| 30 June 2010     | 5%                                   |
| 31 December 2010 | 10%                                  |
| 30 June 2011     | 25%                                  |
| 30 June 2012     | 60%                                  |
| 30 June 2013     | 95%                                  |
| 31 December 2013 | 100%                                 |

The AER, as part of the existing economic regulation of the Victorian distribution businesses, has specific responsibilities under the AMI Order in Council.<sup>3</sup> The OIC required all distribution businesses to submit a budget application for expenditure on AMI services to the AER in February 2009 and an application stipulating their proposed initial AMI charges for 2010-11 by June 2009. The AER has to review both the budget and the charges applications and make a determination on charges for 2010 and 2011 by 31 October 2009.<sup>4</sup> As such, AMI is regulated under the Victorian Government’s OIC and is not subject to the regulatory arrangements under Chapter 6 of the National Electricity Rules (NER).<sup>5</sup>

From 1 January 2010 Victorian households will start paying for the rollout of the AMI program.

## 1.2 Key market characteristics

### 1.2.1 Recent energy market reform

- The Victorian electricity sector was privatised in the 1990s.
- The electricity industry was vertically (ensuring that there are no shared ownership interests between retailers and distribution businesses) and horizontally disaggregated.
- Full retail competition for electricity was introduced in January 2001.
- Retail price regulation of the standing offer was removed in January 2009.

### 1.2.2 Load and consumption issues

- Victoria has the second highest peak load (in percentage terms) of all the Australian States (only South Australia has a more peaky load) caused by factors such as large businesses and industry having peak loads at coincident times, and the increasing penetration and use of air conditioning in homes.<sup>6</sup>

<sup>3</sup> Victorian Government, *Victorian Advanced Metering Infrastructure Order in Council*, 25 November 2008.

<sup>4</sup> Australian Energy Regulator, *Framework and approach paper for Victorian electricity distribution generation, Regulatory control period commencing 1 January 2011*, Final, May 2009, p 2.

<sup>5</sup> The National Electricity Rules (NER) govern the operation of the National Electricity Market. The Rules have the force of law, and are made under the National Electricity Law. Chapter 6 of the NER contains the rules for the economic regulation of distribution services which the AER must adhere to.

<sup>6</sup> Essential Services Commission, *Electricity Distribution Price Review, Final Decision Volume 1*, October 2006, p 492-493.

- Domestic electricity accounts for approximately 26% (12,638 GWh) of the state's total annual electricity consumption.<sup>7</sup>
- Approximately 70% of households have air conditioning.<sup>8</sup>

### 1.2.3 Domestic consumers

- There are approximately 2.1 million residential electricity connections.<sup>9</sup>
- Average electricity consumption per household is approximately 6000 kWh per annum.
- In areas without access to reticulated gas, average electricity consumption per household is approximately 8246 kWh per annum.<sup>10</sup>
- Compared to other jurisdictions, a high proportion of households have access to reticulated gas. Approximately 66.5% of households use natural gas for heating purposes.<sup>11</sup>
- The average annual domestic electricity bill in 2007 was \$973 (including GST).<sup>12</sup>
- The average annual domestic electricity supply charge in 2007 was \$155.<sup>13</sup>
- The annual gross switching rate among small electricity customers in 2007-08 was 23%.<sup>14</sup>
- Approximately 60% of all domestic and small business customers have switched from a standing offer contract to a competitive market contract for the supply of electricity or gas (or a combination), since the start of full retail competition.<sup>15</sup>
- The various cost components of a customer's bill are approximately:<sup>16</sup>
  - 40% regulated network tariffs (transmission and distribution)
  - 45% generation costs
  - 10% retail services
  - 5% retail margins

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<sup>7</sup> NERA Economic Consulting, *Cost Benefit Analysis of Smart Metering and Direct Load Control*, Report for the Ministerial Council on Energy Smart Meter Working Group (Phase 2, Stream 4), February 2008, p 86.

<sup>8</sup> Energy Market Consulting Associates (EMCa) report to the Ministerial Council on Energy Standing Committee of Officials, *Smart Meter Consumer Impact: Initial Analysis*, Consultation Draft, February 2009.

<sup>9</sup> NERA Economic Consulting, *Cost Benefit Analysis of Smart Metering and Direct Load Control*, Report for the Ministerial Council on Energy Smart Meter Working Group (Phase 2, Stream 4), February 2008, p 86.

<sup>10</sup> Roy Morgan Research for Department of Human Services, *Victorian Utility Consumption Household Survey 2007*, Final Report, April 2008, p iv.

<sup>11</sup> Energy Market Consulting Associates (EMCa) report to the Ministerial Council on Energy Standing Committee of Officials, *Smart Meter Consumer Impact: Initial Analysis*, Consultation Draft, February 2009.

<sup>12</sup> Roy Morgan Research for Department of Human Services, *Victorian Utility Consumption Household Survey 2007*, Final Report, April 2008, p iv.

<sup>13</sup> Roy Morgan Research for Department of Human Services, *Victorian Utility Consumption Household Survey 2007*, Final Report, April 2008, p 78.

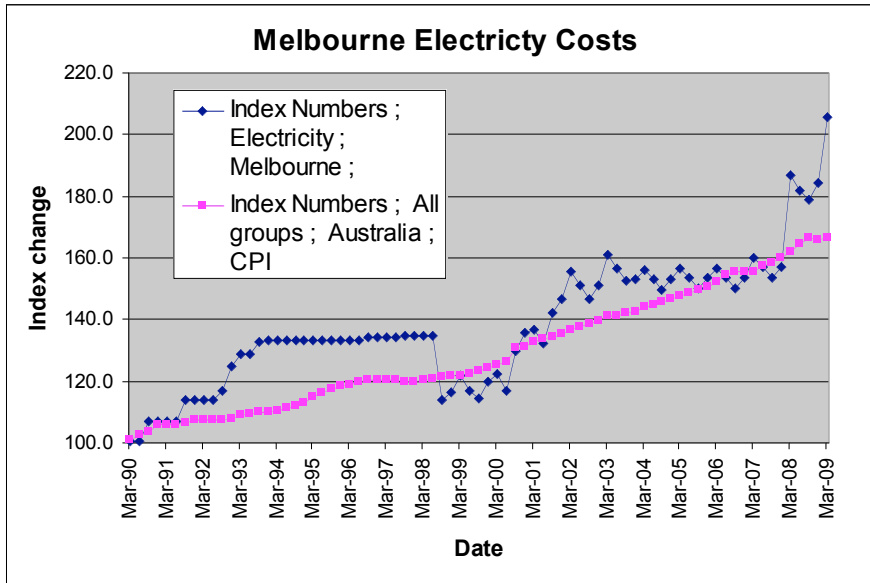
<sup>14</sup> Essential Services Commission, *Energy Retailers Comparative Performance Report – Pricing and the Competitive Market 2007-08*, December 2008, p19.

<sup>15</sup> Australian Energy Market Commission, *AEMC Determines Victorian Electricity & Gas Retail Competition is Effective*, Announcement, 4 October 2007.

<sup>16</sup> Essential Services Commission, *Energy Facts: Electricity distribution Prices 2006-10* at [http://yourchoice.websynergy.com.au/media/Factsheet%20Distribution%20Prices%201208\(3\).pdf](http://yourchoice.websynergy.com.au/media/Factsheet%20Distribution%20Prices%201208(3).pdf)

### 1.2.4 Price trends

**Graph 1**  
**Cost of electricity and CPI, Melbourne March 1990-March 2009<sup>17</sup>**



The above graph shows that:

- In the 1990 to 1994 period, step increases in domestic electricity prices occurred leading up to privatisation.
- Domestic electricity prices were relatively flat from 1994 to late 1998 as prices were regulated under a CPI –X price cap during this period.
- Prices dropped in the 1999 to 2001 period leading up to full retail competition.
- From 2001 to 2003 there were steady increases in electricity prices.
- From 2003 to mid-2008 prices have remained relatively flat.
- Significant price increases, relative to the CPI, have occurred from 2008.

### 1.2.5 Energy affordability and disconnections

- Approximately 38% of domestic electricity customers are concession cardholders.<sup>18</sup>
- 18% of households have used instalment plans to pay electricity bills.<sup>19</sup>
- The mean ranking of priority in bill paying shows that payment of rent/mortgage rank first and electricity bills second.<sup>20</sup>
- In 2006-07, electricity retailers disconnected and reconnected (in the same name) 1.2% of domestic customers.
- 2.9% of domestic electricity consumers experienced disconnection in 2007-08.

<sup>17</sup> ABS Ref 6401.0 - Consumer Price Index, Australia, March 2009 updated version of graph presented in Dufty G, *Winners and losers - the Relative Price Index. The CPI and the implications of changing cost pressures on various households types and income groups*, Melbourne, December 2008.

<sup>18</sup> Roy Morgan Research for Department of Human Services, *Victorian Utility Consumption Household Survey 2007*, Final Report, April 2008, p v.

<sup>19</sup> Ibid, p xx.

<sup>20</sup> Ibid, p 1.

**Table 2**  
**Historical disconnection rates for electricity (Victoria)<sup>21</sup>**

| Year    | Disconnections | Reconnections |
|---------|----------------|---------------|
| 1996    | 1.19%          | 0.82%         |
| 1997    | 0.56%          | 0.30%         |
| 1998    | 0.49%          | 0.28%         |
| 1999    | 0.36%          | 0.19%         |
| 2000    | 0.45%          | 0.21%         |
| 2001    | 0.55%          | 0.24%         |
| 2002    | 0.58%          | 0.28%         |
| 2003    | 0.70%          | 0.32%         |
| 2004    | 0.84%          | 0.43%         |
| 2004-05 | 0.54%          | 0.25%         |
| 2005-06 | 0.22%          | 0.07%         |
| 2006-07 | 0.33%          | 0.12%         |

**Table 3<sup>22</sup>**  
**Comparison of Domestic Electricity Disconnections across Jurisdictions, per 100 Domestic Electricity Customers**

| Jurisdiction      | 2003-04 | 2004-05 | 2005-06 | 2006-07 | 2007-08 |
|-------------------|---------|---------|---------|---------|---------|
| Victoria          | 0.84    | 0.54    | 0.22    | 0.33    | 0.29    |
| NSW               | 0.80    | 1.00    | 0.90    | 0.70    | n/a     |
| ACT               | 0.32    | 0.36    | 0.40    | 0.30    | 0.43    |
| South Australia   | 2.12    | 1.20    | 1.14    | 0.76    | 0.85    |
| Queensland        | 1.30    | 1.57    | n/a     | n/a     | 1.13    |
| Tasmania          | 0.55    | 0.53    | 0.59    | 0.47    | 0.39    |
| Western Australia | n/a     | n/a     | 1.16    | 0.97    | 0.77    |

### 1.2.6 Dispute resolution

- The Energy and Water Ombudsman Victoria (EWOV) is the external dispute resolution scheme for Victorian energy and water consumers.
- In 2007-08, EWOV registered 14,997 electricity retail cases and 1,166 electricity distribution cases.<sup>23</sup>
- 91% of all electricity cases related to residential consumers.<sup>24</sup>
- In relation to smart meters, EWOV has registered a number of billing issues, mostly pertaining to high bills, but also issues such as estimated and/or substituted bills, billing errors and billing delays.<sup>25</sup>

<sup>21</sup> Source: Essential Services Commission, *Energy Retail Businesses Comparative Performance Report for the 2006-07 Financial Year*, p 69. Note: Data unavailable for WA prior to 2005-06. WA combined residential and business data for 2005-06 only.

<sup>22</sup> Table presented in Essential Services Commission, *Energy Retailers Comparative Performance Report – Customer Service 2007-08*, December 2008, Table 12, p 24.

<sup>23</sup> Energy and Water Ombudsman Victoria, *2007-08 Annual Report*, Figure 12, p 29.

<sup>24</sup> Ibid, Figure 3, p 16.

<sup>25</sup> Ibid, p 24.

**Table 4**  
**Number of EWOV electricity cases 2004-08<sup>26</sup>**

| Year    | Number of electricity cases |
|---------|-----------------------------|
| 2007-08 | 16,831                      |
| 2006-07 | 11,909                      |
| 2005-06 | 12,636                      |
| 2004-05 | 13,491                      |

### 1.2.7 Market participants and regulators

- There are currently 14 retailers operating in Victoria.
- Victoria has five distribution businesses:
  - Powercor (western suburbs and western Victoria)
  - Citipower (city and inner suburbs)
  - SP AusNet (outer northern and eastern suburbs and eastern Victoria)
  - Jemena (northern and south-western suburbs)
  - United Energy (southern suburbs and the Mornington peninsula).
- On 1 January 2009 the AER assumed responsibility for the economic regulation of the Victorian electricity distributors, which includes administering the current price controls set out in the Electricity Distribution Price Review Determination produced by the ESC for the 2005-10 period.
- In December 2008 the AER commenced the process of producing a price determination for the next regulatory period, commencing 1 January 2011.
- The AER’s functions and powers are set out in the National Electricity Law (NEL) and the National Electricity Rules (NER).

## 2. *The Regulatory Framework in light of Smart Meters*

### 2.1 Regulation of the sale and supply of energy to retail customers

#### 2.1.1 The Victorian Energy Retail Code

The Energy Retail Code (ERC) has provided Victorian households with crucial protections in a very rapidly changing energy market and is regarded as the key tool to ensure that consumers stay connected to this essential service. The ERC delivers provisions for billing, reminder notices, pre-disconnection steps and instalment plans that ensure customers on low-income or experiencing temporarily hardship are not disconnected from supply. Furthermore, these provisions can decrease the need for consumers to forego other essential goods and services in order to pay energy bills.

The ERC has also played an important role in building consumer confidence in a competitive energy retail market. Thus, it can be argued that the provisions in the Energy Retail Code have not created a barrier for competition and effective markets, rather they have supported effective competition by ensuring that more customers have had the confidence to exercise choice and search for a better offer. Code provisions pertaining to explicit informed consent, term and termination and additional retail charges have played an important role in ensuring that all consumers have basic protections no matter what retailer the contract is with.

<sup>26</sup> Energy and Water Ombudsman Victoria, *2007-08 Annual Report*, Figure 5, p 17.



### **2.1.2 The National Energy Customer Framework**

The Ministerial Council on Energy (MCE) has been tasked with creating a national framework for the regulation of sale and supply of energy to retail customers. This framework is known as the National Energy Customer Framework (NECF).<sup>27</sup> In April 2008, the MCE Standing Committee of Officials (SCO) released a First Exposure Draft for the NECF, comprising National Energy Retail Law (NERL), National Energy Retail Regulations (the Regulations) and National Energy Retail Rules (NERR).

The MCE has also committed to review consumer protection arrangements and ensure appropriate protections exist for customers with smart meters. The Smart Meter Working Group (SMWG) is currently examining the proposed NECF to assess its ability to accommodate the pricing and operational implications of smart metering. The SMWG will propose additional or alternative arrangements where appropriate to ensure that the NECF is flexible enough to apply in both jurisdictions with smart meters and those without.<sup>28</sup>

The majority of the recommendations set out below are therefore recommendations for the MCE, through its Retail Policy Working Group (RPWG), tasked with drafting the NECF, and its SMWG, which advises the RPWG on smart meter related NECF issues.

## **2.2 Approach**

This section analyses customer protections embedded in regulatory codes and guidelines in light of Smart Meter Infrastructure (SMI) and its associated functionalities and impact on tariffs. A comparative framework has been applied to this analysis, discussing particular clauses or rules from both the current Victorian framework and the proposed NECF in relation to smart meters. This approach has been chosen for two reasons. Firstly, the NECF forms part of the ongoing National Electricity Market (NEM) reforms as set out in the Australian Energy Market Agreement (AEMA) and while the legislative package for the NECF is expected to be introduced to the South Australian Parliament (the lead legislature for AEMA reforms) in 2010, this ambitious and complicated reform process has been subject to several delays. With the imminent rollout of smart meters in Victoria, it is crucial that customer protections are in place whether these are embedded in a Victorian framework or the NECF. For the purpose of simplicity and future relevance, however, all recommendations made in this section are in relation to the proposed NECF.

Secondly, a comparative approach is useful to identify gaps and discrepancies between the two consumer protection frameworks. As the jurisdictional regulatory codes and guidelines have developed over time, and in many instances compliment or address other jurisdictional protections embedded in legislation or Community Service Obligations (CSOs), a comparative framework can more easily highlight any interdependencies.

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<sup>27</sup> The NECF forms part of ongoing national energy market reforms set out in the Australian Energy Market Agreement (AEMA), as amended in 2006. Note that under the AEMA, the States and Territories maintain responsibility for certain regulatory functions including: community service obligations and measures to maintain distribution tariff equalisation schemes.

<sup>28</sup> MCE SCO, *Explanatory Material, First Exposure Draft*, April 2009.

### 2.2.1 Draft NECF and smart meters

The First Exposure Draft of the NECF does not address SMI related issues in regards to the retailer-customer relationship, the distributor-customer relationship nor the distributor-retailer relationship. Section 2 of this report identifies numerous SMI related issues for the NECF and therefore recommends changes to the National Energy Retail Law (NERL), the National Energy Retail Rules (NERR) and some of the NERR Schedules. As customers connected to SMI will require specific provisions in the Rules (as with customers connected to prepayment meter systems) a new and separate SMI Part of the NERR is required.

#### Recommendation 1:

That the Retail Policy Working Group develops a separate SMI Part to be inserted into the NERR and incorporate the many SMI provisions recommended below.

The analysis below produces recommendations for amendments to the current Draft NER Laws and NER Rules, as well as proposing new rules that should apply to customers connected to Smart Meter Infrastructure (SMI). These additional rules are referred to as the ‘SMI Part of the NERR’.<sup>29</sup>

## 2.3 Definitions

### 2.3.1 Smart meter infrastructure

The Victorian smart metering program is known as the Advanced Metering Infrastructure (AMI) Program and the national program is currently known as National Smart Meter Project (NSMP), the NECF should use a consistent and nationally recognised definition of this metering infrastructure. Smart Meter Infrastructure (SMI) is an appropriate term as it refers to both the smart meter and the communications technology that enables many of the functionalities associated with the meters.

#### Recommendation 2:

The NERL and the NERR must contain a Smart Meter Infrastructure (SMI) definition.

### 2.3.2 Time of Use tariffs and retail contracts

It appears to be an assumption in the NECF that time varying prices, such as time of use tariffs, will only be applied to Market Retail Contracts (MRC). However, as retail tariffs tend to reflect the shape of network tariffs, time of use pricing will most likely apply to Standard Retail Contracts (SRC) as well. If a network reassigns domestic customers to a three part time of use tariff with seasonal variations, many retailers would reassign their customers from a single rate or a two-rate (peak/off-peak) tariff to this new time of use tariff. Such tariff reassignments would have implications for numerous NECF laws and rules. The SRC requirement to only vary prices every 6 months, for example, could prove difficult if a network reassigns customers to a new time of use tariff.

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<sup>29</sup> Our focus is on the NERR rather than the NERL as we aim to discuss the specific arrangements. However, a new Part ‘X’ of the NERR would require a corresponding new Division ‘X’ in the NERL.

Furthermore, as time varying prices can be tied to controlled load and therefore occur independently from SMI, the NECF cannot define all time of use contracts as market contracts.

Recommendation: 3

The NECF must clarify what tariff shapes are expected to be available on a Standard Retail Contract.

### 2.3.3 Customers with SMI vs. customers on SMI enabled retail contracts

Retail contracts offering dynamic pricing structures based on interval data could be defined as Dynamic Pricing Contracts (DPC) and retail contracts offering direct load control of appliances utilising smart meter technology could be defined as Direct Load Control Contracts (DLCC). These definitions should be incorporated into NERL 103. However, as not all customers connected to SMI will be on smart meter enabled retail contracts, such as DPC or DLCC, it is important that the NERL definitions properly distinguish between these two scenarios.

Recommendation: 4

Definitions in NERL 103 must reflect that a Smart Meter Infrastructure (SMI) connection is where a customer has a smart meter that is connected to smart meter functionalities as defined by metering type installations under the National Electricity Rules and AEMO's Metrology Procedures.

In relation to contract types, a SMI connection is necessary in order to be on a Dynamic Pricing Contract or a Direct Load Control Contract:

- A Dynamic Pricing Contract (DPC) means a customer retail contract where the tariffs are based on smart meter enabled time of use pricing. This would also include contracts using Critical Peak Pricing (CPP).
- A Direct Load Control Contract (DLCC) means a customer retail contract where the contract includes load control of appliances by the retailer enabled through SMI and as agreed between the customer and the retailer.

As such, all customers on a DPC or DLCC will automatically be regarded as SMI connections but not all SMI customers will be on DPC or DLCC.

### 2.3.4 The Standing Offer

The purpose of the standing offer is to ensure that all small customers have access to at least one offer and that this offer is linked to an obligation to supply and minimum contract terms and conditions. Furthermore, the standing offer is regarded as the basic (no-frills) offer available to consumers not actively participating in the market.

The AEMA requires the AEMC to review the effectiveness of competition in the retail supply of electricity and gas in each NEM jurisdiction. Where competition is found to be effective, the jurisdictions agree to phase out retail price regulation. On this basis, the Victorian Government removed retail price regulation of the standing offer on 1 January 2009.

The Victorian Government also decided to implement other AEMC recommendations, such as price monitoring and the publishing of all standing offers on the ESC's website. In its final decision the AEMC argued that:<sup>30</sup>

Publication of standing offer prices and terms and conditions by all retailers will provide points of comparison against which consumers can assess market offers and facilitate an appropriate level of price transparency in the absence of a regulated price.

The Government introduced an Order in Council to mandate the publishing of all standing offers as well as a minimum of one market offer per meter type on the ESC's website. As such, Victorian consumers can access the ESC's website and by entering postcode and meter type (for electricity offers) search for the available standing offer as well as market offers. In Victoria there are currently three basic meter types for domestic electricity consumers. These are:<sup>31</sup>

- A single rate meter which measures all electricity consumed (no separate peak and off-peak tariffs)
- A two-rate meter which measures electricity used for 'normal light and power' (peak tariffs) and separately measure electricity for electric hot water and/or space heating (off-peak tariffs)
- A Time of Use meter which measures all electricity consumed at night/weekends (off-peak tariffs) compared to other times (peak tariffs)

Furthermore, the ESC's 'your choice' website explains to consumers that a standing offer contract is "a basic contract you will be on if you have not entered into any new type of contract since the introduction of competition in 2001, or if you have moved premises and you have not negotiated a market contract."

#### **The NERL and the Standing Offer**

The NERL (205) includes the following rules in relation to publication of standing offer prices (NERL 205 (1), (5) and (6)):

(1) A designated retailer must publish its standing offer prices on the retailer's website, and the standing offer prices so published remain in force until varied in accordance with this section.

Note—

A standing offer price may be a regulated price under jurisdictional energy legislation.

(5) The designated retailer must, as soon as practicable, notify the AER of details of the standing offer prices and any variation of the standing offer prices.

(6) Publication by AER

The AER must, as soon as practicable after being notified by the designated retailer, publish the standing offer prices or any variation of the standing offer prices on the AER's website, but failure to do so does not affect the operation or effect of the standing offer prices or any variation.

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<sup>30</sup> Australian Energy Market Commission, *Review of the Effectiveness of Competition in Gas and Electricity Retail Markets Victoria*, Second Final Report, February 2008, p 17.

<sup>31</sup> Electricity meter type explanations as presented on the ESC's 'your choice' website.

### **Smart Meters and Standing Offers**

In order for the standing offer to serve as a reference point for comparison to other market offers, as recommended by the AEMC, there must be some consistency to the standing offer.

The AEMC made this recommendation without assessing the impact of the Victorian smart meter rollout and there is nothing in the current Victorian framework or the NECF that ensures that the standing offer is a basic, comparable offer in a smart meter environment.

As explained above, the standing offers are currently constrained by three basic metering types but with the rollout of smart meters there is no basic tariff shape inherent to the meter type connected to the customer's premises. As such, the standing offer could be an inclining block, ten-part time of use tariff, with seasonal variance, to use an extreme example.

This is obviously not the intention of the standing offer as explained by the AEMC and the ESC.

In its final decision the AEMC made the following recommendation in relation to regulatory guidelines for publishing of standing offer prices<sup>32</sup>:

The guideline should detail the requirements for publishing standing offer prices.

As a minimum the guideline should specify:

- how each relevant tariff and its various elements should be described
- for each relevant tariff type the annual expenditure based on predetermined consumption levels (such as 3 MWh per year, 8 MWh per year and 11 MWh per year)
- any discounts or other benefits for payment by certain methods

The guideline could be amended over time so that it will continue to be effective in assisting consumers to make informed judgments.

The making of such a guideline is consistent with the principles of good regulation such as having a clear objective, consistency with other regulations and policies, and benefits which justify costs.

Clearly, it would be impossible to implement the AEMC's guideline recommendations if there is no standardisation of the 'tariff types' available that can allow the regulator to group the standing offers and make them comparable.

### **Possible solutions**

The rollout of smart meters means that every domestic customer in Victoria will have the same meter type. Furthermore, the new, universal meter type means that single rate and two-rate tariffs may no longer be the basic network tariff underlying standing and market offers. As such, it is necessary to identify a new approach to standardising the standing offer tariff shape. Tariff shape is separate from price

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<sup>32</sup> Australian Energy Market Commission, *Review of the Effectiveness of Competition in Gas and Electricity Retail Markets Victoria*, Second Final Report, February 2008, p 19.

setting and contact terms and conditions. However, a standardised shape is essential to ensure that the standing offer is the basic, standard, comparable offer as intended. The AEMC, the Victorian Government and the NECF have all overlooked the issue of the standing offer's tariff shape. This is most likely because this challenge only arises with a rollout of smart meters. To date, the meter types have dictated the tariff shapes.

There are two possible ways to achieve standardisation of the standing offer's tariff shape.

- 1) The NECF could mandate the AER to prescribe a tariff shape that all standing offers must adhere to. For example, the AER may decide that all standing offers to consumers with smart meters in Victoria must be a two-part time of use tariff where peak rates are applied to weekdays from 8am to 10pm, and all other times are off-peak. The problem with this approach is that the networks will construct their own tariff shape based on times of high demand on the network and times with spare capacity. It would therefore be dangerous to mandate a retail tariff shape as any variance between the network and the retail tariff shape may create significant risk for (some) retailers. At the same time, it would be inefficient to dictate a single tariff shape for standing offer contracts across all network businesses.
  
- 2) The NECF could stipulate that all standing offers must adhere to the underlying network tariff shape. That way the networks would be able to ensure that the tariff shape works in relation to network management and the retailers would not be exposed to additional risk as they would use the underlying network tariff shape to construct the standing offer. For example, a distribution business determines that the most efficient use of their network is to allocate customers to a three-part time of use tariff with a summer/winter variance. Peak-rate applies to weekdays from 8am-7pm, a shoulder rate applies to weekdays from 7pm-10pm as well as all weekends and public holidays, and an off-peak rate applies to all other times. The retailer would then be obliged to construct all standing offers within that network area the same way, but if no retail price regulation exists they will of course determine each tariff rate themselves. At the same time, customers will become familiar with a standard tariff shape for their network area and have a reference point for comparing the standing offer to other market offers. Clearly, this approach will only provide a solution as long as the distribution businesses mostly apply postage stamp pricing. However, as there appears to be little appetite for complex nodal pricing regimes amongst the network businesses, this would be a suitable starting point to ensure that the standing offer arrangement can prevail in a smart meter environment.

**Recommendation 5:**

The NERL must clearly stipulate the intention of the Standing Offer and specify how the shape of the standing offer is determined and, subject to the nature of this clarification:

- The NERR should stipulate that all standing offers must adhere to the underlying network tariff shape; or
- The SMI Part of the NERR should include a provision stipulating that the tariff shape of the standing offer must adhere to the underlying network tariff shape.

Furthermore, if accepted, the above recommendation would also assist with the issue of informing consumers of tariff reassignments. This issue is discussed in section 2.13 below.

**2.3.5 Load control**

There are two distinct approaches that can be utilised in regards to limiting a customer's load. One approach is incentive based, where customers' contracts would include a Direct Load Control component that the customer would be financially rewarded for. Direct Load Control is hence about providing a service. The second approach is punitive, where customers' contracts stipulate that a customer's supply will be limited to a certain threshold – effectively putting a choker on a household's energy supply. If retailers are allowed to utilise the supply capacity control functionality for small customers, they could potentially use load limiting as a credit or debt management tool. This approach is about denying a service and households with payment difficulties would be the obvious target group for such a product.

As the supply capacity control and load management via the meter are functionalities that do enable load limiting options, the NERL and the NERR should specify that supply capacity control and load limiting via the meter can only be used by the distribution businesses for the purpose of system management.<sup>33</sup> Retailers, on the other hand, should have access to the load control via the Home Area Network (HAN) in order to develop new retail products that utilise the direct load control of appliances.

This approach supports the Victorian Government's objectives for smart metering benefits. As stated in Section 1.1 above, the Victorian Government envisage that smart meters will deliver benefits to retailers in terms of encouraging new and innovative products and prices, enabling improvements to customer service, competition and wholesale trading. For the distributors, on the other hand, the Victorian Government envisage smart meter benefits to deliver operational efficiencies, improve network management and utilisation, defer augmentations and optimise investment.<sup>34</sup>

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<sup>33</sup> Exemptions may be made for negotiated retail contracts between large users and retailers.

<sup>34</sup> The Victorian Government's AMI objectives are available on DPI's website. See, for example, Department of Primary Industries, *Presentation to Victorian AMI Project Stakeholder Forum*, December 2007.

**Recommendation 6:**

To ensure that domestic customers are protected from the introduction of punitive, demand limiting tariffs, the following clarifications and arrangements need to be inserted into the SMI Part of the NERR and reflected in the NERL:

Appliance management, utilising the HAN to restrict and control load of specific appliances, is a product that can be offered by retailers. The Rules should further obligate retailers to ensure that the HAN enabled appliance management contracts do not cause detriment to appliances, and that health and safety standards are met. This would include issues such as careful consideration prior to placing customers with medical cooling needs on contracts with DLC of air conditioners.

Supply capacity control and load management via the meter are system management tools and only distributors should be able to load restrict households in order to manage demand on their system for the purpose of ensuring security of supply. System management and load management via the meter are thus not retail products.

## **2.4 Billing**

### **2.4.1 Frequency**

There should be a minimum three months billing cycle for customers on dynamic pricing contracts (DPC). Furthermore, billing cycles longer than three months may increase the occurrence of payment difficulties due to the bill volatility customers on dynamic pricing contracts will be exposed to.

The Victorian Energy Code (Clause 3.2) and the draft NER Rule 213 allow for variation in regards to billing cycles for retail market contracts.

**Recommendation 6:**

That the SMI Part of the NERR includes a *frequency of bill provision* that stipulates that retailers must issue bills to a customer on a dynamic pricing contract at least once every 3 months.

### **2.4.2 Bill smoothing and dynamic pricing contracts**

As a dynamic retail tariff implies that the customer is charged according to energy consumed at specific times, bill smoothing arrangements should not be applied to dynamic pricing contracts. Bill smoothing arrangements are distinctly different from payment arrangements, such as Easyway plans (fortnightly payment plans), which should be available to all types of retail contracts. The purpose of bill smoothing is to reduce price volatility, and hence the price signals sent to consumers. Payment plans, on the other hand, are just a tool for consumers to better manage their bill paying process and the price signals are still passed through to the customer.

**Recommendation 7:**

That the SMI Part of the NERR includes a *bill smoothing provision* that stipulates that bill smoothing arrangements cannot be applied to dynamic pricing contracts.



### 2.4.3 Bill smoothing and undercharging

The popularity of bill smoothing contracts may increase as more complex dynamic pricing contracts become available to domestic consumers. It is therefore important to ensure that those customers choosing not to enter into more complex and volatile tariffs do not experience unnecessary over- or undercharging, which often results in temporary financial hardship. The remote daily reads functionality inherent to SMI is a tool that should be utilised to reduce the risk of over- and undercharging. Currently, both the ERC Clause 5.3 and the NER Rule 212 require the retailers to reassess the accuracy of the estimated billing amount after 6 months.

#### Recommendation 8:

The SMI Part of the NERR should include a *bill smoothing provision* that requires retailers to re-estimate the consumption of a customer on a bill smoothing arrangement after 3 months and issue the customer with a new billing amount if there is a difference between the initial estimate and the re-estimate of greater than 10% (taking relevant seasonal factors into account).

### 2.4.4 Payment of bills – Standard Retail Contracts

Currently in Victoria a customer on a standing offer contract must be allowed 12 business days to pay an initial bill from the day of dispatch (ERC Clause 7.1). The NER Rule 215 proposes the same timeframe for Standard Retail Contracts (SRCs). This timeline should be extended to 15 business days to ensure that delays in postage/delivery does not negatively impact on the time a customer has to pay a bill.<sup>35</sup> It is important that customers have a minimum of 12 business days upon *receiving* a bill as it ensures that people on fortnightly incomes, including pensioners and people receiving social security payments, always have one pay cycle plus two days to arrange for payment to be made between receiving a bill and the due date. This measure is crucial to ensure that consumers have access to funds to pay for an essential service.

#### Recommendation 9:

That the NER Rule 215 (1) is amended to state that: ‘The pay-by date for a bill must not be less than 15 business days from the date on which the retailer sends the bill’.

### 2.4.5 Payment of bills - Market Retail Contracts

A further concern is that both the ERC and the NERR allow retailers to apply a shorter payment timeline to market contracts.

The due date timelines should apply to all contracts and this is particularly important as dynamic pricing contracts will increase bill volatility.<sup>36</sup> By guaranteeing that customers on market offers (including dynamic pricing contracts) have a minimum timeline to pay their initial bill, the risk of an (unnecessary) increase in hardship cases will be reduced. Furthermore, it means that customers on low and/or fixed income, who believe they would be financially better off on a dynamic pricing contract, take

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<sup>36</sup> See analysis in Section 4 below, which assesses potential bill impacts from TOU tariffs and compare the quarterly bill amount to fortnightly median income.

up these offers without risking the implications of shorter pay timelines.

**Recommendation 10:**

That the NER Rule 215 (3) is amended to state that: ‘This rule applies in relation to market retail contracts’.

**2.4.6 Form and content of bill**

The Energy Retail Code (Clause 4.1) states that the “retailer must prepare a bill so that a customer can easily verify that the bill conforms to their energy contract” and the draft NER Rule 214 stipulates the minimum requirements for the contents of SRC and MRC bills.

Due to the increased complexity of bills made up of dynamic or time varying tariffs, we believe the AER needs to develop a separate guideline for bills, and information on bills, to be applied to smart meter enabled dynamic pricing contracts.

**Recommendation 11:**

That section 239 of the NEL is amended to require the AER to develop guidelines for information on bills for dynamic pricing contracts in addition to the development of ‘AER Pricing Information Guidelines’ as outlined in the Law. These separate ‘AER Bill Information Guidelines’ should address and specify requirements for dynamic pricing contracts in relation to NER Rule 214:

- (f) tariff and charges applicable to the customer;
- (g) the basis on which tariffs and charges are calculated; and
- (d) details of consumption or estimated consumption of energy.

Furthermore, we recommend a change to NER Rule 214 (o) that requires bills to have ‘reference to any government funded energy charge rebate, concession or relief scheme’. This sub-rule would benefit from including ‘relevant consumer information tools’. This addition means that the regulator can more easily require retailers to include references on their bills to important consumer information tools funded by the government. An example is an AER website containing important consumer information about tariffs and energy offers deemed important to increase consumer awareness in a deregulated retail market.

**Recommendation 12:**

That NER Rule 214(o) is amended to state: ‘reference to any available government funded or provided energy charge rebate, concession, relief scheme or relevant consumer information tools’.

**2.4.7 Billing for other goods and services**

Retailers may find new opportunities to supply customers with other goods and services in relation to SMI. In-home displays and appliances that can be linked to DLC are some obvious examples.

Recommendation 13:

That the SMI Part of the NERR include a *billing provision* similar to Rule 818 in relation to prepayment systems, requiring retailers to separately bill for other goods and services and recover those payments separately from the cost of supplying energy.

#### 2.4.8 Lost data

The NERR should include a rule addressing situations where meter data is lost (for whatever reason). As meter data will be collected several times a day, there is very low risk to industry if the rule states that in the unlikely event that data is lost the retailer must not include consumption from the time period for which data was lost. The inclusion of such a rule will ensure consumer confidence in the meter-reading arrangements.

Recommendation 14:

That the SMI Part of the NERR should include a *billing provision* stipulating that a retailer issuing a bill must not include any consumption from a time period for which data was lost for that customer.

#### 2.5 Payment difficulties

The ERC Clause 11.2 stipulates the actions a retailer currently must take if a customer presents with or is assessed by the retailer to experience payment difficulties. Measures to be provided by the retailer include assessing the customer's capacity to pay, offering instalment plans and information about concessions, energy efficiency and assistance schemes.

Part 3 of the NERR contains the rules in regards to the 'Customer Hardship Regime'. The notion that a customer has to be classified as a hardship customer by the retailer in order to receive basic assistance such as a payment plan is ill conceived and may increase the occurrence of temporary hardship cases significantly. Payment plans must be universally available to all customers in need of one. Payment plans provide customers with a tool to manage price shocks and as discussed in Section 4 below, SMI enabled dynamic pricing structures have the potential to bring about substantial price shocks to Victorian households.

Recommendation 15:

That NER Rule 302 and Rule 222 (1) and (3) are amended to ensure that all customers have easy access to affordable payment plans.

#### 2.6 Meter reads and data

##### 2.6.1 Meter readings

When a meter can be read remotely a retailer should always base a customer's bill on a reading of the meter. Currently the ERC Clause 5.1 and the NER Rule 210 only require retailers to use the best endeavour to read the meter at least once every 12 months. The remote read functionality delivers one of the most significant customer service improvements associated with SMI as it abolishes the need for estimates and associated problems with over- and undercharging. It is therefore essential that the

practice of issuing bills based on estimates be abolished in a SMI environment.

**Recommendation 16:**

That the SMI Part of the NERR includes a *meter reading provision* stipulating that a bill cannot be based on estimates.

**2.6.2 Substituted data**

The SMI Part of the NERR should also address the use of substituted data. Smart meter systems will create some new challenges in regards to the use of substituted data, as the use of small amounts of substituted data may occur more frequently. The basic principle that should apply is that the customer is informed about the use of substituted data. However, there is legitimate concern about the number of customers that will contact their retailer to query the use of substituted data. Simultaneously, where substituted data applies to Critical Peak Pricing (CPP) times they may make a material difference to the energy costs and therefore become more detectable amongst customers. In order to ensure that customers can be confident that they pay for the right amount of energy consumed, it would be ill advised to not inform customers about data substitution.

**Recommendation 17:**

That the AER reviews the guidelines in relation to substituted data in the AEMO Metrology Procedure, and that the SMI Part of the NERR reflects the outcomes of this review.

Furthermore, the AER should develop a system wide reporting framework on the use of substituted data. Collecting and reporting on the use of substituted data by each of the retailer and distribution businesses.

**2.7 Product requirements**

Retailers offering direct load control contracts (DLCC) should be subject to specific requirements. These requirements should specify maximum thresholds in relation to duration, frequency and scope.

- The duration threshold would specify a limit for how long a retailer can cycle or control an appliance at the time.
- The frequency threshold would specify a limit for how often a retailer can cycle or control an appliance.
- The scope threshold would specify a limit for how much load the retailer can control within a household (e.g. maximum number of appliances that can be controlled).

**Recommendation 18:**

The AER should be requested to review DLC product requirements and its decision should be reflected in the SMI Part of the NERR *product requirement provisions*.

## 2.8 System testing

Smart meter enabled dynamic pricing contracts will make customers' bills more complex and thus more difficult to understand. It is therefore crucial that processes are in place to allow customers to query and review bills in a transparent, affordable, accurate and efficient manner.<sup>37</sup> Furthermore, it is important that these processes are in place before these tariffs are offered as we can expect the number of queries to be highest in the beginning. When meter reads involve new communications technology as well as new smart meters, customers will not only want to be able to test the accuracy of their meters but also the whole data transfer process from meter to retailer.

EWOV reported in their 2007-08 Annual Report that substituted data and customers wanting reads on their bills are common issues for smart meter related cases. Customers expect to be able to double check the 'read' figures on their bills and that they can find the billing from a smart meter confusing in the absence of other information about their usage.<sup>38</sup>

### Box 1 EWOV Case study<sup>39</sup>

#### Understanding a new interval meter

In mid-January 2008, Mr G received higher than usual electricity bill of \$534.16. When he queried it, he was told it was estimated. Mr G asked for further information. He said the retailer undertook to provide him this — including the actual reads for his interval meter — but didn't ever come back to him.

Contacted by EWOV, the retailer initially said the electricity distributor had substituted Mr G's meter data, using an industry-approved methodology — and that this led to the estimated bill. It turned out that the retailer had, in fact, obtained the actual meter data from the distributor in January 2008 — when it tried to load the data into its billing system, an error caused Mr G's account not to be updated.

As a result of our investigation, Mr G received replacement bills based on actual data. His account was credited with \$72.93, the meter read fee was waived and he was given three months to pay the bill.

We also explained to Mr G that interval meters are read differently from the older accumulation meters — a probe downloads data about usage — there's no 'reading' as such of the numbers on the meter.

The ERC Clause 6.1 states that if a bill under review is correct (i.e. no fault at the retail end of the process) the customer must either pay the unpaid amount or request the retailer to arrange a meter test in accordance with applicable regulatory instruments. If the customer's meter is found to comply with applicable regulatory instruments, the customer must pay the cost of the test and pay the unpaid amount. Similarly, the NER Rule 218 proposes that the customer must pay for the cost of the check or test (and the retailer may request payment in advance) but retailers must reimburse the customer if meter or data is faulty or incorrect.

There is likely to be a declining demand for testing of meters and data transfer processes over time, but current arrangements are inadequate and unaffordable for

<sup>37</sup> EWOV has reported that data substitution, and the absence of start and end reads on bills, has already caused customer confusion and dissatisfaction. Energy and Water Ombudsman Victoria, *2007-08 Annual Report*, p 24.

<sup>38</sup> Energy and Water Ombudsman Victoria, *2007-08 Annual Report*, p 33.

<sup>39</sup> Energy and Water Ombudsman Victoria, *2007-08 Annual Report*, p 33.

customers with genuine concerns about the accuracy of their new smart meter and the data transfer process. The AER should therefore review the issue of customers' access to transparent, affordable, accurate and efficient testing of the meters and associated infrastructure to ascertain whether transitional and/or new permanent arrangements need to be in place.

**Recommendation 19:**

That the AER undertakes a review into customer access to data processing checks and meter tests under SMI with the aim of developing guidelines for transitional and ongoing arrangements. And that the SMI Part of the NERR should include *system testing provisions* with reference to separate AER guidelines.

## **2.9 Undercharging**

Large and unexpected bills can often cause significant financial hardship for customers on low or fixed income. It is therefore crucial that the retailers have solid billing systems in place to avoid the occurrence of undercharging. Smart meter enabled dynamic pricing structures will cause more bill volatility, and undercharging of customers on dynamic pricing contracts (DPC) can therefore result in even larger amounts to be recovered if billing errors occur. However, SMI will provide retailers with daily reads of every customer's consumption and retailers should therefore be significantly better equipped to avoid undercharging scenarios than they are with today's manual meter reads.

The ERC Clause 6.2 currently allows retailers to recover undercharged amounts for up to 9 months prior to notifying the customer about the occurrence, if the undercharging resulted from a failure of the retailer's billing system. If the undercharging occurred for a reason other than a failure of the retailer's billing system, they can recover the amount undercharged for up to 12 months. The NER Rule 219 simply proposes to allow retailers to recover undercharged amounts for a 12 month period.

SMI has the potential to reduce undercharging due to retailer billing errors significantly, and this is a key customer service improvement that SMI can deliver. As such, retailers should only be allowed to recover undercharged amounts for up to 3 months prior to notifying the customer about the occurrence where smart meter systems are in place. In addition to improving the customer service and reducing the number of hardship cases created due to billing errors and undercharging, a 3 month limit will provide the retailers with an incentive to ensure that reliable and accurate billing processes are in place. Also, as solid B2B processes between the networks and the retailers are a prerequisite for an efficient smart meter system, the 3 month recovery limit should apply irrespectively of whether the fault of the error resulting in undercharging is assigned to the distribution business or the retailer.

**Recommendation 20:**

That the SMI Part of the NERR includes an *undercharging provision* stating that a retailer cannot recover undercharged amounts for longer than 3 months prior to notifying the customer.

## 2.10 Disconnection and reconnection

SMI and associated functionalities create new possibilities in terms of limiting customers' electricity supply. The NERL and NERR therefore need new definitions and clarification in relation to what disconnection (or de-energisation) entail. The current definition of de-energisation (disconnection) in the NERL Clause 103 needs to be redefined to separately address both de-energisation and disconnection activities.<sup>40</sup>

### Recommendation 22:

NERL Clause 103 must be redefined to separately address both de-energisation and disconnection activities.

### 2.10.1 Remote disconnection

SMI allows for remote disconnection and reconnection of properties. Energy Safe Victoria (ESV) has expressed safety concerns in regards to remotely energising and de-energising properties and Victorian industry participants have investigated ways retailers and distribution businesses can put procedures in place to minimise health and safety risks.

Remote disconnection means that the timeframe between a retailer requesting a disconnection and a distribution business performing one will be significantly shorter. It is expected that distribution businesses will disconnect no later than the day after receiving the request but often on the same day. This expediency means that retailers must have robust processes in place to ensure that the disconnection is lawful.

Similarly, as a house visit will not occur, there is no possibility of detecting last minute mistakes or raising health and safety concerns by the distribution company's representative. Improved processes should therefore be in place to minimise the risk of consumer detriment. Firstly, a Wrongful Disconnection Payment (WDP) should be in place to ensure that retailers have an incentive to improve their processes and minimise disconnection errors.<sup>41</sup> Secondly, retailers should be required to make two notification attempts during the 24 hours leading up to a disconnection (using two different notification processes). Thirdly, the idea of a life support register should be broadened to include households with medical and health issues that increase their dependency on energy, as a way of minimising health and safety risks associated with remote disconnection.

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<sup>40</sup> Note that as per SVDP Society's submission to the NECF First Exposure Draft, the term de-energisation in the NERL should not be used to describe retail disconnection. The terms de-energisation and disconnection are distinct terms used to describe different activities undertaken by distinct parts of the energy industry.

*De-energisation* is an activity that is undertaken by a distributor in enclosing a connection when there is a planned outage (meter replacement, line upgrade, safety reason etc). It is related to the maintenance of the distribution/transmission system. Similarly the term energisation is an activity that is undertaken by a distributor in opening a connection when a consumer is connected to the distribution or transmission system (ie they meet all the technical standards and can be energised).

*Disconnection* is a term that is applied to the withdrawal of energy due to non-payment or breach of other contract terms and the finalisation of a contract through move in/move outs and it is a term applicable to retailers where their contracts have been breached and disconnection is warranted (at this time however, the connection continues to meet all the technical standards required by the networks to remain energised).

<sup>41</sup> See Section 5.2 below for a more detailed discussion on WDP and its impact on disconnection levels.

Recommendation 23:

That Part 6, Division 2 of the NERR in regards to *retailer-initiated de-energisation of premises* includes a *wrongful disconnection payment provision* in order to provide the retailers with an incentive to undertake all the steps necessary, and as required by the Rules, prior to disconnecting a customer.

Recommendation 24:

That the SMI Part of the NERR includes a *disconnection provision* stipulating that a retailer must make two notification attempts during the 24 hour period prior to requesting the distributor to remotely disconnect the customer's premises.

Recommendation 25:

That the relevant definitions and rules in the NERR (Rule 103 and Part 7) are amended to broaden the definition of households with life support equipment to households with special needs (due to health and medical conditions).

### 2.10.2 Disconnection/reconnection charges

ERC Clause 15.1 and NER Rule 616 refer to reconnection charges. As the remote connection/disconnection functionality will remove the cost of disconnecting and reconnecting customers, these charges should not apply to customers connected to SMI.

Recommendation 26:

That the SMI Part of the NERR should include a *disconnection provision* stating that SMI customers cannot incur an additional charge for disconnections and reconnections.

### 2.11 Termination

The ERC Clause 24.1 requires a customer to give the retailer 28 days notice in order to terminate an energy contract. The NER Rule 235 similarly requires a customer to give the retailer notice 20 *business* days prior to termination taking effect. From a customer perspective, the termination notice requirements should be linked to the notice period retailers give customers about a change to their tariff rate and/or shape. As discussed below, the ERC currently only stipulates that retailers must give notice as soon as practicable and no later than on the first bill issued after the new tariff has taken effect. This mismatch between customers' notice period for termination and retailers' notice period for tariff variation is ill suited for a deregulated, competitive market.

The cooling-off period is a second timeline that the termination notice timeline should have regard to as a retailer should not be able to transfer a customer before the cooling-off period has expired. As such, the termination notice must not be less than 10 business days. From a transfer process perspective the customer notification requirements also have to be aligned with the requirements stipulated in the transfer codes and procedures. The Victorian Electricity Customer Transfer Code Clause 4.2 (which operates in conjunction with the national CATS Retail Transfer Procedures, which in turn operates under the NER) stipulates that 'a proposed transfer date may be up to 20 national business days after a customer's request to transfer is made to the proposed new retailer'. However, with remotely read meters the transfer process will



be more efficient and there are no reasons for requiring the customer to give more than 12 business days notice before a transfer must occur (10 days for the cooling-off period and 2 days for processing).

**Recommendation 27:**

That the SMI Part of NERR should include a *termination notice provision* stipulating that a term or condition of a market contract has no effect to the extent that it requires a customer to give more than *12 business days* notice to terminate the contract.

The retail transfer codes and procedures should be amended to reflect this timeline when the relevant customer is connected to SMI.

**2.11.1 Cooling-off**

ERC Clause 23.1 and NER Rule 236 both stipulate that customers have 10 business days to cancel their energy contracts under the cooling off provisions. As smart meter enabled dynamic pricing structures are likely to increase the complexity of market offers, the right to cancel contracts and the importance of assessing the offer in detail within 10 business days should be made more obvious to customers signing on to market offers. The contracts should advise the customer of their right to cancel in an apparent and clear manner, as well as providing the customer with an AER web address that contains detailed information on the various tariff options and gazetted retail offers.

**Recommendation 28:**

That NER Rule 236 is amended to state that the 10 day cooling off period should not commence until the customer has received the contract and that customers should be given a prescribed form explaining their cooling off rights before the cooling off period starts.

**2.11.2 Vacating a supply address**

According to ERC Clause 7.6, a customer vacating premises is obliged to continue to pay for energy consumed at the premises, as well as the fixed charge, for a minimum of 3 business day after giving the retailer notice. This timeframe is applied to allow the retailer sufficient time to organise a final meter read of the premises. The NER Rule 234 (1) proposes to extend this timeline to 5 business days commencing upon receipt of a termination notice of a SRC.

As SMI will allow retailers to conduct remote special reads of a customer's meter the timeline should be reduced to 1 business day after receiving termination notice where SMI capable of remote reads are in place.

**Recommendation 29:**

That the SMI Part of the NERR should include a *termination provision* stipulating that a SRC terminates on the earliest 1 business day commencing upon receipt by the retailer of a termination notice (even if the customer has vacated the premises earlier).

### **2.12 Additional retail charges (early termination fees)**

It is difficult to regulate the use of Early Termination Fees (ETFs) in terms of what constitutes fair and reasonable charges. Furthermore, ETFs create significant barriers to customer switching and effectively limits renters' access to energy offers. ETFs should be banned but if it is deemed necessary to allow retailers to recover customer acquisition costs ETFs should be replaced by a sign up fee. In a competitive market, a sign up fee is more likely to reflect the actual cost to retailers than an ETF.

ERC Clause 30 currently allows retailers to apply ETFs to market contracts as part of the 'agreed damages term'. In Victoria, ETFs on standard market offer contracts are as high as \$80 if the customer cancels the contract prior to the two-year lock in period.<sup>42</sup> ERC Clause 31 (c) stipulates that:

Any amount of an early termination fee payable by a customer upon the customer breaching their energy contract must be determined by reference to, and must not exceed, the total of the following direct costs incurred by the retailer in relation to that particular customer which remain unamortised at the time of termination:

- (i) pro-rata costs of procuring the customer to enter into the contract
- (ii) additional costs of giving effect to the early termination of the contract, final billing and ceasing to be responsible for the supply address; and
- (iii) the value of any imbalance in the retailer's electricity or gas hedging program to the extent that it is directly attributable to that breach of contract.

The NER Rule 235 states that the ETF must be a reasonable estimate of the administrative costs to the retailer resulting from the early termination and cannot include costs based on lost supply or lost profits.

The intention to limit the ETF to administrative costs only is sensible but, as ETFs are notoriously difficult and cumbersome to regulate, the use of a sign-up fee would provide retailers with an incentive to limit this to actual costs.

Whether ETFs in general are banned, replaced by sign-up fees or not, they should be banned from dynamic pricing contracts. As discussed below in relation to hardship, life cycle changes and unforeseen circumstances (such as illness) can significantly change a household's consumption pattern. The idea behind dynamic pricing is that customers assess their load profile and understand their consumption needs before signing on to a suitable offer. It is therefore crucial that customers can exit a contract if their circumstances change. A customer would not be able to give explicit informed consent for any longer than the immediate future and dynamic pricing contracts should therefore be evergreen contracts that the customer can assess the suitability of on an on-going basis. An ETF on these contracts would effectively create a barrier to the take up of dynamic pricing contracts and customers' ability to respond to price signals.

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<sup>42</sup> CUAC Quarterly Newsletter Issue 14, *Retail Price Deregulation – What's on Offer Now?* March 2009.

Recommendation 30:

That the SMI Part of the NERR includes an *early termination fee provision* stating that a retailer cannot apply an early termination fee to dynamic pricing contracts.

**2.13 Tariff variations and reassignments**

The NER Rule 235 requires a customer on a Standard Retail Contract (SRC) to give 20 days notice in order to terminate a contract. It is crucial that the termination notice reflect the notice requirements placed on retailers in regards to tariff variations.

The NER Law 205 in regards to standing offer prices, states the following limitations on commencement of variation (205 (4)):

A variation of the standing offer prices takes effect—

- (a) if the date specified in the variation is before or within the period of 6 months starting with the date the last variation took effect (or, if the standing offer prices have not previously been varied, the period of 6 months since the date of publication of the standing offer prices)—on the date that immediately follows the 6-month period; or
- (b) if the date specified in the variation is before or within the period of 10 business days starting with the first business day after the date on which the variation was published—on the date that immediately follows the 10-day period.

Schedule 1 of the NERR – Model terms and conditions for Standard Retail Contracts, Clause 8.2 regarding variations to tariff and charges, reflects these laws:

- (a) If there is a variation in the standing offer prices, we must publish on our website any variations 10 business days ahead of them taking effect, and include details of the variation with your first bill that includes the variations.
- (b) We may not vary the standing offer prices more frequently than at 6 monthly intervals.

In terms of Market Retail Contracts (MRCs), the NER Law 239 in regards to presentation of prices, states that:

(2) Market offer prices

A retailer must—

- (a) present the details of its market offer prices (including any variation of the prices) in the manner and form required by the AER Pricing Information Guidelines; and
- (b) without limitation, present them in that way when publishing or advertising those prices or any variation.

(3) AER Pricing Information Guidelines

The AER may, in accordance with the Rules, make and amend guidelines (*AER Pricing Information Guidelines*) specifying the manner and form in which details of standing offer prices and market offer prices are to be presented.

- (4) The purpose of the AER Pricing Information Guidelines is to assist customers to consider and compare standing offer prices and market offer prices offered by retailers.

The AER Pricing Information Guidelines are yet to be developed but according to 239 (4) above, the purpose of the guidelines is *not* to ensure that the obligation on retailers to notify customers of a price variation reflects the notification period customers are obliged to give retailers prior to terminating a contract.

Currently in Victoria the ERC Clause 26.4 states that

A retailer must give notice to a customer of any variation to the retailer's tariffs that affects the customer. The notice must be given as soon as practicable and in any event no later than the customer's next bill.

This notice requirement is insufficient for customers experiencing significant tariff variation.

In March 2009, the AER published a Draft Decision on Interval Meter Reassignment Requirements and they recommended a new clause to be inserted into the ERC to require retailers to inform their customers about a reassignment to a time of use tariff no later than 10 days after being notified by the distribution business.

This proposed ERC Clause was supposed to complement a proposed change to the Electricity Distribution Code requiring the distribution businesses to notify the retailer about a time of use tariff reassignment 45 days prior to taking effect.

The proposed arrangement in the Draft Decision would have been appropriate as customers would have been informed about the tariff reassignment 35 days prior to it taking effect. However, as the retailers are not required to pass on the shape of the network tariff to the customer (although they normally do), the retailers strongly opposed this proposed amendment to the ERC.

In its Final Decision in May 2009 the AER therefore decided to simply place an obligation on distribution businesses to write to their customers 20 days before a smart meter is installed at the premises (and again 4 days before) to say they may be reassigned to a time of use tariff in the future.

The actual wording of the notification being:<sup>43</sup>

The rollout of AMI meters may result in your network tariff being changed in future to a time of use network tariff. If this change has any implications for your retail costs and charges then your retailer will inform you of this. You do not need to act now; your retailer will notify you of any changes.

As explained by the AER in their Final Decision:<sup>44</sup>

Retailers strongly expressed the desire that the current Energy Retail Code clause 26.4(b) is sufficient for them to inform customers about a change to retail

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<sup>43</sup> Australian Energy Regulator, *Interval Meter Reassignment Requirements*, Final Decision, May 2009, p 21.

<sup>44</sup> Australian Energy Regulator, *Interval Meter Reassignment Requirements*, Final Decision, May 2009, p 17.

tariffs ...retailers strongly put the view to the AER that the draft decision effectively mandated an additional retailer obligation (to inform customers of a network tariff change) that would serve no purpose but to confuse customers about the tariffs applicable to their circumstances. This was especially the case where the customer's retailer was not amending their final retail tariff even though the network tariff had changed to time of use charging.

The AER agrees with retailer concerns that the draft decision would impose an additional unnecessary obligation on them, with the potential to confuse rather than inform customers about the tariff implications of AMI metering.

The AER sees more benefit in customers being informed by their retailer of the impact of the AMI roll out on their retail electricity costs, as appropriately determined by retailers.

Clearly, it is difficult to regulate these information provisions as the retailers have the contractual relationship with the customer and they are not obliged to pass through a network tariff shape to their customers. At the same time, the network tariff shape usually dictates the retail tariff shape as it creates too much risk for retailers to deviate from the underlying network tariff shape.

However, it is the customer that is the loser in the AER's Final Decision as the retailer is now only obliged to inform about the tariff changes no later than the first bill after they have taken effect (as per ERC Clause 26.4). The potential bill impact on customers from tariff reassignments is discussed in detail in Section 4 below, but it is clear that the NERL and the NERR need to be amended to address the network versus retail information issue to create more adequate outcomes for consumers.

**Recommendation 31:**

That the NERL is amended to require retailers to notify Market Retail Contract customers directly about any price or tariff variation 10 business days prior to the variation taking effect.

That the NERR Schedule 3 – Retail Support Terms and Conditions (Clause 4.7) should address the responsibilities of retailers and distributors in relation to notifying each other, as well as the customer, of any tariff reassignment.

## **2.14 Hardship**

As dynamic pricing contracts increase volatility and the customer's consumption pattern will have significant impact on the bill, any customer deemed to experience payment difficulties should have the opportunity to immediately terminate a dynamic pricing contract without incurring an early termination fee (or other additional charges) and enter into a new contract with a non-dynamic tariff structure. If a retailer only offers dynamic tariff structure it could be exempt from offering a non-dynamic pricing contract to customers facing payment difficulties.

The right to initiate an immediate contract change for customers experiencing payment difficulties would be an important tool to ensure that hardship cases do not increase

significantly with dynamic pricing contracts (DPCs). Life-cycle changes such as having children and retirement can change a household's consumption pattern significantly and financially penalise customers on a time of use tariff who suddenly find themselves at home during the day. Other changes to a customer's circumstances, such as job loss, different working hours and illness could have a similar impact. As dynamic pricing contracts require customers to understand their consumption pattern and assess tariff offers with this in mind, there should be an opportunity to promptly exit such arrangements without incurring penalty fees for hardship customers.

Dynamic pricing contracts provide customers with price signals that require them to manage their demand (or be financially penalised). A customer's ability to manage demand and therefore respond to price signals is highly dependent on their life situation and hence consumption pattern/needs. It can therefore be argued that a customer would be unable to give explicit informed consent for any longer than the immediate future and dynamic pricing contracts should therefore be evergreen contracts that the customer can assess on an on-going basis.

**Recommendation 32:**

That the SMI Part of the NERR includes *hardship provisions* that stipulate that hardship customers on dynamic pricing contracts must be offered the opportunity to immediately change to a non-dynamic pricing contract without incurring any penalty fees.

**2.15 Special needs**

The Victorian Electricity Distribution Code (EDC) Clause 5.6.1 and NER Rules 703 and 704 stipulate actions distributors must take when notified about customers using life support equipment. By using the term 'life support equipment' to define which households should be included in the special register the framework uses a narrow, appliance oriented definition. The term 'special needs', on the other hand, is less narrowly defined as it is linked to the household's circumstances. Customers with specific reliance on electricity for health and medical purposes can be included in the register based on criteria such as medical certificates and/or access to particular concessions (i.e. the Medical Cooling Concession in Victoria).

By using a broader definition than 'life support equipment' a special needs register can ensure that households with health issues which make them especially dependent on energy supply are included in the register. Such a register would be valuable in terms of distribution businesses and retailers' ability to deliver duty of care in relation to suitability of energy products (such as DLC and CPP) and prior to conducting remote disconnections for non-payment. This approach would hence mitigate some of the health and safety risks associated with remote disconnection (discussed above).

**Recommendation 33:**

That the relevant definitions and rules in the NERR are amended to broaden the definition of households with 'life support equipment' to households with 'special needs' (due to health and medical conditions).

## 2.16 Information provision

### 2.16.1 Disclosure of variations in tariff shape<sup>45</sup>

Because dynamic pricing contracts (DPC) and direct load control contracts (DLCC) are new and complex retail products, retailers offering these products should be required to provide the prospective customer with additional information in order to ensure that explicit informed consent is obtained.

One particular variation that needs to be disclosed at marketing stage is an offer with variance between network and retail tariff shape.<sup>46</sup> Retailers can seek to maximise their profits by ensuring that a significant proportion of the household consumption does not attract off-peak rates. One approach the retailers can utilise is to extend the peak times (or shoulder period if a three-rate tariff is applied) beyond the network times and wholesale market peak. By pushing the peak/shoulder tariff to last as late as possible (say 9pm), households' ability and willingness to shift load would be reduced and significant consumption deriving from washing machines, dryers, dishwashers and television sets would attract a higher rate.

A competitive market with informed consumers should in theory make such gaming by retailers more difficult and an obligation to disclose of any variance between network and retail tariff shape, at marketing stage, will improve transparency and increase customer awareness.

#### Recommendation 34:

The SMI Part of the NERR should include an *information provision* stipulating that a retailer must disclose, at marketing stage, any variance between the network and the retailer's tariff shape.

### 2.16.2 Information to be provided by distributor to customer

NER Rule 404 stipulates the nature of the information a distributor must provide a customer upon request. As the distribution businesses own the meters and have been made the responsible party for the rollout of SMI, the distributors should be required to inform customers about the meter type connected to a customer's premises and its associated infrastructure and functionalities.

#### Recommendation 35:

That the NER Rules 404 and 410 are amended to include an obligation for distribution businesses to inform customers about the customer's meter type, metering infrastructure and associated functionalities on request and at no cost to the customer.

### 2.16.3 Information about choice of retailer

Currently, if a customer contacts a distributor to request energisation, and the customer does not have a retailer for that supply address, the distributor is required to inform the customer in accordance with any applicable guidelines that the customer has a choice of retailer (EDC Clause 2.3.2). The NER Rule 206 similarly states that the distributor must inform 'move-in' customers that they may have the ability to choose their retailer and that a list of retailers is available from the AER's website.

<sup>45</sup> Tariff shape variations should include deviations both in terms of 'blocks' (i.e. two-part vs. three-part tariffs) and time zones (i.e. peak time starting at different times).

<sup>46</sup> This issue is discussed in more detail in the Background Paper, Section 5.3.5.

The reference to an AER website could prove to be an important step to ensure that consumers are better informed about not just retail choice but also tariffs available and retailers' standing and market offers. In consultation with stakeholders, the AER should develop a comprehensive one-stop shop for consumer information on energy, and the NECF must ensure that retailers and distributors inform customers about the website as appropriate. As discussed in the cooling-off section above, this website should contain detailed information about the various tariff options, standing offers, and a selection of market offers, as well listing active retailers.

**Recommendation 36:**

That the AER develops a comprehensive one-stop shop for consumer information on energy and that the NERR ensures that retailers and distributors inform customers about the website as appropriate.

**2.17 Customer enquiries and complaints**

Due to the complexity of dynamic pricing and the technical aspects of DLC, retailers offering dynamic pricing contracts (DPC) and/or direct load control contracts (DLCC) should have a specialist customer support team that handle enquiries and complaints relating to these smart meter enabled products.

**Recommendation 37:**

That the SMI Part of the NERR should include an *enquiries and complaints* provision stipulating that retailers offering DPC and/or DLCC are required to establish a specialist customer support team to handle customer queries and complaints.

**2.18 Customer consultation**

SMI will enable a range of new retail products and dynamic pricing contracts but as only a few customer response trials have been conducted, there is limited knowledge about the customer impacts these products will have.

The Draft NERR requires retailers offering prepayment contracts to establish a Prepayment Meter Customer Consultation Group (Rule 821) and a similar requirement on retailers offering smart meter enabled products, such as DPC and DLCC, would ensure that information about the customer impacts of smart meter enabled retail products are collected, assessed and publicly available.

**Recommendation 38:**

That the SMI Part of the NERR includes a *customer consultation provision* similar to that of Rule 821 for prepayment systems, stipulating that:

A retailer that offers smart meter enabled retail products, including dynamic pricing contracts, must establish a Smart Meter Customer Consultation Group with membership drawn from customers that have entered such contracts and consumer groups operating within the jurisdiction in which the retailer carries on business.

The retailer must provide on its website detailed information about the meetings and activities of the retailer's Smart Meter Customer Consultation Group.

The retailer must ensure that the Smart Meter Consultation Group continues in existence for a minimum of 3 years.



## **2.19 Marketing**

It is important that customers are protected from misleading and predatory marketing practices in order for a competitive energy market to work. As consumers have limited experience in and understanding energy contracts and tariff offers, it is crucial that the marketing provisions allow them the right to assess the offer in a timely manner and that they have the ability to change their mind if they find the offer unsuitable. With increased tariff complexity due to smart meter enabled pricing products, it will continue to be of high importance that effective marketing provisions are in place and that non-compliance is acted upon by the appropriate regulatory authority.

The National Energy Marketing Rules (NEMR) should apply to all energy retailers and include marketing of products, tariffs and services to both existing and new customers. As smart meters will enable significant tariff innovation it is important that the NEMR covers marketing activities to a retailer's existing customers.

### **2.19.1 Record keeping**

The Victorian Energy Marketing Code (Clause 2.5) currently requires retailers to maintain records about telephone contacts made by marketing representatives with consumers. The records must include information such as when contact was made, who was contacted and name of marketing representative contacting the customer. These records must be kept for one year.

As the HAN functionality in the SMI enables the retailers to communicate to customers via an In-home display (IHD) or a web based account, the record keeping requirements should be extended to cover all electronic and HAN based communications.

Rule 7 in the proposed NEMR covers the issue of record keeping but it does not mention HAN enabled or electronic communications.

#### **Recommendation 39:**

That a sub-rule addressing the issue of HAN enabled and electronic communications should be added to Rule 7 of the NEMR addressing record keeping requirements.

## **2.20 Customer service standards and GSLs**

NER Rule 407 stipulates that a distributor must comply with applicable customer service standards and any associated Guaranteed Service Level (GSL) schemes. However, details about GSL payments are contained in jurisdictional energy legislation. SMI will impact on customer service standards and the service levels and GSL payments should therefore be reviewed.

For example, the Victorian Electricity Distribution Code (Clause 6.2) currently stipulates that where a distributor does not supply electricity to a customer's supply address on the day agreed, the distributor must pay to the customer \$50 for each day that it is late, up to a maximum of \$250. However, smart meters have the ability to measure both energy exported from the grid as well as energy imported to the grid from the customer's generation source (such as PV cells) and it is therefore

questionable whether the current maximum threshold of \$250 is an appropriate GSL for circumstances where the customer is not only experiencing inconvenience but also loss of income due to the distributor's failure to supply.

**Recommendation 40:**

That the Victorian Minister for Energy directs the DPI to investigate the appropriateness of the service standards and the GSL payments.

### ***3. Economic regulation***

#### **3.1 Cost allocation**

As the regulated distribution businesses have been made the 'responsible party' for rolling out smart meters in Victoria, the AER will approve their budgets and their approach to recover these costs from consumers. The AER, as the economic regulator, will also have the mandate to ensure that benefits accrued are passed through to consumers.

The approach utilised for the Victorian rollout does not include any incentives for the distribution businesses to outperform forecasted expenditure. The Victorian Government issued an Order In Council (OIC) in November 2008 stipulating the regulatory framework for the Victorian price setting. Basically, the approach stipulated in the Victorian OIC requires the distribution businesses to provide an initial budget to the AER which the AER must approve unless it can establish that the expenditure is for activities that are out of scope or not prudent.<sup>47</sup> Prices to be charged to customers are set on the basis of the budgets approved by the AER and will be adjusted on an annual basis (based on actual expenditure incurred).<sup>48</sup>

The AER is currently in the process of determining the cost of the rollout for the 2010-2011 period and its draft determination proposes charges that involve an average increase of \$53 in 2010 and \$77 in 2011. However, the rollout schedule presented in Table 1 above shows that only 10% of the meters will be rolled out by the end of 2010 and only an additional 15% are due to be rolled out by 30 June 2011. The schedule does not stipulate the proportion of meters that must be installed by the end of 2011 (which is the end of the initial cost-recovery period) but by mid 2012, 60% of meters must be installed.

This protracted rollout schedule means that customers will commence paying for the metering infrastructure well in advance of any real benefits being delivered.

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<sup>47</sup> Expenditure is taken to be prudent unless: (1) the AER establishes the contract was not let in accordance with a competitive tender process (in the case where expenditure is a contract cost) and (2) for other expenditure, where the AER establishes it is more likely than not that the expenditure will not be incurred or that incurring the expenditure involves a substantial departure from the commercial standard that a reasonable business would exercise in the circumstances. For more detail on the Victorian OIC and the regulatory framework, see for example Essential Services Commission, *Advanced Metering Infrastructure Review: Consultation Paper: Revised Framework and Approach*, December 2008.

<sup>48</sup> Essential Services Commission, *Advanced Metering Infrastructure Review: Consultation Paper: Revised Framework and Approach*, December 2008.

### 3.1.1 Pricing principles

The price impact of the rollout on Victorian households is discussed in more detail in Section 4 below, but estimates indicate that the rollout will cost households approximately \$80 per annum over a 10 year period. That is a stand-alone increase of \$20 on every quarterly bill.

It is understood that the Victorian distribution businesses will allocate the cost of the rollout to the prescribed metering charge. Currently the prescribed metering charge for Victorian households is approximately \$40 per annum, but this charge could on average be as high as \$117 by 2011.<sup>49</sup>

Victorian households will experience a significant cost increase as a result of the smart meter rollout and low-volume energy consumers will encounter a proportionally higher increase. In addition to proportionally higher price increases, low-volume energy consumers will also have the least ability to respond to price signals (due to low discretionary consumption), which may allow them to offset these costs. This raises important equity issues as low-income households represent a large proportion of low-volume consumption households.

One approach to address these equity issues is to apply pricing principles that allocate the cost of the smart meter rollout (or a higher proportion thereof) to higher consumption households. This can be achieved by only allowing the pass through of these costs once a certain consumption threshold has been reached and hence ensure that costs are more equitably allocated.<sup>50</sup>

#### Recommendation 41:

That the MCE directs the AER to investigate the potential for using pricing principles to allocate SMI costs in an equitable manner – meaning that those most likely to benefit from the rollout pay a proportionately higher cost.

However, as stated above, it is understood that the Victorian distribution businesses will allocate the smart meter rollout costs to the prescribed metering charge. If so, the retailers are likely to argue that they can pass through the cost to consumers in whatever way they wish. This could have significant equity implications and result in the obfuscation of the cost of SMI to Victorian consumers.

#### Recommendation 42:

The AER should undertake a review of the impacts of how and where SMI costs are allocated with the aim of identifying an equitable, fair and transparent approach for allocating SMI costs to Victorian consumers.

### 3.1.2 Itemised bills

If pricing principles are not applied and the cost of SMI is incorporated into the fixed charge, the cost of SMI should be itemised on the bills for the following four reasons:

<sup>49</sup> The charges proposed by the AER draft determination will produce average increases in metering charges of \$53 in 2010 and \$77 in 2011 (compared to 2009 charges). AER, Draft Determination, *Victorian advanced metering infrastructure review, 2009–11 AMI budget and charges applications*, July 2009.

<sup>50</sup> See Dufty G, *Electricity pricing – delivering social justice and environmental equity*, in CUAC Expert Forum on Electricity Pricing, Forum Papers, August 2007.

First, as the rollout is a Government initiative that results in a significant cost to consumers, it is important these costs are transparent, the SMI project has set timelines and consumers should expect the additional line item to change or be removed upon completion. Second, it is important that this cost item provide a benchmark for consumers if metering services become competitive post the rollout. Third, because a key objective of rolling out SMI is to improve price signals and elicit demand response - ‘hiding’ further costs under the fixed charge component would be counter-intuitive. Finally, it is important that consumers become aware of the rollout to increase interest and understanding of what SMI enabled tariffs will mean for their consumption patterns and bills. Itemising the SMI costs on electricity bills could be an effective way to ensure interest in a public education campaign.

**Recommendation 43:**

SMI project/rollout costs should be a line item on customers’ electricity bills.

### **3.2 Pass through of benefits**

The majority of the cost of rolling out smart meters will occur up-front which imposes some risk to consumers in relation to the pass through of benefits.

There is no guarantee that all the estimated benefits will be accrued and therefore produce the savings anticipated. As households pay for the infrastructure up-front they could end up short changed if the benefits do not materialise. The Victorian Government made the decision to mandate the rollout based on a cost-benefit study and it should therefore commit to monitor benefits accrued and utilise complementary policy measures to maximise benefits and ensure that savings are passed on to consumers.

**Recommendation 44:**

To mitigate this risk the AER should monitor the benefits as they accrue (i.e. on an annual basis) and provide a public assessment report to the Victorian Government on the benefit status. The Government, in co-operation with the AER, should seek to actively ensure that maximum benefits are achieved.

There is also a risk that benefits are not accurately and/or timely passed through to consumers. The distribution businesses have an incentive to maximise return to their shareholders and this raises challenges for the regulatory framework as the networks may seek to underestimate the benefits accrued from a smart meter rollout in order to retain as much of the savings as possible – arguing that it is a result of business efficiencies rather than the smart meter rollout. To mitigate this risk, the regulatory framework can be restructured to ensure that operational benefits are accounted for and passed through on an annual basis. The typical 5 year regulatory period would not deliver satisfactory outcomes and most likely allow the network businesses to gather windfall gains.

**Recommendation 45:**

That the regulatory framework for SMI be adjusted to ensure that the operational benefits are accounted for and passed through to consumers on an annual basis.

### **3.3 Excluded Service Charges**

Excluded service charges stipulate the cost of services such a new connections, reconnections, meter reads, adjustment of time switches and meter equipment tests.

The excluded service charges are not regulated under the price determinations (through the CPI-X price controls) but are set by the distribution businesses and approved by the regulator. In Victoria, the ESC has assessed whether the charges are ‘fair and reasonable’ according to the approach set out in the ESC’s Electricity Industry Guideline Excluded service principles.<sup>51</sup>

The distribution businesses are required to publish the approved charges on their web site. A brief comparison of the charges currently applied to Victorian consumers demonstrates significant variation between the networks.

With SMI rolled out many of these services will become redundant and economies of scale will be lost. It is therefore recommended that the AER prepares a review into excluded service charges and examines issues pertaining to costs and contestability. Clearly, should services such as meter reads continue to operate as an excluded service charge the cost would have to be significantly reduced. However, with a reduced need for field service staff due to remotely conducted services, the cost of other services, such as meter testing, may become more expensive and the AER should therefore consider these services in terms of contestability and third party service provision.

**Recommendation 46:**

That the AER undertakes a review into excluded services in light of SMI to assess the impact SMI may have on excluded services charges.

#### ***4. Community Service Obligations and Smart Meters***

The price impact analysis presented in this section includes numerous variables and assumptions, and the cost impacts on households are presented as averages. There are many factors at play, and relatively minor changes to the assumed tariff rates, the duration of a tariff and the times they are applied may result in material change to the overall cost impacts. Furthermore, as the numbers presented are averages, some households will have price changes significantly lower than the average indicates, while others will experience higher price increases than the average. In essence, the purpose of this analysis is to highlight the factors that may result in significant price rises and thus inform an assessment of the robustness of current energy concessions and other assistance provided to Victorian energy consumers. Finally, this analysis does not purport to calculate and assess the impact of any demand response to price signals. As individual households will have varied ability to reduce or shift demand in response to price signals, it is important to be aware of price impacts if no demand response occurs in order to ensure that government assistance is sufficient to keep low-income households connected to supply.

Existing Victorian Community Service Obligations (CSOs) have been developed over a long period of time and therefore interact with and compliment broader government policy objectives. With the rollout of smart meters, and their associated functionalities, there is a risk that the energy protections currently available to

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<sup>51</sup> Essential Services Commission, *Electricity Industry Guideline Number 14, Provision of Services by Electricity Distributors*, April 2004, p 16.

Victorian consumers become de-linked from the broader social and environmental protections. This de-linking of energy protections from other policy objectives can potentially cause energy related financial hardship as well as increasing the political risk associated with energy pricing.

**4.1 Impacts of various tariff options on customer classes**

This analysis seeks to document consumption patterns and explore the financial impacts of time of use (TOU) tariffs on the average Victorian household as well as the average Victorian pensioner household.

Two tariff reassignment scenarios will be explored. Firstly, the reassignment of customers on the general single rate tariff to a hypothetical three-part TOU tariff. Secondly, the reassignment of customers on a two-rate (peak/off-peak) tariff to a TOU tariff.

**4.1.1 Single rate tariff - Average Household vs. Pensioner Household**

The tables below detail the quarterly average domestic consumption patterns for Victorian households and the average Victorian pensioner household.<sup>52</sup> These tables show that the pension groups on average consume fewer kWh per annum than the average domestic household. Furthermore, the pensioner group also has an average increase of approximately 8% in energy consumption in the June - November period compared to the December - February period. This increase in winter consumption is slightly higher than the consumption increase of the average domestic household for the corresponding period (7%).<sup>53</sup> This 1% difference is important in relation to seasonal TOU tariffs.

**Table 5**  
Single rate, Pensioner consumption data<sup>54</sup>

| Quarterly (General/Peak) consumption |            |             |          |
|--------------------------------------|------------|-------------|----------|
| Dec/Feb                              | March/ May | June/August | Sept/Nov |
| 944 kWh                              | 968 kWh    | 1017 kWh    | 1017 kWh |

**Table 6**  
Single rate, Average household consumption data

| Quarterly (General/Peak) consumption |            |             |          |
|--------------------------------------|------------|-------------|----------|
| Dec/Feb                              | March/ May | June/August | Sept/Nov |
| 1158 kWh                             | 1186 kWh   | 1242 kWh    | 1242 kWh |

**4.1.2 Energy cost implications<sup>55</sup>**

Chart 1 below demonstrates the bill difference between the average domestic customer and the average pensioner. These bills are based on the application of a single flat rate tariff. The average annual bill for households on this tariff is \$757 and

<sup>52</sup> Note that the Victorian average includes the pensioners. If the pensioner group is excluded from the Victorian average, the difference between the two groups would be greater.

<sup>53</sup> This difference in energy consumption could be due to a number of factors for example higher air-conditioning use by average household in summer or a greater use of day rate electric heating in winter by the pensioner group.

<sup>54</sup> Data on household consumption was obtained from the Department of Human Services, Victorian Utility Consumption Survey 2007, page 74-75 at:

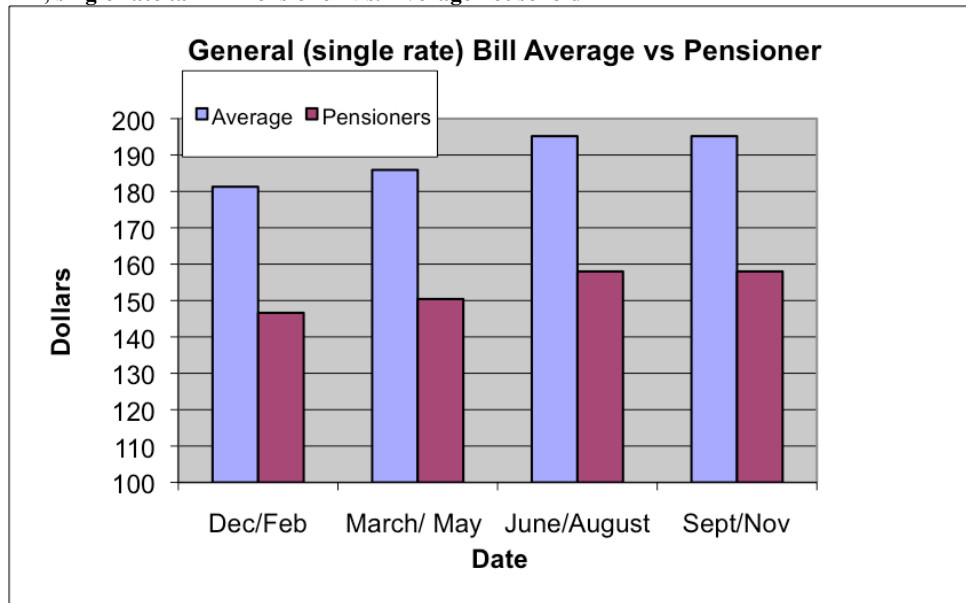
[http://www.dhs.vic.gov.au/concessions/research/publications?SQ\\_DESIGN\\_NAME=print](http://www.dhs.vic.gov.au/concessions/research/publications?SQ_DESIGN_NAME=print)

<sup>55</sup> The energy costs for the single rate are based on peak rate of 15.49 cents per kWh to 1020 kWh and then 16.56 cents per kWh thereafter and a daily supply charge of 46.74 cents.

the average annual bill for pensioner households is \$613. Pensioners, on average, pay approximately 23% less per quarter than the average domestic household.

The chart also demonstrates a slight increase in costs over the winter period. This smaller than expected increase in consumption over the winter months can be explained by the fact that a majority of single rate households will have access to reticulated gas and hence use gas for winter heating.

**Chart 1**  
**Bill, single rate tariff - Pensioner Vs. Average household**



**4.1.3 Two-rate tariff (Peak/Off-peak) - Average Household vs. Pensioner Household <sup>56</sup>**

When comparing consumption patterns of two-rate pensioner households to average household consumption, pensioners have a lower overall consumption. However, their winter off-peak consumption is very similar to that of the average household.<sup>57</sup> Furthermore, pensioners’ off-peak consumption is higher than that of the average household. The pensioner group’s total consumption is made up of 48% off-peak and 52% peak while the average household uses 56% in peak periods and 44% at off-peak times.

TOU tariff applications, and the pricing of the off-peak rate in particular, will be important due to this difference in consumption patterns. Also, the impact of a seasonal TOU tariff (with higher costs in winter) would be greater for the pensioner group.

<sup>56</sup> The energy costs for two rate households are based on a peak rate of 17.34 cents per kWh up to 1000kWh then 18.43 cents thereafter, off-peak consumption is at 7.84 cents and the daily supply charge is 51 cents per day.

<sup>57</sup> This may be explained by a greater number of pensioners residing in non-metropolitan areas and as such they are more likely as a group to be on two-rate tariffs than the average Victorian households.

**Table 7**  
Two-rate, Average household peak consumption data

| Quarterly (General/Peak) consumption |            |             |          |
|--------------------------------------|------------|-------------|----------|
| Dec/Feb                              | March/ May | June/August | Sept/Nov |
| 1158 kWh                             | 1186 kWh   | 1242 kWh    | 1242 kWh |

**Table 8**  
Two-rate, Average household off-peak consumption data

| Quarterly (Off-Peak) consumption |            |             |          |
|----------------------------------|------------|-------------|----------|
| Dec/Feb                          | March/ May | June/August | Sept/Nov |
| 816 kWh                          | 898 kWh    | 1062 kWh    | 1062 kWh |

**Table 9**  
Two-rate, Pensioner household peak consumption data

| Quarterly (General/Peak) consumption |            |             |          |
|--------------------------------------|------------|-------------|----------|
| Dec/Feb                              | March/ May | June/August | Sept/Nov |
| 944 kWh                              | 968 kWh    | 1017 kWh    | 1017 kWh |

**Table 10**  
Two-rate, Pensioner household off-peak consumption data

| Quarterly (Off-Peak) consumption |            |             |          |
|----------------------------------|------------|-------------|----------|
| Dec/Feb                          | March/ May | June/August | Sept/Nov |
| 763 kWh                          | 853 kWh    | 1032 kWh    | 1032 kWh |

The chart below demonstrates the average bills for a two-rate (peak/off-peak) household. The annual average bill for households on this tariff is \$1149. Compared to Chart 1 above, it highlights a greater increase in cost over the winter period than for the single rate household. This can be explained by greater use of off-peak electric heating during the winter months.

**Chart 2**  
Bill, two rate tariff – Average households

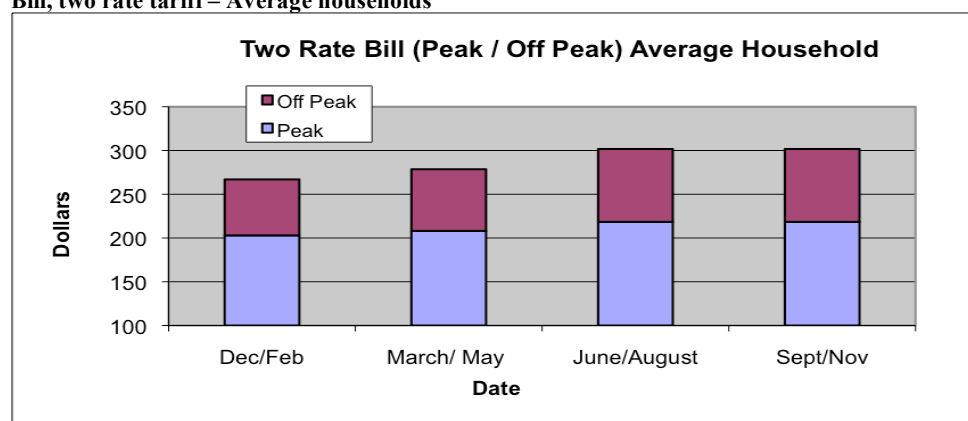
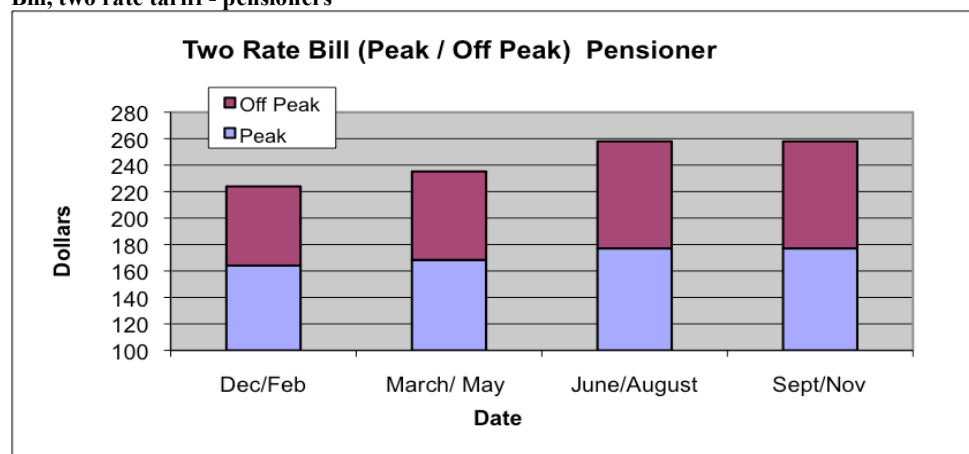


Chart 3 below details the average bills for the pensioner group on a two-rate tariff. The average annual bill for the pensioner group is \$975. As with pensioners on a single rate tariff, this group uses approximately 20% less than the average household.



**Chart 3**

**Bill, two rate tariff - pensioners**



**4.1.4 TOU tariffs - impact on average household and pensioner household**

The following analysis reallocates current peak rate consumption in the single rate and two-rate tariff scenarios into peak, shoulder and off-peak pricing. This reallocation is based on the assumption that households will use 30% of total consumption at peak times, 40% at shoulder times and 30% at off-peak times.<sup>58</sup>

The rates and the time of day/week attracting peak, shoulder or off-peak rates are based on the Energy Australia Strategic Pricing Study as well as discussion had with Victorian distribution businesses.

**Table 11**  
**Hypothetical TOU Tariff<sup>59</sup>**

|  | Tariff rate      | Proportion of total consumption allocated to that TOU rate |
|--|------------------|--|
| Peak:<br>2pm - 8pm   | 30 cents per kWh | 30%  |
| Shoulder:<br>7am - 2pm<br>8pm -10pm<br>7am -10pm on weekends | 14 cents per kWh | 40%  |
| Off peak:<br>All other times                                 | 9 cents per kWh  | 30%  |
| Fixed charge per day cents                                   | 51 cents per day |  |

<sup>58</sup> However, it could be argued that households reassigned from a single rate tariff to a TOU tariff will have less than 30% off-peak consumption as hot water and heating systems are more likely to run on gas.

<sup>59</sup> The allocation of peak consumption into the various TOU price intervals is based on an estimation of Victorian domestic energy consumption derived from <http://www.aph.gov.au/library/pubs/rp/2008-09/09rp09.htm>, Parliament of Australia, Parliamentary Library Research Paper Number 9 (2008-2009) Stewart Needham, *The potential for renewable energy to provide base load power in Australia*. This publication produces graphs that detail Victorian domestic electricity consumption in both summer and winter.

## 4.2 Implications of tariff reassignments<sup>60</sup>

### 4.2.1 Reassignment from single rate tariff to TOU

Generally speaking, Victorian households on a single rate electricity tariff are dual fuel households with access to reticulated gas. Their average annual electricity bill is therefore lower than households using electricity only. These households are typically located in the metro area and some regional centres. As they usually use gas for key appliances such as hot water systems and heating they have fairly low off-peak electricity consumption. This potentially results in an inability for these consumers to shift load to off-peak times and may mean that their bill increases when re-assigned to a TOU tariff will be even higher than estimated below.

When comparing the allocation of the general peak rate tariff to TOU pricing there is an expected cost increase for the average household in the order of 35% or approximately \$263 per annum, while for the pensioner household the expected impact is an increase in the order of 42% or approximately \$254 per annum. This would bring the average annual household bill up to \$1020 and the average annual pensioner bill to \$868.

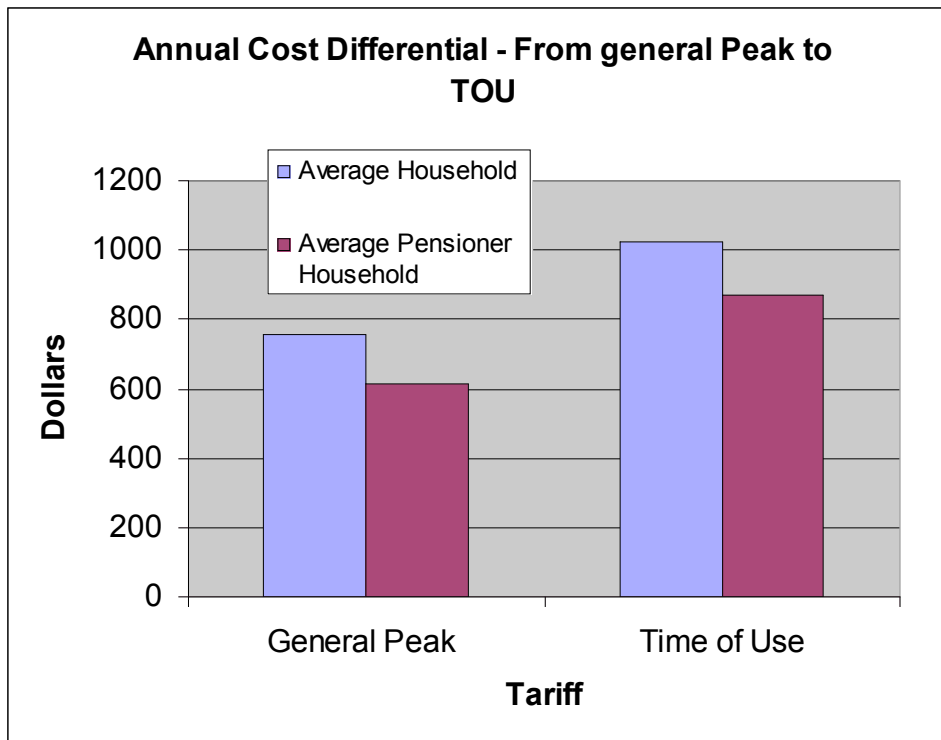
The higher percentage increase experienced by the pensioner group is caused by the higher supply charge associated with TOU pricing, which has a proportionally greater impact upon the pensioner household due to their lower consumption levels.

**Table 12**  
**Changes to annual bill – From general peak tariff to TOU**

|                       |            |
|-----------------------|------------|
| Average household     |            |
| Change to annual bill | + \$263.33 |
| Bill increase (%)     | 35%        |
| Pensioner household   |            |
| Change to annual bill | + \$254.95 |
| Bill increase (%)     | 42%        |

<sup>60</sup> This analysis does not factor in demand response changes that may occur as a result of the price signals associated with a TOU pricing scenario.

**Chart 4**  
**Annual cost differential, from general peak tariff to TOU**



**4.2.2 Reassignment from two-rate tariff to TOU**

Victorian households on a two-rate electricity tariff are generally households without access to reticulated gas and therefore have appliances such as hot water services and slab heating allocated to an off-peak tariff, measured separately from the remaining electricity used by the household. Their average annual electricity bill is higher than households using both electricity and gas. These households are typically located in non-metro areas.

When comparing the cost impacts that occur when households are migrated from a two-rate tariff to a TOU tariff there is an average increase for the average household of \$221 (equivalent of a 19% increase in annual bill) while for the pensioner household the estimated annual cost increase is \$227 or 23%. This would bring the average annual household bill up to \$1366 and the average annual pensioner bill to \$1203.

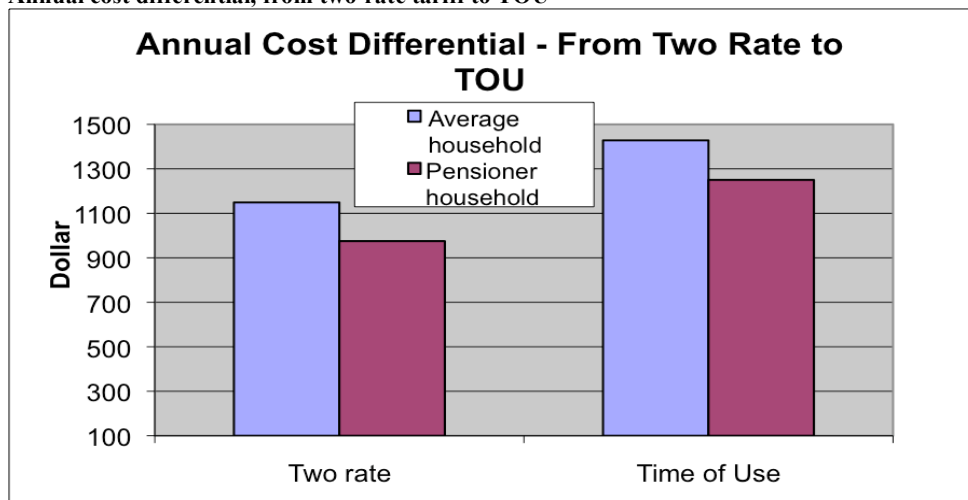
**Table 13**  
**Changes to annual bill – From two-rate tariff to TOU**

|                       |            |
|-----------------------|------------|
| Average household     |            |
| Change to annual bill | + \$221.19 |
| Bill increase (%)     | 19%        |
| Pensioner household   |            |
| Change to annual bill | + \$227.79 |
| Bill increase (%)     | 23%        |

Similarly to the analysis undertaken when allocating general peak rate tariff to TOU the allocation of two-rate peak and off-peak tariff to TOU produces a greater percentage increase for pensioner groups. There are a number of factors at play here. Firstly, as the pensioner group’s peak consumption is principally in the first block of a two-part inclining block tariff, allocating them to a TOU tariff effectively reduces the discount that they would expect from the off-peak and shoulder rates relative to the average household group, and increase the price rises experienced due to the TOU peak rate.

This differential between pensioner households and average households would be exacerbated with the application of a seasonal (winter) TOU tariff as pensioners use more at off-peak times during the winter than the average household.

**Chart 5**  
Annual cost differential, from two-rate tariff to TOU



### 4.3 Energy costs, price shock and household financial impact

#### 4.3.1 Underlying increases in energy costs

There is little doubt that energy cost will consistently increase over the time frame of the mandated smart meter rollout. These cost increases will mainly be a result of two factors:

First, the costs associated with the rollout of smart meters are envisaged to increase the average annual domestic electricity bill by \$80 per annum.<sup>61</sup> Such a price increase will disproportionately impact upon low-consumption households, which is over-represented by lower income and other disadvantaged groups.

Second, households will have to contend with the cost associated with the introduction of the Carbon Pollution Reduction Scheme (CPRS). This is a particular issue for Victorian households due to the nature of their base load energy generation being brown coal. While it is difficult to predict the actual impact this will have on

<sup>61</sup> This estimation has been arrived at through analysis undertaken by Gavin Dufty and May Johnston and verified as reasonable in discussions with Victorian distribution businesses.

domestic energy accounts, some estimates suggest that this scheme will increase Victorian energy bills in the order of \$200 per annum.<sup>62</sup>

Considering both these factors, it is not unreasonable to suggest that basic annual electricity bills for Victorians will rise in the order of \$280 per annum (not including any increases due to tariff re-assignments).

#### 4.3.2 Price shock

As discussed above, in addition to increases in underlying electricity costs the allocation of households from general peak rate tariffs and two-rate tariffs (peak and off-peak) to new TOU tariffs (made possible by the rollout of smart meters) may also result in an overall increase in household electricity bills.

The amount will vary depending upon the tariff structure, consumption patterns and the tariff the household is being reallocated from. However, for the pensioner group the cost increase could be as high as 40%, or over \$200 per annum purely due to the tariff reassignment.

Combined, the underlying increase in energy costs (smart meters and CPRS) and potential the cost impacts associated with tariff reallocations (from general peak rate or two-rate to TOU) may increase domestic energy bills with as much as \$490 per annum.

These are significant price increases and highlight the importance of the role of the broader consumer protection framework, and energy concessions, to act as both a tool to mitigate these cost impacts, as well as assisting households manage cost increases.

#### 4.4 Energy costs and household income

**Table 14**  
Income per week by various household income types<sup>63</sup>

|                                      | Mean income per week | Median income per week |
|--------------------------------------|----------------------|------------------------|
| Principal source of household income | \$                   | \$                     |
| <b>ESTIMATES</b>                     |                      |                        |
| Wages and salaries                   | 735                  | 665                    |
| Own unincorporated business income   | 684                  | 562                    |
| Government pensions and allowances   | 307                  | 298                    |
| Other income                         | 770                  | 544                    |
| Total                                | 644                  | 563                    |

The table below details the relationship between quarterly electricity bills and median fortnightly income. This analysis shows the significant cost pressure that electricity bills place on all households with estimates across the various scenarios placing

<sup>62</sup> Dufty Gavin, The Age, Opinion Piece, 14 August 2007.

<http://www.theage.com.au/news/business/carbon-scheme-has-power-price-shock-for-poor/2007/08/13/1186857428609.html>

<sup>63</sup> ABS, Household Income and Income Distribution, Australia 2005-06, Table 5, *Income and Income distribution household characteristics of person*, 2 August 2007. Note that these income figures are equivalised disposable household income.

quarterly electricity bills as a percentage of median fortnightly income between 38% to as 76%.

**Table 15**  
**Fortnightly income compared to average quarterly bill<sup>64</sup>**

| Principal source of household income        | Median Income per fortnight | Average household                 |   | Pensioner household               |   | Quarterly bill TOU as % of median fortnightly income | Quarterly bill (TOU + SM + CPRS) as % of median fortnightly income |
|---|-----------------------------|-----------------------------------|---|-----------------------------------|---|--|--|
|   |                             | Approx Quarterly Bill (TOU only)* | Approx Quarterly Bill (inc TOU + SM + CPRS)** | Approx Quarterly Bill (TOU only)* | Approx Quarterly Bill (inc TOU + SM + CPRS)** |  |  |
| <b>Wages and salaries</b>                   | <b>\$1330</b>               | \$340                             | \$410   | -                                 | -   | 26%  | 31%  |
| <b>Government pensions &amp; allowances</b> | <b>\$596</b>                | -                                 | -   | \$300                             | \$370   | 50%  | 62%  |

\*Estimated bills based on above analysis of average household and pensioner group reassigned from two-rate tariff to TOU tariff.

\*\*TOU plus costs includes estimated additional annual costs of smart meter rollout (\$80) and hypoticated CPRS costs (\$200).

The concession framework needs to be adjusted to ensure that low-income and vulnerable households receive assistance to cope with rising base energy costs as well as ensuring that the discounts available are tailored to the new tariffs and new types of assistance requirements. Although many customers will not be on TOU contracts themselves, smart metering technology is likely to impact on all retail offers as the interval data provides retailers with an opportunity to introduce more cost reflective pricing. If ‘user pays’ is the basic principle applied to cost reflective pricing, we can assume that contracts *without* a TOU price component will be regarded as higher risk to retailers and subsequently more expensive for the customer.

#### 4.5 Issues for Victorian concessions

These potential price increases outlined above raise three specific challenges for the energy concession framework, relating to the winter energy concession, the off-peak concession and the absence of a summer electricity concession.

##### 4.5.1 Winter energy concession

These increases clearly demonstrate a need for an increase to the Winter Energy Concession (WEC) rate. A minimum 3% increase would be necessary to ensure that the concession continues to have a pertinent impact on energy affordability.

The State Government’s GST revenue collected from energy will increase in line with price increases (which are partly driven by government initiatives such as the smart meter rollout and the CPRS) and it is therefore crucial that the government allocates sufficient funds to the concessions budget to ensure that low-income households continue to have access to supply when these price increases wash through.

Furthermore, if the Government wishes to reduce the impact on low-income households (and the concessions budget), it has the opportunity to utilise pricing

<sup>64</sup> These estimated average quarterly bills are based on the calculation for households being reassigned from a two-rate (peak/off-peak) tariff to the hypoticated TOU tariff.

principles. The MCE can direct the AER to ensure that networks allocate the costs associated with smart meter rollouts to customers using above a certain consumption threshold only. As low-income households on average use 15% less energy than the rest of the population, the introduction of a cost allocation threshold is an effective way to quarantine many low-income households from the cost of the rollout.

**Recommendation 47:**

That the Victorian Government instigate a minimum 3% increase to the WEC in order to ensure that the concession continues to have a pertinent impact on energy affordability.

**4.5.2 Off-peak concession**

It will be necessary to redefine off-peak electricity. Currently the off-peak energy concession applies to separately metered electricity consumption, mainly used for heating and hot water services. This concession was introduced in 2002 to offset a significant price increase to off-peak electricity. Currently, approximately 10% of all Victorian households receive this concession, which provides a 13% discount on off-peak electricity consumption. Post a smart meter rollout, TOU tariffs will be utilised to send price signals and *all* consumption at off-peak times will be counted (rather than just the electricity used by separately wired heating and hot water systems). For the purpose of delivering the off-peak electricity concession, and continuing to promote usage at off-peak times, off-peak consumption should be defined as all electricity consumed at off-peak times as set by the TOU tariff.

**Recommendation 48:**

Off-peak electricity consumption must be redefined for the purpose of delivering the off-peak electricity concession and continue to promote usage at off-peak times. Off-peak consumption should be defined as all electricity consumed at off-peak times as set by the retail tariff.

**4.5.3 Summer consumption**

As the aim of TOU tariffs is to make the pricing more cost reflective, the price of daytime summer electricity may increase significantly. As the elderly, and others exposed to health risks on hot days, must be able to cool their homes during these times, the Victorian Government should commit to monitoring summer prices and extend access to the Medical Cooling Concession to those at risk of health implications if unable to cool their homes appropriately during the summer months.

As gravely demonstrated during heatwaves, many Victorians face health risks due to hot weather conditions and it would be a poor outcome if people at risk did not use air conditioning purely due to running costs and affordability problems during hot periods. Premier Brumby rightly alerted the public to take extreme care during the 2009 heatwave and identified those most at risk as being “people over 65 years, particularly those living alone without air conditioning, infants, pregnant women and nursing mothers, people who are unwell, especially with heart disease or high blood pressure and people on medications for mental illness.”<sup>65</sup> It is therefore critical that the Government monitors the impact TOU pricing may have on summer peak-prices

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<sup>65</sup> Victorian Government, Premier of Victoria, *Emergency services ready as heatwave hits Victoria*, Media Release, 27 January 2009.

for domestic consumers and commit to assist those in need if significant increases occur.

**Recommendation 49:**

The Victorian Government should commit to monitoring summer prices and extend access to the Medical Cooling Concession to those at risk of health implications if unable to cool their homes appropriately during the summer months.

## ***5. Victorian legislation and jurisdictional customer assistance schemes***

In 2004 the Victorian Government introduced legislation that required the retailers to adopt a best practice hardship policy (including programs) and prevented retailers from disconnecting on the grounds of incapacity to pay where consumers are in a best practice hardship policy.

Following the legislative changes the government announced an independent Committee of Inquiry into Financial Hardship amongst Energy Consumers in 2005. Announcing the Inquiry, the then Minister for Energy said:<sup>66</sup>

It is important we understand the underlying causes and levels of energy consumer hardship and consider ways to mitigate it. To this end, the Committee has been asked to assess the impact on consumer hardship of the policies and practices of all energy retailers, Government departments and agencies, and financial counsellors and welfare agencies. The Committee also has an undertaking to recommend a broad allocation of responsibility for mitigating against energy hardship between retailers, Government and consumers.

The significant measures to protect households from energy related financial hardship and disconnection of supply in the legislative amendments included:<sup>67</sup>

- a ban on late payment fees for standing offer contracts
- wrongful disconnection payments
- a ban on use of prepayment meters
- regulatory approval and auditing processes for hardship policies

### **5.1 Late payment fees**

The use of late payment fees as a penalty for customers not paying their bills by the due date is an unnecessary and immoral practice when applied to essential services. The Consumer Action Law Centre investigated the practice of late payment fees in detail in their 2005 report titled ‘Do the poor pay more?’ The report stated that:<sup>68</sup>

The usual justification for the inclusion in a telecommunications consumer

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<sup>66</sup> Committee of Inquiry into Financial Hardship amongst Energy Consumers, *Summary report*, September 2005, p 4.

<sup>67</sup> In late 2004, the Victorian Parliament passed the Energy Legislation (Amendment) Act 2004, making important changes to the Electricity Industry Act 2000 and the Gas Industry Act 2001 which govern the regulation of the Victorian energy industry.

<sup>68</sup> Reference to Essential Services Commission, Final Decision: Review of Electricity and Gas Retail Codes – Energy Retail Code, May 2004, p 13 in Consumer Law Centre Victoria (now Consumer Action Law Centre), *Do the poor pay more?* January 2005, p 46.



contract of a term imposing late payment fees is that such fees encourage those customers who choose to pay late to instead pay on time. For example, Telstra's National Credit Manager told the Victorian Essential Services Commission that 'the imposition of [late payment] fees since 2000 has been partially responsible for more customers paying on time.

The report, however, argued that there is no unequivocal evidence for this claim and there are no studies available to support the claim that late payment fees act as an incentive for customers to pay on time. The report explained:<sup>69</sup>

Low-income households do not choose to pay late, rather they pay late because they do not always have the capacity to pay on time. For example, a single mother in rural Victoria told the CLCV Survey: "If you can't afford the bill, how do you afford the late fee? I'd sacrifice the weekly grocery budget, but electricity is more important than the phone".

By banning late payment fees (as well as incentive based discounts) on standing offer contracts, the Victorian Government basically developed an incentive based, as opposed to penalty based, framework for Victorian retail contracts.<sup>70</sup> Retailers have not introduced late payment fees for market offers as it would be difficult to 'market' an offer with penalties attached to its contract terms and conditions when other offers do not contain them. Rather, many retailers operating in Victoria offer discounts for customers on market offers who pay their bills by the due date as an incentive and marketing tool.

**Recommendation 50:**

The NERL should prohibit the use of late payment fees for standard retail contracts (SRCs).

**5.2 Wrongful disconnection payment**

The wrongful disconnection payment (WDP) is a license condition requiring retailers to pay compensation to a customer if they disconnect that customer without complying with the contract terms and conditions stipulated in the Energy Retail Code.<sup>71</sup> A retailer that is found to have wrongly disconnected a customer must pay the customer \$250 for each day the customer was off supply. The WDP took effect in December 2004 and a significant reduction in the number of customers being disconnected occurred immediately after the payment was introduced.

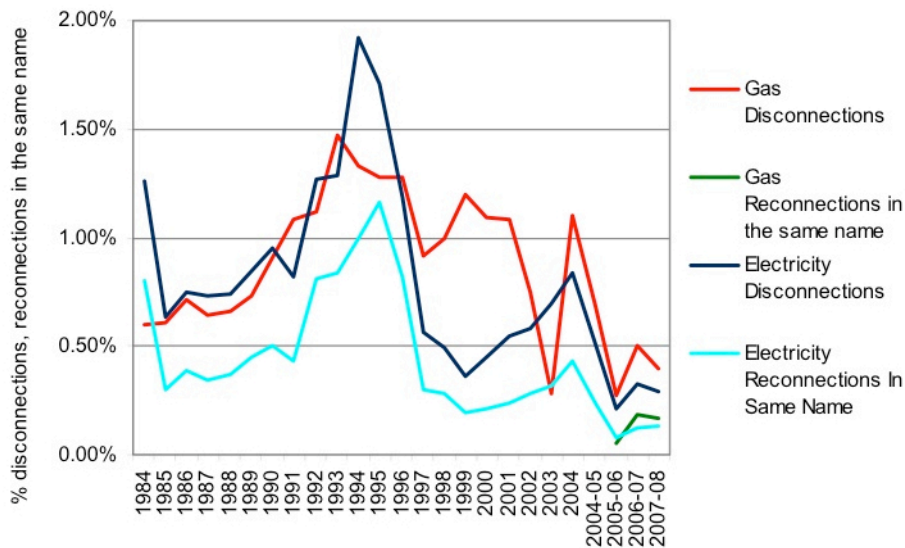
<sup>69</sup> Consumer Law Centre Victoria (now Consumer Action Law Centre), *Do the poor pay more?*, January 2005, p 46.

<sup>70</sup> The prohibition on fees for late payment is stipulated in the Section 40C of the Electricity Industry Act 2000 and 48B of the Gas Industry Act 2001.

<sup>71</sup> The Wrongful disconnection payment provision was introduced in Section 40B of the Electricity Industry Act 2000 and Section 48A of the Gas Industry Act 2001.

Graph 2<sup>72</sup>

Historical Disconnections and reconnections – Electricity and Gas  
1984 to 2007/08, Domestic and business customers



**Recommendation 51:**

Part 6, Division 2 of the NERR should include a Wrongful Disconnection Payment in order to provide the retailers with an incentive to undertake all the steps necessary, and as required by the NERR, prior to disconnecting a customer.

**5.3 Prepayment meters**

The ban on prepayment meters was introduced by amending the Electricity Industry Act and the Gas Industry Act to give the Victorian Government the powers to prohibit or regulate the introduction of prepayment meters in Victoria.<sup>73</sup>

Submissions from consumer representatives into the Hardship Inquiry stressed that prepayment meters are highly unsuitable to address energy related financial hardship and utility-stress due to reasons including:

- The importance of retailers being able to identify and assist customers with payment difficulties and that prepayment meters would effectively reduce the contact between retailers and their customers.
- That measures aimed to assist customers in chronic financial hardship must address energy affordability to alleviate the problem. Prepayment meters do not make energy more affordable. On the contrary, overseas experience shows that customers on prepayment contracts usually pay more for each unit of energy than other customers.

<sup>72</sup> Graph presented in Essential Services Commission, *Energy Retailers Comparative Performance Report – Customer Service 2007-08*, December 2008, Graph 5, p 23.

<sup>73</sup> The regulation of prepayment meters is stipulated in the Section 40E of the Electricity Industry Act 2000 and 48D of the Gas Industry Act 2001.

- The importance of regulatory oversight in relation to monitoring hardship cases and disconnection rates as well as ensuring code compliance. Prepayment meters would complicate this field further and increase auditing and compliance costs substantially.

A 2004 research report into access to energy and water in Victoria argued that the claim that customers like prepayment meters because they make it easier to manage expenses was misleading and recommended that the Victorian Government introduced a ban on prepayment meters because:

Prepayment meters would not help households in financial hardship any more than affordable instalment payment plans or Centrepay. On the other hand, prepayment meters would assist suppliers to avoid the need to deal directly with customers in financial hardship. In other words, prepayment meters discourage suppliers from improving their processes for dealing with customers in hardship as they are able to disengage from these issues.[...] If suppliers are of the opinion that the provision of alternative or flexible payment arrangements is a worthy objective in itself, they should ensure that the flexibility and range of alternative payment plans, billing cycles and payment methods offered by them are optimal and meet the demands of customers before embarking on such risky changes as the introduction of prepayment meters.<sup>74</sup>

**Recommendation 52:**

The Victorian Government should commit to continue its ban on prepayment meters for energy.

#### **5.4 Hardship policies**

Amendments to the Electricity Industry Act 2000 and the Gas Industry Act 2001 also stipulated new and extensive requirements of retailer hardship policies.<sup>75</sup>

The Acts state that the objectives of the hardship policy divisions are:<sup>76</sup>

- (a) to recognise that financial hardship may be suffered by domestic customers; and
- (b) to promote best practice in electricity service delivery to facilitate continuity of electricity supply to domestic customers experiencing financial hardship.

Important improvements to energy protections are included in these divisions of the Acts. Firstly, it assures that hardship policies are approved by either the Minister for Energy or the ESC; and secondly, it stipulates that no customer that has entered into, and complies with, an agreement under a retailer's hardship policy can be disconnected from supply.

The Acts also empowered the ESC to develop and issue hardship policy guidelines

<sup>74</sup> N Rich and M Mauseth, *Access to Energy and Water in Victoria – A research report*, Consumer Law Centre Victoria and Consumer Utilities Advocacy Centre, 2004, p 118.

<sup>75</sup> The provisions relating to hardship policies are stipulated in the Division 6 of the Electricity Industry Act 2000 and Division 4A of the Gas Industry Act 2001.

<sup>76</sup> Section 42 of the Electricity Industry Act 2000 and Section 48F of the Gas Industry Act 2001.

and stipulated that the ESC must have regard to the following expectations and principles when deciding whether to approve a retailer's hardship policy:

- The essential nature of electricity and gas supply;
- Community expectations that licensees will work with domestic customers to manage customers' present and future electricity and gas usage and associated financial obligations;
- Community expectations that the electricity and gas supply will not be disconnected solely because of a customer's inability to pay for the electricity or gas supply;
- The principle that the electricity and gas supply to premises should only be disconnected as a last resort; and
- The principle that there should be equitable access to financial hardship policies and that those policies should be transparent and applied consistently.

**Recommendation 53:**

Division 9 of the NERL should include a requirement on the AER to develop national hardship policy guidelines and empower the AER to approve retailers' hardship policies according to these guidelines.

In response to the recommendations proposed by the Committee of Inquiry into Financial Hardship amongst Energy Consumers, the Victorian Government made the following statement about its impact on the national consumer protection framework:<sup>77</sup>

The Government believes that this response to the Hardship Inquiry will serve as a model for other jurisdictions for dealing with energy consumer hardship issues as we move towards national regulation of the energy sector in Australia.

It is therefore important that the Victorian Government does not abandon the Victorian legislation if they are unsuccessful in convincing the relevant interstate Ministers that the NECF must include these protections.

### **5.5 Customers with controlled off-peak load**

The former State Electricity Commission of Victoria (SECV) introduced the off-peak water and space heating tariffs to provide an incentive for customers relying on electricity for hot water and/or space heating to shift load from peak to off-peak periods. As a result of this policy many Victorian households without access to reticulated gas installed hot-water and heating systems using off-peak load.

The Victorian Government should commit to assisting customers with electric hot water storage systems and/or slab heating penalised from being moved on to a TOU tariff (as per Background Paper, Section 5.3.4). The distribution businesses are unable to produce a business case for installing two element meters and more than 20% of Victorian households are at risk of huge price increases as these customers are allocated to a TOU tariff.<sup>78</sup> From 2002 to 2008, the Victorian Government provided a Network Tariff Rebate to support electricity customers in regional, rural and outer

<sup>77</sup> Department of Infrastructure, *Government Energy Consumer Hardship Policy Statement*, 2005, p 3.

<sup>78</sup> The 20% figure is based on an estimated 500,000 customers with dedicated off-peak circuit out of a total of 2.1 million residential electricity connections.

suburban areas during the transition to a privatised electricity market. The average rebate amounted to approximately \$30 per eligible customer per annum. In March 2008, the Minister for Energy and Resources said that the rebate had delivered as intended and that competition had now reduced the average differential between country and city bills from around 4.5% in 2003 to 2% in 2008.<sup>79</sup>

The rollout of smart meters and associated TOU prices are likely to again significantly increase the price gap between metropolitan and rural electricity consumers. In a 2006 discussion paper, DPI acknowledged this issue and sought feedback from stakeholders on a proposal to use rebates rather than installing two element meters for this group of customers.

[O]ne alternative method for providing an incentive for customers to have controlled off-peak electric water heating load is to introduce a fixed rebate (to compensate for the demand avoided) rather than a reduction in the variable tariff (which at present has the effect of compensating for the energy avoided).

Under this type of arrangement, a single-element meter could be used for customers with controlled off-peak electric water heating. It would not only save around \$20 per AMI installation in capital costs, but also establish more sustainable and effective market responses.<sup>80</sup>

The Department of the Environment, Water, Heritage and the Arts (DEWHA) has announced a phase-out of electric hot water systems and various rebates will be available to assist households in replacing their electric hot water systems with more environmentally friendly gas or solar systems.

However, many households will be unable to afford solar hot water systems (in areas without reticulated gas) and will therefore continue to run their electric hot water systems until a replacement is necessary. The Victorian Government must therefore develop a rebate in order to assist rural and regional households through this transitional period and ensure that the difference between rural and urban electricity bills does not increase yet again.

**Recommendation 54:**

That the Victorian Government commit to assisting customers with electric hot water storage systems and/or slab heating who are financially penalised by being moved on to a TOU tariff. A rebate for households with hot water and/or heating appliances that boost during peak times should be made available as a transitional arrangement. Such a rebate will assist rural and regional households, and ensure that the difference between rural and urban electricity bills does not increase as a direct result of Government policy.

<sup>79</sup> Victorian Government, Minister for Energy and Resources, *Solar Hot Water Rebates for Regional Victorians*, Media Release, 21 March 2008.

<sup>80</sup> Department of Primary Industries, Discussion Paper, *Metering for electric off-peak heating*, December 2006, p 5.

## **6. Concluding remarks: Victorian framework vs. NECF**

Although the Victorian legislation currently includes major protections such as the wrongful disconnection payment, and a ban on late payment fees and prepayment meters, Victorian consumers are at risk of losing these protections as the move to a national market with a single set of regulatory and legislative arrangements continue. As one of the aims of the national reform process is to ultimately ensure that electricity retailers operate under a single regulatory framework, the Victorian Government will come under pressure to remove legislative requirements for retailers operating in Victoria. It will also be particularly difficult for the Victorian Government to justify any additional jurisdictional legislation, as Victoria has been one of the strongest proponents of the national reform agenda, including national consistency in the regulation of competitive markets and retail price deregulation.

That said, the analysis in Section 2 above clearly demonstrates that the protections embedded in the current Victorian Energy Retail Code would be insufficient in a smart meter environment, and significant Code amendments would be required if the NECF process is delayed.

The NECF Exposure Draft may be adequate as a customer protection framework in jurisdictions where governments play a role through ownership interests and/or retail price setting. It is, however, highly inadequate for energy markets characterised by full retail competition, deregulated retail prices and, indeed, smart meter enabled dynamic tariff offers.

Through the Australian Energy Market Agreement's (AEMA) Clause 14.11, the MCE has agreed to a process for assessing the effectiveness of competition in the electricity and gas retail markets of the jurisdictions for the purpose of phasing out retail price regulation where effective retail competition is demonstrated. As such, the NECF Exposure Draft is out of sync with other NEM policies and developments. It is a customer protection framework for 'yesterday's energy markets'.

The Victorian protections have been developed over time and reflect a political necessity to protect domestic energy consumers in a competitive energy market where privatised businesses set the price. Now the risk to Victorian households is that the MCE will approve a National Customer Protection Framework that provides inadequate protections for a market characterised by private companies, competition, deregulated retail prices and smart meter enabled time of use pricing. As the other MCE Ministers do not face the same political risk as the Victorian Minister for Energy, there is a real risk that the MCE will approve a deficient protection framework – resulting in significant detriment to Victorian consumers.

On a more positive note, Victorian consumers may take some comfort in a statement made by the Victorian Minister for Energy in response to the NECF:<sup>81</sup>

We've always said that we would not transition to a national framework unless we could guarantee that Victorian consumers maintained their hard-

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<sup>81</sup> Victorian Government, Minister for Energy and Resources, *Energy Consumers urged to make voice heard on new framework*, Media Release, 2 July 2009.

won consumer rights...That is why we will continue to work with consumer groups, other states and the Federal Government to try to strengthen some provisions such as compensation by retailers for wrongful disconnection, payments by distributors to compensate customers for damage to household equipment due to electricity spikes, and a ban on late payment fees for overdue bills.

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**Appendix 1: Summary of recommendations  
National Energy Customer Framework (Section 2)**

| #                  | Where? | Issue   | Recommendations   | Action/<br>Change |
|--------------------|--------|---|---|-------------------|
| <b>Framework</b>   |        |   |   |                   |
| 1                  | N/A    | <u>Smart metering provisions in the NECF</u><br>The 1 <sup>st</sup> Exposure Draft of the NECF does not address SMI related issues in regards to the retailer-customer relationship, the distributor-customer relationship nor the distributor-retailer relationship. This report has identified numerous issues SMI creates for these three relationships and therefore recommend changes to the NERL, NERR and some of the NERR Schedules. As customers connected to SMI will require specific provisions in the Rules (as with customers connected to prepayment meter systems) a new and separate SMI Part of the NERR is required. | <u>Recommendation # 1</u><br>That the Retail Policy Working Group develops a separate SMI Part to be inserted into the NERR and incorporate the many SMI provisions recommended below.  | RPWG/<br>NERR     |
| <b>Definitions</b> |        |   |   |                   |
| 2                  | N/A    | <u>Smart Meter Infrastructure (SMI)</u><br>The Victorian smart metering program is known as the Advanced Metering Infrastructure (AMI) Program and the national program is currently known as National Smart Meter Project (NSMP), the NECF needs to use a consistent and nationally recognised definition of this metering infrastructure. Smart Meter Infrastructure (SMI) is an appropriate term as it refers to both the smart meter and the communications technology - which enables many of the functionalities associated with the meters.  | <u>Recommendation # 2</u><br>The NERL and the NERR must contain Smart Meter Infrastructure (SMI) definitions.   | NERL/<br>NERR     |
| 3                  | N/A    | <u>Time of Use tariffs and retail contracts</u><br>It appears to be an assumption in the NECF that time varying prices, such as time of use tariffs, will only be applied to Market Retail Contracts (MRC). However, as retail tariffs tend to reflect the shape of network tariffs, time of use pricing will most likely apply to Standard Retail Contracts (SRC) as well.   | <u>Recommendation # 3</u><br>The NECF must clarify what tariff shapes are expected to be available on a Standard Retail Contract.   | NECF              |
| 4                  | N/A    | <u>Customers with SMI vs. customers on SMI enabled retail contracts</u><br>A Dynamic Pricing Contract (DPC) means a customer retail contract where the tariffs are based on smart meter enabled time of use pricing. This would also include contracts using Critical Peak Pricing (CPP).<br><br>A Direct Load Control Contract (DLCC) means a customer retail contract where the contract includes load control of appliances by the retailer enabled through SMI and as agreed between the customer and the retailer.<br><br>As such, all customers on a DPC or DLCC will automatically be regarded as SMI                            | <u>Recommendation # 4</u><br>Definitions in NERL 103 must reflect that a Smart Meter Infrastructure (SMI) connection is where a customer has a smart meter that is connected to smart meter functionalities as defined by metering type installations under the National Electricity Rules and AEMO's Metrology Procedures.<br><br>In relation to contract types, a SMI connection is necessary in order to be on a Dynamic Pricing Contract or a Direct Load Control Contract:<br><br>A Dynamic Pricing Contract (DPC) means a customer retail contract where the tariffs are based on smart | NERL<br>103       |

|   |                     |   |   |  |
|---|---------------------|---|---|--|
| 4 | N/A                 | <p><u>Customers with SMI vs. customers on SMI enabled retail contracts</u></p> <p>A Dynamic Pricing Contract (DPC) means a customer retail contract where the tariffs are based on smart meter enabled time of use pricing. This would also include contracts using Critical Peak Pricing (CPP).</p> <p>A Direct Load Control Contract (DLCC) means a customer retail contract where the contract includes load control of appliances by the retailer enabled through SMI and as agreed between the customer and the retailer.</p> <p>As such, all customers on a DPC or DLCC will automatically be regarded as SMI connections but not all SMI customers will be on DPC or DLCC.</p> | <p><u>Recommendation # 4</u></p> <p>Definitions in NERL 103 must reflect that a Smart Meter Infrastructure (SMI) connection is where a customer has a smart meter that is connected to smart meter functionalities as defined by metering type installations under the National Electricity Rules and AEMO's Metrology Procedures.</p> <p>In relation to contract types, a SMI connection is necessary in order to be on a Dynamic Pricing Contract or a Direct Load Control Contract:</p> <p>A Dynamic Pricing Contract (DPC) means a customer retail contract where the tariffs are based on smart meter enabled time of use pricing. This would also include contracts using Critical Peak Pricing (CPP).</p> <p>A Direct Load Control Contract (DLCC) means a customer retail contract where the contract includes load control of appliances by the retailer enabled through SMI and as agreed between the customer and the retailer.</p> <p>As such, all customers on a DPC or DLCC will automatically be regarded as SMI connections but not all SMI customers will be on DPC or DLCC.</p> | NERL 103                                       |
| 5 | NERL Division 3 & 4 | <p><u>The Standing Offer &amp; tariff shape</u></p> <p>The rollout of smart meters means that every domestic customer in Victoria will have the same meter type. Furthermore, the new, universal meter type means that single rate and two-rate tariffs may no longer be the basic network tariff underlying standing and market offers. As such, it is necessary to identify a new approach to standardising the standing offer tariff shape. Tariff shape is separate from price setting and contract terms and conditions. However, a standardised shape is essential to ensure that the standing offer is the basic, standard, comparable offer as intended.</p>                  | <p><u>Recommendation # 5</u></p> <p>The NERL must clearly stipulate the intention of the Standing Offer and specify how the shape of the standing offer is determined and, subject to the nature of this clarification:</p> <ul style="list-style-type: none"> <li>-The NERR should stipulate that all standing offers must adhere to the underlying network tariff shape; or</li> <li>-The SMI Part of the NERR should include a provision stipulating that the tariff shape of the standing offer must adhere to the underlying network tariff shape.</li> </ul>  | NERL Division 3 & 4 & NERR or SMI Part of NERR |
| 6 | N/A                 | <p><u>Load control (HAN and supply capacity control)</u></p> <p>The NERL/NERR must address who can use the load control functionalities associated with SMI and for what purpose.</p> <p>Supply capacity control and load limiting via the meter are system management tools and therefore only to be used by the distribution businesses to manage their networks. Retailers should not have access to this functionality as they do not have a business case to restrict supply except for using supply limiting as a credit or debt management tool to the detriment of consumers.</p>   | <p><u>Recommendation # 6</u></p> <p>To ensure that domestic customers are protected from the introduction of punitive, demand limiting tariffs, the following clarifications and arrangements need to be inserted into the SMI Part of the NERR and reflected in the NERL:</p> <p>Appliance management, utilising the HAN to restrict and control load of specific appliances, is a product that can be offered by retailers. The Rules should further obligate retailers to ensure that the HAN enabled appliance management contracts do not cause detriment to appliances, and</p>   | NERL & SMI Part of NERR                        |

|    |             | <b>Billing</b>  |  |                    |
|----|-------------|---|--|--------------------|
| 7  | NERR 213    | <u>Billing cycle - frequency</u><br>There should be a minimum three months billing cycle for customers on dynamic pricing contracts. Furthermore, billing cycles longer than three months may increase the occurrence of payment difficulties due to the bill volatility customers on dynamic pricing contracts will be exposed to  | <u>Recommendation # 7</u><br>That the SMI Part of the NERR includes a <i>frequency of bill provision</i> that stipulates that retailers must issue bills to a customer on a dynamic pricing contract at least once every 3 months.   | SMI Part of NERR   |
| 8  | N/A         | <u>Dynamic pricing &amp; bill smoothing</u><br>As a dynamic retail tariff implies that the customer is charged according to energy consumed at specific times, bill smoothing arrangements should not be applied to dynamic tariffs.  | <u>Recommendation # 8</u><br>That the SMI Part of the NERR includes a <i>bill smoothing provision</i> that stipulates that bill smoothing arrangements cannot be applied to dynamic pricing contracts.   | SMI Part of NERR   |
| 9  | NERR 212    | <u>Bill smoothing and undercharging</u><br>As SMI provides retailers with daily meter reads, retailers should be required to assess the amount of energy a customer on a bill smoothing contract consumes every three months (rather than the six month requirement proposed for customers not connected to SMI).   | <u>Recommendation # 9</u><br>The SMI Part of the NERR should include a <i>bill smoothing provision</i> that requires retailers to re-estimate the consumption of a customer on a bill smoothing arrangement after 3 months and issue the customer with a new billing amount if there is a difference between the initial estimate and the re-estimate of greater than 10% (taking relevant seasonal factors into account).   | SMI Part of NERR   |
| 10 | NERR 215(1) | <u>Payment of bill – SRC</u><br>It is important that customers have a minimum of 12 business days to pay a bill upon <i>receiving</i> it. This ensures that people on fortnightly incomes, including pensioners and people receiving social security payments, always have one pay cycle plus two days to arrange payment.  | <u>Recommendation # 10</u><br>That the NER Rule 215 (1) is amended to state that: ‘The pay-by date for a bill must not be less than 15 business days from the date on which the retailer sends the bill’.  | NERR 215(1)        |
| 11 | NERR 215(3) | <u>Payment of bill – MRC</u><br>Customers on dynamic pricing contracts should have the same minimum timeline to pay their initial bill – this will reduce the risk of an increase in hardship cases. Furthermore, it means that customers on low and/or fixed income who believe they would be financially better off on a dynamic pricing contract are able to take up these offers without risking the implications of shorter pay timelines. | <u>Recommendation # 11</u><br>That the NER Rule 215 (3) is amended to state that: ‘This rule applies in relation to market retail contracts’.  | NERR 215(3)        |
| 12 | NERR 214    | <u>Form and content of bill</u><br>Due to the increased complexity of bills made up of dynamic or time varying tariffs, we believe the AER needs to develop a separate guideline for bills and information on bills to be applied to smart meter enabled dynamic pricing contracts.   | <u>Recommendation # 12</u><br>That section 239 of the NEL is amended to require the AER to develop guidelines for information on bills for dynamic pricing contracts in addition to the development of ‘AER Pricing Information Guidelines’ as outlined in the Law. These separate ‘AER Bill Information Guidelines’ should address and specify requirements for dynamic pricing contracts in relation to NER Rule 214: (f) tariff and charges applicable to the customer; (g) the basis on which tariffs and charges are calculated; and (d) details of consumption or estimated consumption of energy. | NEL 239 & NERR 214 |

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| 13                          | NERR 214(o)    | <u>Bill reference to information tools</u><br>The Rule requires bills to have ‘reference to any government funded energy charge rebate, concession or relief scheme’. This sub-rule would benefit from including ‘relevant consumer information tools’. This addition means that the regulator can more easily require retailers to include references on their bills to important consumer information tools funded by the government. An example is an AER website containing important consumer information about tariffs and energy offers deemed important to increase consumer awareness in a deregulated retail market. | <u>Recommendation # 13</u><br>That NER Rule 214(o) is amended to state: ‘reference to any available government funded or provided energy charge rebate, concession, relief scheme or relevant consumer information tools’.  | NERR 214(o)      |
| 14                          | N/A            | <u>Billing for other goods and services</u><br>Retailers may find new opportunities to supply customers with other goods and services in relation to SMI. In-home displays and appliances that can be linked to DLC are some obvious examples.   | <u>Recommendation #14</u><br>That the SMI Part of the NERR include a <i>billing provision</i> similar to Rule 818 in relation to prepayment systems, requiring retailers to separately bill for other goods and services and recover those payments separately from the cost of supplying energy. | SMI Part of NERR |
| 15                          | N/A            | <u>Lost data</u><br>The NERR should address situations where meter data is lost (for whatever reason). As meter data will be collected several times a day there is very low risk to industry if the rule prevents them from including consumption data from a time period when data was lost for a customer. The inclusion of such a rule will ensure consumer confidence in the meter reading arrangements.  | <u>Recommendation # 15</u><br>That the SMI Part of the NERR should include a <i>billing provision</i> stipulating that a retailer issuing a bill must not include any consumption from a time period for which data was lost for that customer.   | SMI Part of NERR |
| <b>Payment difficulties</b> |                |  |   |                  |
| 16                          | Part 3 of NERR | <u>Access to payment plans</u><br>The notion that a customer has to be classified as a hardship customer by the retailer in order to receive basic assistance such as a payment plan is ill conceived and may increase the occurrence of temporary hardship cases significantly. Payment plans must be universally available to all customers in need of one.  | <u>Recommendation # 16</u><br>That NER Rule 302 and Rule 222 (1) and (3) are amended to ensure that all customers have easy access to affordable payment plans.   | NERR 302 & 222   |
| <b>Meter reads and data</b> |                |  |   |                  |
| 17                          | NERR 210       | <u>Estimates</u><br>The remote read functionality delivers one of the most significant customer service improvements associated with SMI as it removes the need for estimates and associated problems with under and over charging. It is therefore essential that the practice of issuing bills based on estimates be abolished in a SMI environment.   | <u>Recommendation # 17</u><br>That the SMI Part of the NERR includes a <i>meter reading provision</i> stipulating that a bill cannot be based on estimates.   | SMI Part of NERR |
| 18                          | N/A            | <u>Substituted data</u><br>Smart meter systems will create some new challenges in regards to the use of substituted data, as the use of small amounts of substituted data may occur more frequently. The basic principle that should apply is that the customer is   | <u>Recommendation # 18</u><br>That the AER reviews the guidelines in relation to substituted data in the AEMO Metrology Procedure, and that the SMI Part of the NERR reflects the outcomes of this review.  | SMI Part of NERR |

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|                                       |          | informed about the use of substituted data. However, there is legitimate concern about the potential volume of customer enquiries such an arrangement could produce.   | Furthermore, the AER should develop a system wide reporting framework on the use of substituted data. Collecting and reporting on the use of substituted data by each of the retailer and distribution businesses.  |                  |
| <b>Product requirements</b>           |          |  |   |                  |
| 19                                    | N/A      | <p><u>Guidelines for DLC products</u><br/>Retailers offering direct load control contracts (DLCC) should be subject to specific product requirements. These requirements should specify maximum thresholds in relation to duration, frequency and scope.</p> <p>-The duration threshold would specify a limit for how long a retailer can cycle or control an appliance at the time.</p> <p>-The frequency threshold would specify a limit for how often a retailer can cycle or control an appliance.</p> <p>-The scope threshold would specify a limit for how much load the retailer can control within a household (e.g. maximum number of appliances that can be controlled).</p> | <p><u>Recommendation # 19</u><br/>The AER should be requested to review DLC product requirements and its decision should be reflected in the SMI Part of the NERR <i>product requirement provisions</i>.</p>  | SMI Part of NERR |
| <b>System testing</b>                 |          |  |   |                  |
| 20                                    | NERR 218 | <p><u>Bill enquiries &amp; system testing</u><br/>SMI enabled dynamic pricing contracts will make customers' bills more complex and thus more difficult to understand. It is therefore crucial that processes are in place to allow customers to query and review bills in a transparent, affordable, accurate and efficient manner.</p>   | <p><u>Recommendation # 20</u><br/>That the AER undertakes a review into customer access to data processing checks and meter tests under SMI with the aim of developing guidelines for transitional and ongoing arrangements. And that the SMI Part of the NERR should include <i>system testing provisions</i> with reference to separate AER guidelines.</p> |                  |
| <b>Undercharging</b>                  |          |  |   |                  |
| 21                                    | NERR 219 | <p><u>Remote reads and undercharging</u><br/>SMI will provide retailers with daily reads of every customer's consumption and retailers should therefore be significantly better equipped to avoid undercharging scenarios than they are with today's manual meter reads.</p>   | <p><u>Recommendation # 21</u><br/>That the SMI Part of the NERR includes an <i>undercharging provision</i> stating that a retailer cannot recover undercharged amounts for longer than 3 months prior to notifying the customer.</p>  | SMI Part of NERR |
| <b>Disconnection and reconnection</b> |          |  |   |                  |
| 22                                    | NERL 103 | <p><u>De-energisation Vs. disconnection</u><br/>SMI and associated functionalities create new possibilities in terms of limiting customers' electricity supply. The NERL and NERR therefore need new definitions and clarification in relation to what disconnection (de-energisation) entails.</p>  | <p><u>Recommendation # 22</u><br/>NERL Clause 103 must be redefined to separately address both de-energisation and disconnection activities.</p>  | NERL 103         |
| 23                                    | N/A      | <p><u>Wrongful disconnection payment</u><br/>As remote disconnections make the process more expedient and impersonal, and thus create a health and safety risk to customers, a Wrongful Disconnection Payment (WDP) should be in place to ensure that retailers have an incentive to improve their processes and minimise disconnection errors.</p>  | <p><u>Recommendation # 23</u><br/>That Part 6, Division 2 of the NERR in regards to <i>retailer-initiated de-energisation of premises</i> includes a <i>wrongful disconnection payment provision</i> in order to provide the retailers with an incentive to undertake all the steps necessary, and as required by the Rules, prior to</p>                     | Part 6 of NERR   |

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|                                  |              |  | disconnecting a customer.   |                          |
| 24                               | N/A          | <u>Two notification attempts</u><br>As remote disconnections make the process more expedient and impersonal, and thus create a health and safety risk to customers, retailers should be required to make two notification attempts during the 24 hours leading up to a disconnection (using two different notification processes).   | <u>Recommendation # 24</u><br>That the SMI Part of the NERR includes a <i>disconnection provision</i> stipulating that a retailer must make two notification attempts during the 24 hour period prior to requesting the distributor to remotely disconnect the customer's premises.   | SMI Part of NERR         |
| 25                               | N/A          | <u>Special needs register</u><br>The life support equipment register should be broadened to include households with medical and health issues ('special needs') that increase their dependency on energy as a way of minimising the health and safety risk associated with remote disconnection.   | <u>Recommendation # 25</u><br>That the relevant definitions and rules in the NERR (Rule 103 and Part 7) are amended to broaden the definition of households with life support equipment to households with special needs (due to health and medical conditions).  | NERR 103 and NERR Part 7 |
| 26                               | NERR 616     | <u>Connect/disconnect charges</u><br>As the remote connection/ disconnection functionality will remove the cost of disconnecting and reconnecting customers, those connected to SMI should not have to pay additional charges for these distribution services.   | <u>Recommendation # 26</u><br>That the SMI Part of the NERR should include a <i>disconnection provision</i> stating that SMI customers cannot incur an additional charge for disconnections and reconnections.  | SMI Part of NERR         |
| <b>Termination</b>               |              |  |   |                          |
| 27                               | NERR 235     | <u>Customer notice</u><br>The NERR requires a customer to give the retailer 20 business days notice prior to termination taking effect. Remotely read meters will make the transfer process more efficient and the termination notice requirement should therefore reflect:<br>- The notice requirement on retailers to inform customers about a tariff/price change.<br>- The cooling-off period. | <u>Recommendation # 27</u><br>That the SMI Part of NERR should include a <i>termination notice provision</i> stipulating that a term or condition of a market contract has no effect to the extent that it requires a customer to give more than <i>12 business days</i> notice to terminate the contract.<br><br>The retail transfer codes and procedures should be amended to reflect this timeline when the relevant customer is connected to SMI. | SMI Part of NERR         |
| 28                               | NERR 236     | <u>Cooling-off period</u><br>As SMI enabled dynamic pricing structures are likely to increase the complexity of market offers, the right to cancel contracts and the importance of assessing the offer in detail within 10 business days should be made more obvious to customers signing on to market offers.   | <u>Recommendation # 28</u><br>That NER Rule 236 is amended to state that the 10 day cooling off period should not commence until the customer has received the contract and that customers should be given a prescribed form explaining their cooling off rights before the cooling off period starts.  | NERR 236                 |
| 29                               | NERR 234 (1) | <u>Vacating a supply address</u><br>The obligation of SRC customers vacating their premises to continue to pay for energy consumed at the premises (as well as the fixed charge) for a minimum of 5 business days after giving the retailer notice is unjustified in an SMI environment where retailers can order a special read.  | <u>Recommendation # 29</u><br>That the SMI Part of the NERR should include a <i>termination provision</i> stipulating that a SRC terminates on the earliest 1 business day commencing upon receipt by the retailer of a termination notice (even if the customer has vacated the premises earlier).   | SMI Part of NERR         |
| <b>Additional retail charges</b> |              |  |   |                          |
| 30                               | NERR 235     | <u>Early termination fees</u><br>Early termination fees create an additional challenge for dynamic pricing contracts.  | <u>Recommendation # 30</u><br>That the SMI Part of the NERR includes an <i>early termination fee</i>  | SMI Part of NERR         |

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|   |                | <p>The idea behind dynamic pricing is that customers assess their load profile and understand their consumption needs before signing on to a suitable offer. Life cycle changes and unforeseen circumstances (such as illness) can significantly change a household's consumption pattern and it is therefore crucial that customers can exit a contract if their circumstances change.</p> <p>A customer would not be able to give explicit informed consent for any longer than the immediate future and dynamic pricing contracts should therefore be evergreen contracts that the customer can assess the suitability of on an on-going basis.</p>  | <p><i>provision</i> stating that a retailer cannot apply an early termination fee to dynamic pricing contracts.</p>   |                            |
| <b>Tariff variations &amp; re-assignments</b> |                |   |   |                            |
| 31  | N/A            | <p><b>Notification to customers</b><br/>In a competitive market, retailers should be required to notify their customers about any tariff/price change before it takes effect. Moreover, the notification period for tariff variation should reflect the notification period customers are required to provide retailers in order to terminate a contract.</p> <p>In relation to network tariff re-assignment, the customer notification process is somewhat more challenging. The retailer has the contractual relationship with the customer while the distribution business determines the network tariff. Ultimately however, the retailer decides whether to pass through the network tariff to the customers or not. That said, the network tariff shape usually dictates the retail tariff shape as it creates too much risk for the retailer to deviate from the network's tariff shape.</p> <p>Nonetheless, arrangements must be in place to ensure that the customer is notified of any tariff change (resulting from network re-assignment or retail tariff change) in advance.</p> | <p><b>Recommendation # 31</b><br/>That the NERL is amended to require retailers to notify Market Retail Contract customers directly about any price or tariff variation 10 business days prior to the variation taking effect.</p> <p>That the NERR Schedule 3 – Retail Support Terms and Conditions (Clause 4.7) should address the responsibilities of retailers and distributors in relation to notifying each other, as well as the customer, of any tariff reassignment.</p> | NERL 239 & NERR Schedule 3 |
| <b>Hardship</b>                               |                |   |   |                            |
| 32  | N/A            | <p><b>Hardship &amp; contract termination</b><br/>As dynamic pricing contracts increase volatility, and the customer's consumption pattern will have significant impact on the bill, any customer deemed to experience payment difficulties should have the opportunity to immediately terminate a dynamic pricing contract without incurring an early termination fee (or other additional charges) and enter into a new contract with a non-dynamic tariff structure.</p>   | <p><b>Recommendation # 32</b><br/>That the SMI Part of the NERR includes <i>hardship provisions</i> that stipulate that hardship customers on dynamic pricing contracts must be offered the opportunity to immediately change to a non-dynamic pricing contract without incurring any penalty fees.</p>   | SMI Part of NERR           |
| <b>Special needs</b>                          |                |   |   |                            |
| 33  | NERR 703 & 704 | <p><b>Dynamic pricing contracts &amp; special needs</b><br/>By using a broader definition such as 'special needs' rather than 'life support equipment', a special needs register can</p>  | <p><b>Recommendation # 33</b><br/>That the relevant definitions and rules in the NERR are amended to broaden the definition of households with 'life</p>  | NERR 103 and NERR Part 7   |



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|                              |          | <p>ensure that households with health issues which make them especially dependent on energy supply are included in the register. Such a register would be valuable to distribution businesses and retailers' ability to deliver duty of care in relation to suitability of energy products (such as DLC and CPP) and prior to conducting remote disconnections for non-payment.</p> <p>Customers with specific reliance on electricity for health and medical purposes can be included in the register based on criteria such as medical certificates and/or access to particular concessions (i.e. the Medical Cooling Concession in Victoria).</p>   | support equipment' to households with 'special needs' (due to health and medical conditions).  |                  |
| <b>Information provision</b> |          |  |  |                  |
| 34                           | N/A      | <p><u>Variance between network and retailer tariff shapes</u><br/>Because DPC and DLCC are new and complex retail products to customers, retailers offering these products should be required to provide the prospective customer with additional information in order to ensure that explicit informed consent is obtained.</p> <p>One particular issue that needs to be disclosed at marketing stage is offers with variance between network and retail tariff shape. Retailers can seek to maximise their profits by ensuring that a significant proportion of the household consumption does not attract off-peak rates.</p> <p>A competitive market with informed consumers should in theory make such gaming by retailers more difficult and an obligation to disclose of any variance between network and retail tariff shape, at marketing stage, will improve transparency and increase customer awareness.</p> | <p><u>Recommendation # 34</u><br/>The SMI Part of the NERR should include an <i>information provision</i> stipulating that a retailer must disclose, at marketing stage, any variance between the network and the retailer's tariff shape.</p>   | SMI Part of NERR |
| 35                           | NERR 404 | <p><u>Meter &amp; infrastructure information</u><br/>As the distribution businesses own the meters and have been made the responsible party in Victoria for the rollout of SMI, the distributors should be required to inform customers about the meter type connected to a customer's premises and its associated infrastructure and functionalities.</p>   | <p><u>Recommendation # 35</u><br/>That the NER Rules 404 and 410 are amended to include an obligation for distribution businesses to inform customers about the customer's meter type, metering infrastructure and associated functionalities on request and at no cost to the customer.</p> | NERR 404 & 410   |
| 36                           | NERR 206 | <p><u>Website reference to move-in customers</u><br/>The NERR states that the distributor must inform 'move-in' customers that they may have the ability to choose their retailer and that a list of retailers is available from the AER's website.</p> <p>The reference to an AER website could prove to be an important step to ensure that consumers are better informed about not just retail choice but also tariffs available and retailers' standing and market offers. In consultation with stakeholders, the AER should develop a comprehensive one-stop</p>  | <p><u>Recommendation # 36</u><br/>That the AER develops a comprehensive one-stop shop for consumer information on energy and that the NERR ensures that retailers and distributors inform customers about the website as appropriate.</p>  | NERR             |

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| 36                                       | NERR<br>206 | <p><u>Website reference to move-in customers</u><br/>The NERR states that the distributor must inform 'move-in' customers that they may have the ability to choose their retailer and that a list of retailers is available from the AER's website.</p> <p>The reference to an AER website could prove to be an important step to ensure that consumers are better informed about not just retail choice but also tariffs available and retailers' standing and market offers. In consultation with stakeholders, the AER should develop a comprehensive one-stop shop for consumer information on energy and the NECF must ensure that retailers and distributors inform customers about the website as appropriate.</p> | <p><u>Recommendation # 36</u><br/>That the AER develops a comprehensive one-stop shop for consumer information on energy and that the NERR ensures that retailers and distributors inform customers about the website as appropriate.</p>  | NERR                   |
| <b>Customer enquiries and complaints</b> |             |   |  |                        |
| 37                                       | N/A         | <p><u>Specialist support teams</u><br/>Due to the complexity of DPC and the technical aspects of DLC, retailers offering DPC and/or DLCC should have a specialist customer support team that handle enquiries and complaints relating to these smart meter enabled products.</p>  | <p><u>Recommendation # 37</u><br/>That the SMI Part of the NERR should include an <i>enquiries and complaints</i> provision stipulating that retailers offering DPC and/or DLCC are required to establish a specialist customer support team to handle customer queries and complaints.</p>  | SMI Part<br>of<br>NERR |
| <b>Customer consultation</b>             |             |   |  |                        |
| 38                                       | N/A         | <p><u>SMI Customer Consultation Group</u><br/>SMI will enable a range of new retail products and dynamic pricing contracts however, as only a few customer response trials have been conducted, there is limited knowledge about the customer impacts these products will have.</p> <p>The Draft NERR requires retailers offering prepayment contracts to establish a Prepayment Meter Customer Consultation Group (Rule 821) and a similar requirement of retailers offering smart meter enabled products, such as DPC and DLCC, would ensure that information about the customer impacts of smart meter enabled retail products are collected, assessed and publicly available.</p>                                     | <p><u>Recommendation # 38</u><br/>That the SMI Part of the NERR includes a <i>customer consultation provision</i> similar to that of Rule 821 for prepayment systems, stipulating that:</p> <p>A retailer that offers smart meter enabled retail products, including dynamic pricing contracts, must establish a Smart Meter Customer Consultation Group with membership drawn from customers that have entered such contracts and consumer groups operating within the jurisdiction in which the retailer carries on business.</p> <p>The retailer must provide on its website detailed information about the meetings and activities of the retailer's Smart Meter Customer Consultation Group.</p> <p>The retailer must ensure that the Smart Meter Consultation Group continues in existence for a minimum of 3 years.</p> | SMI Part<br>of<br>NERR |
| <b>Marketing</b>                         |             |   |  |                        |
| 39                                       | NEM<br>R 7  | <p><u>Record keeping</u><br/>As the HAN functionality in the SMI enables the retailers to communicate to customers via an IHD or a web based account, the record keeping requirements for marketing activities should be extended to cover all electronic and HAN based</p>   | <p><u>Recommendation # 39</u><br/>That a sub-rule addressing the issue of HAN enabled and electronic communications should be added to Rule 7 of the NEMR addressing record keeping requirements.</p>  | NEMR 7                 |

**Economic Regulation (Section 3)**

| <b>Cost allocation</b>  |   |
|---|---|
| Victorian households will pay an additional \$80 per annum over a 10 year period just for the SMI rollout itself. If the government wishes to reduce the impact on households and low-income households in particular, it will direct the AER to utilise pricing principles. That would enable the AER to request networks to allocate the costs associated with the rollout (or a proportion thereof) to consumption above a certain threshold only. On average, low-income households use 10-15% less energy than the rest of the population, so a cost allocation threshold would be an effective way to quarantine many low-income households from the cost of the rollout (or parts thereof).  | <u>Recommendation # 41</u><br>That the MCE directs the AER to investigate the potential for using pricing principles to allocate SMI costs in an equitable manner – meaning that those most likely to benefit from the rollout pay a proportionately higher cost.   |
| If the distribution businesses are allowed to allocate the SMI costs to the prescribed metering charge the retailers may argue that they can pass through the cost to consumers in whatever way they wish. This could have significant equity implications and result in the obfuscation of the cost of SMI to Victorian consumers.   | <u>Recommendation # 42</u><br>The AER should undertake a review of the impacts of how and where SMI costs are allocated with the aim of identifying an equitable, fair and transparent approach for allocating SMI costs to Victorian consumers.  |
| <b>Bills and cost allocation</b>  |   |
| If pricing principles are not applied and the cost of SMI can be incorporated into the fixed charge, the cost of SMI should be itemised on the bills for four reasons:<br>- As the rollout is a Government initiative and at significant cost to consumers, it is important that the costs to consumers are made transparent.<br>- The SMI project has set timelines and consumers should expect the additional line item to change or be removed upon completion. It is also important that this cost item provide a benchmark for consumers if metering services become competitive post the rollout.<br>- Because a key objective of rolling out SMI is to improve price signals and elicit demand response - ‘hiding’ further costs under the fixed charge component would be counter-intuitive.<br>- It is important that consumers become aware of the rollout to increase interest and understanding of what SMI enabled tariffs will mean for their consumption patterns and bills. Itemising the SMI costs on electricity bills could be an effective way to ensure interest in a public education campaign. | <u>Recommendation # 43</u><br>SMI project/rollout costs should be a line item on customers’ electricity bills.  |
| <b>Pass through of benefits</b>   |   |
| The majority of the cost of rolling out SMI will occur up-front and this poses some risks in relation to the pass through of benefits to consumers. If not all the available benefits are accrued, it will result in less avoided costs than assumed and subsequently less savings to be passed on to consumers who already have paid for the infrastructure.   | <u>Recommendation # 44</u><br>To mitigate this risk the AER should monitor the benefits as they accrue (i.e. on an annual basis) and provide a public assessment report to the Victorian Government on the benefit status. The Government, in co-operation with the AER, should seek to actively ensure that maximum benefits are achieved. |
| There is significant risk that the benefits are not accurately and/or promptly passed through to consumers. The typical 5 year regulatory period is unlikely to deliver satisfactory outcomes and will most likely allow the distribution businesses to gather windfall gains.  | <u>Recommendation # 45</u><br>That the regulatory framework for SMI be adjusted to ensure that the operational benefits are accounted for and passed through to consumers on an annual basis.   |
| <b>Excluded service charges</b>   |   |
| With SMI rolled out many of today’s excluded services will become redundant and economies of scale will be lost. With a reduced need for field service staff due to remotely conducted services, the cost of other services, such as meter testing, may become more expensive and the AER should therefore consider these services in terms of contestability and third party service provision.  | <u>Recommendation # 46</u><br>That the AER undertakes a review into excluded services in light of SMI to assess the impact SMI may have on excluded services charges.   |

### Concessions Framework (Section 4)

| Issue  | Recommendation   |
|--|--|
| <b>Winter Energy Concession</b>  |  |
| <p>The analysis undertaken in Section 4 of this report shows that the re-assignment of households from single rate tariffs and two-rate (peak and off-peak) tariffs to new TOU tariffs will result in a significant increase in household electricity bills (not factoring in any demand response).</p> <p>The size of this increase will depend on the TOU tariff structure, the household's consumption pattern and the type of tariff the household was on prior to reallocation to TOU. However, for the pensioner group the cost increase could be as high as 50% (or over \$300 per annum) solely due to the tariff reassignment.</p> <p>In addition to increases caused by tariff re-assignment, the cost of the rollout itself and other Government initiatives, such as the CPRS, may add another \$300 to an average Victorian electricity bill.</p> | <p><u>Recommendation # 47</u><br/>That the Victorian Government instigate a minimum 3% increase to the WEC in order to ensure that the concession continues to have a pertinent impact on energy affordability.</p>  |
| <b>Off-peak Concession</b>   |  |
| <p>Currently the off-peak energy concession applies to separately metered electricity consumption, mainly used for heating and hot water services. This concession was introduced in 2002 to offset a significant price increase to off-peak electricity. Currently, approximately 10% of all Victorian households receive this concession that provides a 13% discount on off-peak electricity consumption. SMI will result in customers with separately metered off-peak concession being re-assigned to TOU tariffs. The off-peak concession plays an important role in improving affordability amongst non-metro households and pensioners.</p>  | <p><u>Recommendation # 48</u><br/>Off-peak electricity consumption must be redefined for the purpose of delivering the off-peak electricity concession and continue to promote usage at off-peak times. Off-peak consumption should be defined as all electricity consumed at off-peak times as set by the TOU tariff.</p> |
| <b>Summer pricing</b>  |  |
| <p>As the aim of TOU tariffs is to make the pricing more cost reflective, we can expect to see the price of daytime summer electricity (times of peak demand) increase significantly.</p>  | <p><u>Recommendation # 49</u><br/>The Victorian Government should commit to monitoring summer prices and extend access to the Medical Cooling Concession to those at risk of health implications if unable to cool their homes appropriately during the summer months.</p>   |

### Victorian Legislation and Customer Assistance Schemes (Section 5)

| Issue  | Recommendation  |
|--|---|
| <b>Ban on Late payment fees</b>  |   |
| <p>The ban on Late payment fees for standing offers in Victoria has resulted in an incentive based arrangement that provides discounts for bills paid on time rather than using punitive late payment fees. Although customers on low or fixed incomes may have more difficulty in accessing these market contract discounts than customers with a good cash flow, the arrangement prevents the retailers from 'chasing additional fees' and the customer has more control over the situation.</p> | <p><u>Recommendation # 50</u><br/>The NERL should prohibit the use of late payment fees for standard retail contracts (SRCs).</p>   |
| <b>Wrongful Disconnection Payment</b>  |   |
| <p>The Wrongful Disconnection Payment (WDP) has had a positive impact on disconnection figures in Victoria. The WDP sends an important signal to retailers about the seriousness of disconnecting customers from supply due to</p>   | <p><u>Recommendation # 51</u><br/>Part 6, Division 2 of the NERR should include a Wrongful Disconnection Payment in order to provide the retailers with an incentive to undertake all the steps</p> |

|  |   |
|--|---|
| <p>non-payment, and the size of the penalties act as an incentive for retailers to ensure that they have processes and policies in place to deliver all the protections as stipulated by the Energy Retail Code and that disconnection is only used as a last resort. This mechanism is particularly important in a competitive, deregulated market with many active retailers (some both quite new and small), and in an environment where prices are expected to increase and impact on the number of customers facing payment difficulties.</p>   | <p>necessary, and as required by the NERR, prior to disconnecting a customer.</p>   |
| <b>Ban on Prepayment meters</b>  |   |
| <p>The Victorian energy retail market is competitive and has demonstrated some degree of product innovation. There are no good arguments for introducing prepayment systems in a market that has robust customer protection arrangements and utilises flexible payment options such as instalment and Easyway plans.</p>   | <p><u>Recommendation # 52</u><br/>The Victorian Government should commit to continue its ban on prepayment meters for energy.</p>   |
| <b>Hardship policies</b>   |   |
| <p>The Victorian Government's decision to legislate the requirement that energy retailers have hardship policies in place to assist domestic customers, and empower the Essential Services Commission to issue hardship policy guidelines and approve retailers' hardship policies accordingly, was an important move to ensure that more than a few retailers develop 'best practice' hardship policies. Furthermore, the use of hardship policy guidelines has not resulted in a 'one size fits all' approach. Some retailers have developed programs and initiatives in partnership with the community, whilst others have focused on more of an in-house approach. The guidelines do however stipulate some minimum requirements – which are essential to ensure that the policies deliver assistance to all customers in need, irrespective of their retailer.</p>  | <p><u>Recommendation # 53</u><br/>Division 9 of the NERL should include a requirement on the AER to develop national hardship policy guidelines and empower the AER to approve retailers' hardship policies according to these guidelines.</p>  |
| <b>Rebate to TOU customers with daytime boosters</b>   |   |
| <p>Customers currently on two-rate electricity have particular appliances that are hard-wired to receive off-peak consumption at a specific rate and all other consumption at a general domestic or general residential rate. With the installation of a single-element smart meter these customers will be allocated to a new TOU network tariff.</p> <p>Many of the 6 and 8 hours off-peak electric hot water and space-heating units have boost functions incorporated into the appliance design. However, these appliances boost during peak periods (electric slab heating typically boost for three hours between 2-5pm) but because they are hard-wired into the meter the boosting load is currently assigned to off-peak tariffs although the usage occurs during peak times.</p> <p>The minimum specification for the Victorian smart meters does not include a second element. Without a second element, this boost function will attract a TOU peak charge rather than an off-peak charge. The magnitude of the impact on households would depend on several factors but consumers with electric slab heating, as well as those with large electric hot water tanks who have household members home during the day (which means that the water service will boost more regularly), are clearly going to be among the most financially disadvantaged.</p> | <p><u>Recommendation # 54</u><br/>That the Victorian Government commit to assisting customers with electric hot water storage systems and/or slab heating who are financially penalised by being moved on to a TOU tariff. A rebate for households with hot water and/or heating appliances that boost during peak times should be made available as a transitional arrangement. Such a rebate will assist rural and regional households, and ensure that the difference between rural and urban electricity bills does not increase as a direct result of Government policy.</p> |

Customer Protections and Smart Meters – Issues for Victoria  
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