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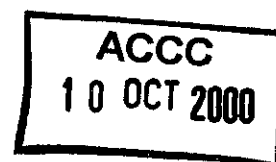
Dear Mr Bilyk,

**NATIONAL ELECTRICITY CODE CHANGES – FULL RETAIL COMPETITION
INTERIM AUTHORISATION (A90739, A90740 AND A90741)**

Thank you for a copy of your letter dated 21 September 2000 to Mr Stephen Kelly of the National Electricity Code Administrator Limited ("NECA") advising of the granting of interim authorisation as above on the "Minimalist Code Changes" for Full Retail Contestability.

The National Retailers Forum ("the NRF") requests that the Australian Competition and Consumer Commission ("the ACCC") consider its submission dated 8 September 2000 in its deliberations of issues in relation to the full authorisation of NECA's code changes, titled "*Full Retail Competition – Draft Code Changes*" ("the Request"). In addition, the NRF asks the ACCC to consider the attached submission which comments further on these proposed code changes, taking into account the conditions for interim authorisation.

The NRF asks the ACCC to consider the views of its Members expressed in the attached submission. Members of the NRF would be pleased to either provide further comment upon any amended document, or clarify any comments made in this submission.



The following NRF members jointly support this submission:

- | | |
|-----------------------------------|---------------------------|
| 1. ACTEW Energy Pty Ltd | 2. Advance Energy |
| 3. AGL (incl AGL South Australia) | 4. Energex Retail Pty Ltd |
| 5. Energy Australia | 6. Ergon Energy |
| 7. Great Southern Energy | 8. Integral Energy |
| 9. Origin Energy | 10. TXU |
| 11. Australian Inland Energy | 12. United Energy |

Should you wish to discuss this submission in any way please feel free to contact the undersigned, who is acting as the NRF Coordinator on this submission, on (07) 3228 8116.

Yours faithfully,



Darren Barlow
Manager Regulation
Strategic Business Development Group

NATIONAL RETAILERS FORUM

**SUBMISSION ON NATIONAL
ELECTRICITY CODE CHANGES –
FULL RETAIL COMPETITION
INTERIM AUTHORISATION**

1.0 INTRODUCTION

This submission details the comments of the National Retailers Forum ("the NRF") on the conditions placed upon the Interim Authorisation granted by the Australian Competition and Consumer Commission ("the ACCC") on/about 21 September 2000 on code changes lodged by the National Electricity Code Administrator Limited ("NECA"), titled *"Full Retail Competition – Draft Code Changes"* ("the Request").

The NRF is an independent organisation whose members operate as Retailers of electricity throughout the National Electricity Market.

The ACCC is requested to consider the initial submission of the NRF dated 8 September 2000 in its deliberations for the Final Authorisation. Please accept this submission as the NRF's contribution to this aspect of the consultation process.

2.0 PROPOSED CONDITIONS

We make no statement on Conditions 1 through 6 inclusive and 8, save for our comments in the earlier submission. Condition 7 is supported.

Conditions 9 and 10 are, we believe, impractical from a technical perspective and require reconsideration prior to final authorisation. The effect of these conditions appears to be that the use of Type 6 meters is sunset at 31 December 2004 ("the Date") and must be replaced prior to that date by Type 5 (or above) meters.

In determining whether Type 6 meters can continue to be used after the Date a review must be jointly undertaken by the Jurisdictional Regulators. This review must be completed prior to 31 December 2003 ("the Review Date").

In effect the period between the Review Date and the Date allows for a Jurisdiction to apply for authorisation of an extension of the Date based upon a cost/benefit study. We believe that the ACCC should state specifically the type of cost/benefit study required as part of this analysis, that is, is it a Public Benefits Test, Cost/Benefit Analysis or Cost/Benefit Review? As you will be aware, the level of detail and robustness varies between these methodologies significantly. It is essential that in performing this analysis sufficient guidance be provided to the reviewers of the form of the review. This is also essential to ensure that the outcome of the reviews are accepted by Industry (and others) as having been performed in accordance with the ACCC's decision.

A fundamental issue exists with respect to the time periods provided in the interim authorisation. Our understanding is that the interim authorisation requires that Type 6 meters cannot be used, for either 1st or 2nd tier customers, after the Date. This means that, subject to any on-going derogations sought by the Jurisdictions, either:

- A meter roll-out to replace Type 6 with Type 5 (or above) meters is required to commence in time to ensure that the Date is complied with. Within the National Electricity Market this would roughly equate to the installation of approximately 9 million Type 5 meters within four and a half years. The ability of Industry to source and install this volume of meters within this timeframe is doubtful. It is doubtful for several reasons. The physical availability of meters to be sourced and the number of employees necessary to be devoted to a meter roll-out of this scale is uncertain. The ability of a Local Network Service Provider ("LNSP") to recover the cost of such a

roll-out (assuming it would be that party responsible for all costs, etc) would require the approval of the Jurisdictional Regulators. Gaining this approval is the subject of a separate jurisdictional regulatory process and exposes LNSPs (or other designated parties) to significant regulatory/financial risk.

Assuming that a Jurisdiction forms the view that Type 6 meters will be able to be justified beyond the Date the regulatory risk of the application for endorsement of the Date being moved being rejected by ACCC is manifested not within the Jurisdiction but rather by electricity industry participants who would be the party actually breaching the Authorisation. This mismatch between responsibility and policy is not recognised, nor is the inherent financial and regulatory risks resident therein.

- A second scenario also exists. The Cost/benefit analysis when undertaken may not deliver the (expected) required justification for the continuation of Type 6 meters and thus no grounds for movement of the Date eventuate. As a result, the Date will not be achievable due to a one year or less period of time being provided for the meter roll-out. This timeframe is generally not achievable. The same form of regulatory and policy mismatch risk (and the resultant financial risk) exists under this scenario as cited above.

A possible solution to these dilemma's is a requirement that a Public Benefit Test along National Competition Council guidelines (based upon each Jurisdiction) of the use of profiles versus Type 5 meter roll-out should be required immediately with a delivery date of say 31 December 2001. This review would then recommend a sunset date for Type 6 meters for each Jurisdiction based upon the relevant circumstances of that Jurisdiction. The sunset date would require explicit ACCC approval.

The benefit of this approach is that:

- the type of review is clearly specified;
- the process is open and transparent in all jurisdictions;
- the individual economics of the preferred trading arrangements in each jurisdiction can be accounted for in setting a date;
- consideration of the physical timeframes necessary for meter roll-out of the envisaged size can be considered with all the facts on how it could be achieved; and
- as the Jurisdictional Regulator would need to approve cost recovery of the meter roll-out, this could be undertaken as an adjunct to the Public Benefits Test – which would provide regulatory and financial risk convergence.

Please note that the NRF does not specifically comment on the driver of the sunset decision as cited. This driver is that price competition will be stymied until the market moves to interval metering and that such a move would ensure that the profiling methodologies adopted as an interim measure do not mutate into a system cost that eventually exceeds the cost of interval metering. Members of the NRF hold differing views on the veracity of this claimed driver and will make their own submissions in this regard.

3.0 CENTRALISATION VERSUS DECENTRALISED

We note that the ACCC states that it has not considered the issue of data centralisation as it is the subject of discussion between NEMSAT, NEMMCO and the Jurisdictional

Panel. With all due respect, the NRF believes that this decision is a fundamental driver of the proposed purchase of systems and will have a major impact upon the future efficiency of full retail competition.

The current Code is unclear and requires urgent amendment to ensure centralisation is not presumed to exist as a result of this ambiguity in drafting. The NRF implores the ACCC to issue a condition as soon as possible requiring this ambiguity to be removed in favour of either a centralised or decentralised option. We believe this is a significant issue as it may drive significant future investment decisions which will impact upon the efficacy of full retail competition. We refer you to the NRF's submission of 8 September 2000 which considers this issue in detail.

4.0 CONCLUSION

As stated above, the NRF supports Condition 7, notes Conditions 1 through 6 and 8, and believes the intent of Conditions 9 and 10 require re-examination on the grounds of practical implementation when combined with the ambiguity and mismatch of risks they create for Industry.

The NRF is concerned that the ACCC has not taken into account the centralised versus decentralised data debate in the context of full retail competition and encourages the ACCC to consider this issue as a matter of urgency. The NRF would be pleased to meet and discuss its thoughts on this issue.

The NRF welcomes the opportunity to comment on the interim authorisation and would appreciate the opportunity to participate in any subsequent consultation by the ACCC on the issues raised in the Request.