



Response to the ACCC consultation on:

National Electricity Code:

Amendments to the Victorian Derogations

**Submitted by: United Energy Ltd
Level 13, 101 Collins Street
Melbourne 3000
Phone: 03 9222 9122
Fax: 03 9222 9155**

20 April 2001

**Response to the Australian Competition and Consumer Commission consultation on:
National Electricity Code: Amendments to the Victorian Derogations**

The Victorian jurisdiction, through the Victorian Department of Natural Resources and Environment, has sought to amend its derogations contained in chapter 9 of the National Electricity Code (Code) in connection with the introduction of full retail competition in Victoria. The proposed amendments to the derogations relate to chapter 7 of the Code, which deals with metering arrangements for the wholesale market. Four amendments to the derogations have been sought:

- (a) Definition of Local Network Service Provider
- (b) Responsible Person
- (c) Payment for Metering
- (d) Metering Provider

The effect of these amendments is to make local network service providers the exclusive responsible person in relation to metering installation types 5, 6 and 7 for a transitional period following the introduction of full retail competition.

The ACCC, as part of its consideration of the application has invited on the potential anti-competitive detriment and public benefit associated with the proposed amendments to the Code. United Energy welcomes the opportunity to comment in support of the amendments proposed.

1. Definition of Local Network Service Provider

In the Code, the definition of “Local Network Service Provider” is based on the ‘local’ geographical area allocated to a Network Service Provider by a Jurisdictional Regulator.

The amendment seeks to clarify, for the purposes of chapter 7 of the Code, circumstances where there is more than one LNSP for a geographical area, to provide that the metering obligations are imposed on the Network Service Provider to whose network the connection point/metering installation is connected.

UE Comment

In Victoria the situation exists where the same geographic area has been allocated to more than one Network Service Provider.

UE supports the amendment as it delivers a public benefit by enhancing the interpretation and intent of the Code and has no detrimental impact on the competitiveness of the market.

2. Responsible Person

The Code specifies the Code Participant that is responsible for providing, maintaining and installing metering installations for market connection points (the Responsible Person).

This amendment proposes that, during a transitional period of three years, the LNSP should be the Responsible Person for type 5, type 6 and type 7 metering installations. The impact of the amendment is to restrict, during the transitional period, the option available to the FRMP under the Code of electing to be the Responsible Person.

UE Comment

Metering system integrity relies on putting in place appropriate meter control and meter system integrity processes. UE believes that the cost and practicality of getting the required level of metering system integrity with retailers choosing service providers is one of the strong drivers for approving exclusivity. There is considerable synergy to be gained between achieving meter system integrity and actually carrying out the Responsible Person function. It is far easier, and more cost effective, to put in place the appropriate control processes where the market participant has the incentive to do so efficiently and correctly.

While recognising that there is an element of anti-competitive behaviour in restricting, for the period of transition, the FRMP's option to elect to be the Responsible Person, UE considers that the public benefits to be derived far outweigh any short term competitive disadvantage. UE considers these benefits to include:

- ◆ Facilitating the smooth introduction to FRC by providing a level of stability and surety to market participants and end use customers during a time of significant change.
- ◆ Reducing the costs barriers to retailers wishing to enter the market by utilising existing, common LNSP systems.
- ◆ Reducing the early need for the development and implementation of new and complex information and data management systems and allowing time for a considered approach to long-term strategies and processes developed in response to actual market signals and needs.
- ◆ Ensuring the benefits of the economies of scale that prevail through LNSPs already carrying out the functions of the Responsible Person will continue to be available to end use customers. Multiple Responsible Persons could be expected to see some reduction in these benefits, at least in the short term.
- ◆ Enabling to continue the practice of many LNSPs to outsource to competitive tender a number of the functions of the Responsible Person, delivering the resulting benefits to end use customers.
- ◆ Capturing the synergy of this function with the Distributor's responsibilities to ensure appropriate meter control and revenue protection functions are carried out of behalf of all market participants. Distributors costs would increase significantly

to facilitate retailer selection of provider for these services while still maintaining the required metering system integrity.

Section 3 and Schedule 2 of the application by the Victorian jurisdiction outline a range of further arguments in support of the proposed derogation. UE endorses these arguments.

UE further considers that the requirement that the offer by the LNSP to be the Responsible Person must be on terms that are fair and reasonable and do not unreasonably discriminate between retailers, with any question as to fairness and reasonableness or whether a term unreasonably discriminates to be resolved by the Office of the Regulator General should be sufficient to ensure that LNSPs do not behave in a detrimental manner.

3. Payment for Metering

Clause 7.3.6 provides that (subject to certain exceptions) the FRMP for a connection point is responsible for the payment of all costs associated with the provision, installation, maintenance, routine testing and inspection of the metering installation for that connection point.

This amendment proposes that, during the transitional period, the costs of the LNSP described in clause 7.3.6 would be recovered in accordance with the distribution businesses' licence conditions and the price determination made by the Office of the Regulator General.

UE comment

UE endorses the objective of the Victorian Government to minimise the costs charged to a customer that is transferring to a new retailer and supports the view that the development of a competitive market would be promoted by the recovery of prudent implementation costs across a broad customer base, rather than those costs being imposed on customers that chose to switch retailers.

The amendment proposed makes use of existing mechanisms to enable LNSPs to recover prudent costs across a broad customer base. The mechanisms are subject to examination and determination by the Office of the Regulator General and are transparent and should offer no competitive advantage to LNSPs. UE supports the amendment.

4. Metering Provider

The Code requires that the Responsible Person must engage a Metering Provider, accredited by and registered with NEMMCO, to carry out the provision, installation and maintenance of a metering installation unless the Responsible Person is the LNSP and a registered Metering Provider.

The amendment proposes that, to facilitate the LNSPs immediately taking on the role of the Responsible Person for types 5, 6 and 7 metering installations, each LNSP be deemed to be accredited and registered as a Metering Provider for these types of metering installations with effect from the introduction of the metrology procedure for the relevant type of metering installation.

UE comment

This amendment focuses on process and delivering competition to consumers in the most cost effective manner and at the earliest opportunity. The LNSPs are already responsible for first tier metering and perform similar functions to those that will be required for types 5, 6 and 7 metering installations. By allowing LNSPs to act immediately as RP, the smooth implementation of FRC will be able to continue without unnecessary delays inhibiting the flow of benefits to consumers

The sunset clause contained within the amendment requiring LNSPs to obtain registration and accreditation within a one year period and the preservation of NEMMCO's right to deregister an LNSP as a Metering Provider under clause 7.4.3, should ensure that LNSPs put in place processes suitable for accreditation to meet FRC without the inevitable delays that would occur if additional accreditation was required prior to implementation of FRC.