

3 June 2024

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

Marjorie Black House
47 King William Road
Unley SA 5061

P. 08 8305 4222
F. 08 8272 9500
E. sacoss@sacoss.org.au
www.sacoss.org.au

ABN 93 197 662 296

Lodged online: www.aemc.gov.au

Reference: ERC0378

Dear Mr Barr,

RE: ERC0378 – Draft Rule Determination: accelerating smart meter deployment

The South Australian Council of Social Service is the peak non-government representative body for health and community services in South Australia, and has a vision of *Justice, Opportunity and Shared Wealth for all South Australians*. SACOSS does not accept poverty, inequity or injustice. Our mission is to be a powerful and representative voice that leads and supports our community to take actions that achieve our vision, and to hold to account governments, business, and communities for actions that disadvantage vulnerable South Australians.

SACOSS' purpose is to influence public policy in a way that promotes fair and just access to the goods and services required to live a decent life. We undertake policy and advocacy work in areas that specifically affect disadvantaged and low-income consumers in South Australia. With a strong history of community advocacy, SACOSS and its members aim to improve the quality of life for people disadvantaged by the inequities in our society. SACOSS has a long-standing interest in the delivery of essential services. Our research shows that the cost of basic necessities like water and electricity impacts greatly and disproportionately on people experiencing vulnerability and disadvantage.

SACOSS would like to thank the Australian Energy Market Commission (AEMC) for the opportunity to provide feedback on the *Draft Rule Determination: National Electricity Amendment (Accelerating Smart Meter Deployment) Rule and National Energy Retail Amendment (Accelerating Smart Meter Deployment) Rule*, dated 4 April 2024¹ (the Draft Determination).

¹ AEMC, [Draft Rule Determination: National Energy Retail Amendment \(Accelerating Smart Meter Deployment\) Rule](#), dated 4 April 2024

We refer the AEMC to our previous submission on the AEMC's Draft Report, dated 9 February 2023.² SACOSS considers our previous submission remains relevant to this consultation on the Draft Determination and we are **attaching** that submission for the AEMC's consideration as part of this process.

Whilst the focus of this submission is specifically on the proposed 'customer safeguards' and amendments to the *National Energy Retail Rules* (the NERR), SACOSS strongly supports the Public Interest Advocacy Centre's (PIAC's) submissions on the Rule Change proposals more broadly, and we wish to reinforce and repeat our call for the AEMC to make more preferable Rules for the accelerated smart meter roll-out that would better contribute to the achievement of the National Electricity Objectives, through:

- **Vesting the responsibility for appointing the Metering Coordinator with the DNSP, not the retailer, with the DNSP paying for the entire metering service.** This structural change has both industry and consumer support, and should be properly examined by the AEMC in the exercise of its decision-making powers to achieve the relevant energy objectives.
- Amending Rule 7.1 of Chapter 7 (Metering) of the *National Electricity Rules* (NER) to limit the application of Chapter 7 to **metrology only** (specifically excluding monitoring, control, or the creation of a proprietary platform).
- Ensuring clarity around vesting the ownership of the meter with the homeowner and prohibiting the removal of the meter from the property where service disconnection would result.

The Fast-Track Process

SACOSS strongly submits the Fast-track Rule Change process has provided insufficient examination and identification of the complex issues and negative impacts associated with the accelerated smart meter-roll out and the proposed customer safeguard rule changes, which are the subject of this Draft Determination. We do not consider the previous Review of the Regulatory Frameworks for Metering Services³ adequately identified or resolved the significant customer impacts and risks raised by consumers, consumer representatives and stakeholders. SACOSS considers the omission of the Issues Paper stage in this consultation has led to a simplification of the approach and response to the development of appropriate customer safeguards. This submission will aim to raise some of the issues we consider are relevant to the development of meaningful consumer protections for smart meter customers in affected jurisdictions, with particular reference to the South Australian experience.

² SACOSS, [Submission on the AEMC's Draft Report on the review of the regulatory framework for metering services](#), dated 9 February 2023

³ AEMC, [Consultation paper: Metering Services Review](#), 3 December 2020, AEMC, [Directions Paper: Review of the Regulatory Framework for Metering Services](#), 16 September 2021, AEMC, [Review of the Regulatory Framework for Metering Service: Draft Report](#), November 2022, AEMC, [Review of the Regulatory Framework for Metering Services: Final Report](#), 30 August 2023

SACOSS suggests the criteria identified by the AEMC to assess whether the proposed rule changes meet the ‘consumer protection test’ fail to account for relevant considerations and risks that will lead to significant consumer harm, thereby undermining the development and application of consumer protections for small customers, including hardship customers. For example, under the ‘consumer outcomes’ criteria identified by the AEMC, the Draft Determination states the draft rules will improve outcomes for consumers through ‘better visibility of low-priced periods, and greater choice of retail offers’.⁴ SACOSS strongly submits this assessment fails to acknowledge the **removal of choice of flat-rate retail offers** which is currently occurring in South Australia as a direct result of the roll-out of smart meters, placing all consumers, but particularly those who can least afford it, at significant risk of bill-shock and increased hardship.

As outlined in more detail below, customers in South Australia urgently need stronger and better protections from the risks associated with the roll-out of smart meters in this State. The Draft Rules the subject of the Draft Determination do not deliver sufficient protections for consumers, and the fast-track process has undermined the role of consumers and consumer advocates in providing meaningful feedback on the development of rules that will protect both existing smart meter customers and customers who will be impacted by the accelerated smart meter deployment.

In order to thoroughly identify all issues and examine how best to protect consumers, SACOSS is calling for an additional consultation stage on strengthening consumer protections for smart meter customers under the NECF, prior to a Final Rule Determination. We welcome further engagement with the AEMC to shape consumer protections that will better contribute to the achievement of the National Energy Objectives.

Summary of submissions on necessary customer safeguards

As noted above, SACOSS does not believe the scope and impact of the risks to consumers associated with the accelerated roll out have been properly identified by the AEMC in the Draft Determination or addressed through the fast-track consultation process on the proposed ‘customer safeguards’. We consider the proposed rule changes in the Draft Determination do not go far enough in addressing those risks and will not provide customers with the required protections in this evolving market. In response to the Draft Determination, SACOSS is seeking additional measures, including:

- Deleting the exemption to advanced notification requirements contained in Rule 46(4C) of the NERR.
- Amending Rule 46 and 46A of the NERR to require a retailer to obtain the customer’s explicit informed consent (EIC) prior to any variation in retail tariffs or charges under an existing contract.
- Requiring retailers to provide a retail offer using a flat rate structure (in line with the ACCC’s REPI Report).

⁴ AEMC, [Draft Rule Determination: National Energy Retail Amendment \(Accelerating Smart Meter Deployment\) Rule](#), dated 4 April 2024, p.7

- In conjunction with a holistic review of the Electricity Retail Code,⁵ the development of Rules requiring a retailer to offer a fair and efficient flat rate plan all customers can default to.
- The development of Rules prohibiting remote disconnection for non-payment by retailers in all jurisdictions until the engagement, consultation and regulatory amendments associated the AER's *Review of Payment Difficulty Protections in the NECF*⁶ are completed.
- To inform *network* tariff design, the AEMC, the AER and the ACCC draw on the South Australian experience and immediately undertake a detailed assessment of the customer impacts of ToU *retail* tariffs for existing smart meter customers in South Australia, including distributional load / usage impacts for separate rate types and bill impacts through access to retail data.
- Implementation of strengthened customer impact principles and a transition period following the installation of a smart meter, during which time a Pricing Pilot Program⁷ is established together with a compulsory 'data sampling period' over 12 months to allow households to monitor seasonal usage (in line with Recommendation 14 of the REPI Report), including monitoring and evaluation.
- The repeal Regulation 6A of the *National Energy Retail Law (Local Provisions) Regulations 2013* by the South Australian Government.
- The provision of additional targeted assistance to customers experiencing vulnerability, including through bill protection,⁸ rate plan pricing, and energy efficiency measures to increase the comfort of buildings without needing high energy input.
- Education and information campaigns need to be immediately established **prior** to the acceleration of the rollout and the application of mandatory ToU retail tariffs for smart meter customers.

Proposed Customer Safeguards in the Draft Determination

The AEMC's Draft Determination states that:⁹

'Customer safeguards are critical in protecting customers from potential cost risks and in building and maintaining social licence for the smart meter acceleration program. Without social licence, consumers may resist changes which could risk the program's benefits.'

⁵ The [Electricity Retail Code](#) is scheduled for Review in November 2024

⁶ AER, [Review of Payment difficulty protections in the National Energy Customer Framework: Issues Paper](#), May 2024

⁷ See [California State-wide Opt-in Time-of-use Pricing Pilot](#)

⁸ See [Californian example](#).

⁹ AEMC, [Draft Rule Determination: National Energy Retail Amendment \(Accelerating Smart Meter Deployment\) Rule](#), dated 4 April 2024, p. 19

The AEMC's proposed draft rules:¹⁰

- *prohibit retailers from charging small customers any upfront costs or exit fees that relate to replacing a type 5 or 6 metering installation identified in an LMRP (this prohibition does not apply to new connections, or meter replacements initiated at the customer's request)*
- *require retailers to provide their customers at least 30 business days' notice when transitioning them to a different pricing structure during the LMRP period as a result of a change in meter type, as well as information on how to understand and manage the change.*

The body of this submission examines in greater depth the AEMC's rationale and issues SACOSS considers should guide the development of customer safeguards for smart meter customers, having regard to the South Australian context. We also provide our brief response to the AEMC's proposed customer safeguards below.

Prohibiting upfront charges (except for new connections and meter replacements initiated by the customer)

As noted in previous submissions, SACOSS has broad concerns about the transparency of costs associated with the smart meter roll-out. It is unacceptable that consumers have no visibility of the metering costs incurred on their behalf.

We are also concerned about new connections and meter replacements initiated by the customer incurring up front charges. Without transparency or visibility of smeared cost or up-front costs, it is impossible to determine if customers initiating replacements will be paying twice for a meter installation. There is also the associated risk that customers will be disincentivised from requesting a meter upgrade if they face additional up-front costs.

Notice of tariff changes and historical bill information

SACOSS welcomes the requirement for retailers to notify customers of tariff changes, but submits this should not be a transitional provision and should be coupled with the requirement for retailers to obtain the explicit informed consent of the customer. Customers **should always be notified** of changes to their tariffs and charges, irrespective of whether those changes result from a 'tariff reassignment' by the distributor, or not. We therefore consider the exemption to advanced notification under Rule 46(4C) of the NERR should be deleted. In addition, as set out in more detail below, SACOSS considers notification alone is insufficient to protect customers from the impact of mandatory time of use retail tariffs, and more regulatory intervention is required.

Placing the burden on consumers to request historical bill information in circumstances where there is unlikely to be sufficient data in order to determine the impacts of changing tariffs is not an adequate consumer protection measure. To understand likely bill impacts, smart meter data monitoring a household's consumption patterns over changing seasons in

¹⁰ AEMC, [Draft Rule Determination: National Energy Retail Amendment \(Accelerating Smart Meter Deployment\) Rule](#), dated 4 April 2024, p. 19 -20

a 12-month period is required. Given the current detrimental impacts on South Australian smart meter households associated with the mandatory assignment to TOU Tariffs, and the increased risks of harm with an accelerated roll-out, SACOSS is strongly submitting additional protections must be established to protect customers, including implementation of strengthened customer impact principles and a transition period following the installation of the smart meter during which time a Pricing Pilot Program¹¹ is established together with a compulsory ‘data sampling period’ (in line with Recommendation 14 of the REPI Report) over 12 months to allow households to monitor seasonal usage, including monitoring and evaluation.

Issues with the Draft Determination and the South Australian context

The Draft Determination has raised concerns about the creation of ‘broader social licence risks for the acceleration program’¹² as a result of retailers shifting smart meter customers to TOU tariffs, without consent, advanced notification or information. Whilst we acknowledge this is a risk, SACOSS has more immediate concerns around the significant negative customer cost impacts associated with retailers currently mandatorily assigning customers to TOU retail tariffs (with no choice of a flat rate tariff) during an energy affordability and cost of living crisis.

The issue of mandatory reassignment and removal of choice clearly has implications for the consumer protection test, and we do not believe those issues have been adequately resolved by the AEMC in its *Metering Review Final Report* (the Final Report)¹³ or the Draft Determination. Earlier and better information alone will not protect households from the impact of mandatory TOU retail tariffs, as has been suggested by the AEMC. Even with a 30-business day notification period, customers on low-incomes, experiencing vulnerability, renting, in energy debt and at risk of hardship face insurmountable barriers to repeatedly and continuously engaging in the market, changing usage patterns or ‘investing’ in smart household appliances (as has been suggested in the Draft Determination). We strongly submit that additional protections are required.

There is a fundamental tension raised in the AEMC’s *Metering Review Draft Report* (the Draft Report),¹⁴ the Final Report and the Draft Determination around identifying where consumer protections relating to tariff changes should be targeted – namely at a network or retail level, or both. The Draft Report stated:¹⁵

‘The Commission welcomes feedback on this initial position, including any fundamental concerns about the TSS framework – such as whether there is a risk that

¹¹ See [California State-wide Opt-in Time-of-use Pricing Pilot](#)

¹² AEMC, [Draft Rule Determination: National Energy Retail Amendment \(Accelerating Smart Meter Deployment\) Rule](#), dated 4 April 2024, p. 21

¹³ AEMC, [Review of the Regulatory Framework for Metering Services: Final Report](#), 30 August 2023

¹⁴ AEMC, [Review of the Regulatory Framework for Metering Service: Draft Report](#), November 2022.

¹⁵ AEMC, [REVIEW OF THE REGULATORY FRAMEWORK FOR METERING SERVICES](#), Draft report, 3 November 2022, p.95

stakeholder views and consumer preferences of transitional arrangements under the customer impact principles are not being adequately considered by the DNSPs and AER.

It is noted the TSS process only applies to the network tariff. The AER does not regulate retail offers to customers under the current regulatory framework. The Commission welcomes feedback on whether we should further explore with stakeholders measures that could apply at the retail price level to promote better customer outcomes and experiences, and empower customers to more actively choose market offers that best meet their needs.'

The Final Report found Distribution Network Service Provider's (DNSP's) Tariff Structure Statement (TSS) processes and the 'customer impact principles,' were sufficient to consider the impact on *retail* customers of network tariff changes, stating:¹⁶

'Our recommendation is to continue to rely on the AER's TSS process to make a decision on whether opt-in or opt-out provisions are more appropriate. This allows for stakeholders in each jurisdiction to balance the economic and social issues based on the circumstances and customer preferences at the time to promote the long-term interests of consumers.

Mandatory cost reflective pricing structures at the network level do not necessarily mean retailers cannot provide options to customers, as noted above. Ideally, retailers will offer consumers a range of services to allow them to readily select the offer that best meets the customer's needs and preferences.

*Nevertheless, we have not sought to require retailers to offer customers the choice of a flat tariff structure, as suggested by some consumer groups in submissions to the draft report. **We consider market-based outcomes is the appropriate mechanism to promote consumer choice.** Retailers have a strong incentive to gain market share by offering services customers prefer. Our focus is more on promoting transparent and understandable information on retail prices and other terms and conditions, so customers can weigh-up different options available to them and make informed decisions about their retailer service provider.'*

Firstly, in developing the TSS, all DNSP's analysis of customer impacts is based on the network tariff design (which impacts the retailer), not the actual retail tariff customers' face. The TSS process is fundamentally flawed - we know the retail TOU tariffs in South Australia do not reflect the flat rate percentages of the underlying network TOU tariff retailers face, and therefore actual customer impacts cannot be assessed through the TSS process. Peak rates vary widely between and within retailers depending on the plan, whether it is an existing flat rate contract that has been moved to a TOU plan or a TOU 'acquisition' offer. The DNSP's theoretical analysis as part of the TSS process can significantly misrepresent actual household impacts. Further, the underpinning economic rationale of 'cost-reflective' pricing at a network level is called into question when TOU tariffs are designed with a 14-

¹⁶ AEMC, [Review of the Regulatory Framework for metering services, Final Report](#), p. 61 -62

hour peak period that extends from 3pm through to 10am (with an off-peak window between 1am and 6am). It is unlikely the network is experiencing peak demand driving network costs at midnight; a 4pm to 9pm peak period would be more reflective of network costs.

Secondly, the reliance on market-based outcomes to promote consumer choice is failing consumers. Retailers have undertaken a wholesale transfer of all smart meter customers to a TOU tariff in South Australia, **with no choice of a flat rate tariff**. The AER's most recent data for Q2 2023-24 shows that **83.4%** of smart meter customers in SA are now on a TOU retail tariff, up from **3.6%** in Quarter 1 2020/21, with the biggest three retailers' percentages as follows:

- 89.95% of AGL's smart meter customers in SA are on a time of use retail tariff
- 97.7% of Alinta's smart meter customers in SA are on a time of use retail tariff
- 99.9% of Origin's smart meter customers in SA are on a time of use retail tariff

The AER's Default Market Offer 2024-25 Final Determination shows there are 45.74% of customers with advanced (smart) meters in SA (359,247 customers).¹⁷ This means around 39% or 298,175 customers are currently on TOU retail tariffs in South Australia.¹⁸ Without regulatory intervention, this demonstrated approach by retailers to transfer customers to mandatory TOU retail tariffs in response to underlying network TOU tariffs in South Australia is likely to continue throughout an accelerated roll-out. The removal of flat-rate offers from the market has significant negative impacts for consumer choice and assumes customers have the capacity to respond to price signals. As outlined in more detail below, research and customer feedback demonstrates households cannot shift usage patterns, with TOU tariffs increasing the risk of higher bills and energy hardship at a household level.

Importantly, the ACCC's recent analysis of TOU plans in South Australia found that in 2023-24, for three retailers (anonymised), between 85% and 100% of customers were paying tariffs that were **at or above the DMO** (see Figure 1, below).¹⁹ Remembering the DMO is not designed to be the cheapest offer in the market, but is a cap on standing offers and is there to protect 'disengaged' consumers from 'unjustifiably high' prices. Therefore, not only are customers being shifted to a different tariff structure that requires a change in usage patterns (to take advantage of lower tariffs between 10am and 30pm), a high percentage of market offer customers are also being shifted onto retail tariffs that are at or above the cap for standing offer customers.

¹⁷ AER, [Final Determination Default Market Offer 2024-25](#), 23 May 2024, p. 78

¹⁸ 83% of 359,247 is 298,175 and there are 752,348 customers in SA. See: [AER Schedule 2 Retail Performance Data for Q 2 2023/24](#)

¹⁹ ACCC, [Inquiry into the National Electricity Market Report](#), December 2023, p. 56

Figure 3.6 Pricing approaches vary between retailers

Proportion of residential customers on time-of-use only tariffs paying equal to or more than the DMO by retailer (anonymised) and year, SA Power Networks distribution region

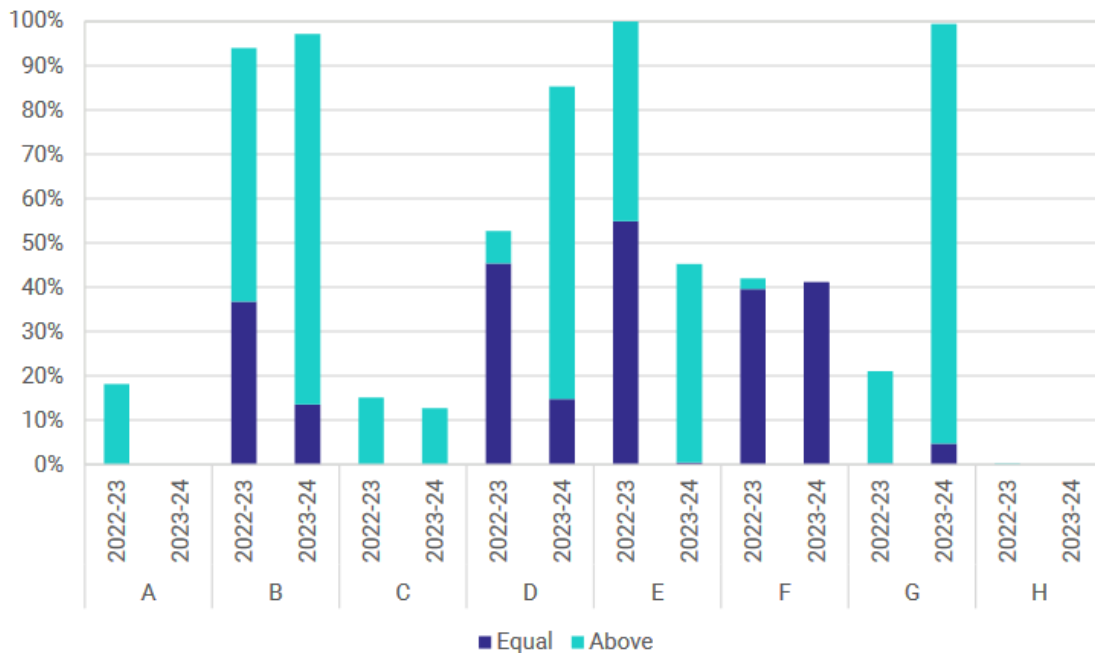


Figure 1: Proportion of residential customers on a TOU tariff in SA paying at or above the DMO. Source: ACCC, December 2023²⁰

Notably, the AEMC’s decision not to require retailers to retain the choice of a flat rate tariff on the basis of market competition is in direct conflict with the Australian Competition and Consumer Commission’s (ACCC) Recommendation 14 of the 2018 *Retail Electricity Pricing Inquiry Report* which states (SACOSS’ emphasis):²¹

*Given the **potential for negative bill shock outcomes** from any transition to cost-reflective network tariffs should retailers pass these network tariffs through to customers, **governments should legislate to ensure transitional assistance is provided for residential and small business customers.** This assistance should focus on maximising the benefits, **and reducing the transitional risks, of the move to cost-reflective pricing structures.** This includes:*

- **a compulsory ‘data sampling period’ for consumers following installation of a smart meter**
- **a requirement for retailers to provide a retail offer using a flat rate structure**
- **additional targeted assistance for vulnerable consumers.**

The significant detrimental impact of mandatory time-of-use (TOU) retail tariffs on South Australian households cannot be overstated. Recent media articles have shone a light on individual consumer experiences of TOU retail tariffs, and the risk of TOUs increasing

²⁰ ACCC, [Inquiry into the National Electricity Market Report](#), December 2023, p. 56

²¹ ACCC, [Retail Electricity Pricing Inquiry Report](#), June 2018, p. xix

vulnerabilities and fuelling inequality.²² Apart from the ACCC's analysis, we have little to no visibility of how retailers are packaging existing offers into TOU plans. Existing tariff fees and charges differ from the 'acquisition' TOU offers published by retailers on Energy Made Easy. That said, SACOSS has spoken to individuals whose electricity bills have doubled, and we've been told of 78 cents per kWh peak tariffs for an unavoidable 14-hour peak period from 3pm through to 10am, with an off-peak between 1am and 6am.

Notably, in response to examples of significant negative consumer impacts, including extreme bill shock as a result of TOU retail tariffs, retailers have pointed the finger at network tariffs, and networks have deflected back to retailers (pointing to the fact that retailers don't have to reflect network tariffs in retail offerings and the fault is with retail tariff design). SACOSS considers the proposed 'customer safeguard' rule changes in the Draft Determination will only provide very limited transitional protections at a retail level with no additional protections or requirements at a network tariff structure level, and additional regulatory intervention is required.

Given our previous submissions on this matter, including reference to relevant research and case studies, SACOSS is disappointed the AEMC has failed to adequately characterise the customer risks and impacts of mandatory TOU retail tariffs within the Final Report and the Draft Determination. Notably, in pointing to the benefits of the proposed transitional tariff change notification requirements, the Draft Determination states that:²³

'Consumers will benefit from earlier and better-quality information ahead of changes to retail pricing structures. This will provide customers with more time to:

- *churn if they find a better offer*
- *consider how to adjust their usage, if they are migrated to a time-of-use tariff*
- *make investments in household appliances that allow them to better manage their usage.'*

The Draft Determination provides the example where '*customers **could choose to change their usage or behaviour to take advantage of lower tariff periods in the middle of the day (where available).***'²⁴

SACOSS suggests these statements make significant and erroneous assumptions about a consumer's ability to repeatedly engage in the retail market, a consumer's ability to change usage patterns and respond to price signals, and a consumer's financial capacity to invest in new, smart household appliances. The South Australian experience also suggests it is not a question of 'if' a customer will be 'migrated' to a TOU retail tariff, but when.

²²<https://www.abc.net.au/news/2024-04-09/energy-companies-under-fire-over-time-of-use-rates/103655324>
<https://www.abc.net.au/news/2024-04-18/ex-energy-watchdog-attacks-time-of-use-power-prices/103700324>

²³ AEMC, [Draft Rule Determination: National Energy Retail Amendment \(Accelerating Smart Meter Deployment\) Rule](#), dated 4 April 2024, p. 21

²⁴ AEMC, [Draft Rule Determination: National Energy Retail Amendment \(Accelerating Smart Meter Deployment\) Rule](#), dated 4 April 2024, Footnote 53

SACOSS submits the AEMC must not make determinations on consumer protections associated with the smart meter roll-out on the basis of these assumptions. The AEMC must determine appropriate consumer protections based on the evidence that consumers **are** being shifted to TOU retail tariffs without consent, and **cannot churn, cannot change usage patterns** and **cannot afford expensive new appliances**. SACOSS considers the AEMC’s underpinning rationale behind the proposed customer safeguards within the Draft Determination is flawed, and on that basis, the proposed protections cannot be said to ‘be compatible with the development and application of consumer protections for small customers including (but not limited to) protections relating to hardship customers’ in line with the required consumer protections test.

In relation to the AEMC’s assumption around a customer’s ability to ‘churn’, the ACCC’s December 2023 *Inquiry into the National Electricity Market Report*²⁵ provides some relevant context. For the first time, the ACCC used its compulsory acquisition powers to look at the existing market retail energy contracts of over 5 million customers providing pricing information current up to August 2023. Previously, the ACCC had analysed retailers’ ‘acquisition offers’ which are published on the Energy Made Easy website.

The ACCC found that approximately 70% of customers in 2023 are on Older Plans, compared to 30% of customers on Newer Plans, and 82% of residential customers were on calculated annual prices at or above the median offer on Energy Made Easy and Victorian Energy Compare, up from 43% in 2022. In all states, customers on Older Plans are paying higher average prices than those on Newer Plans.²⁶ Showing retailers are pricing existing customers differently to ‘acquisition’ offers, and customers need to continually re-engage in the market to obtain the ‘benefits’ of competition.

Overall, the ACCC found that nearly half (47%) **of all customers** and 42% of **concessions customers** are paying **equal to or above** the DMO price, and that 79% of customers would be better off if they switched to competitive acquisition offer in Energy Made Easy.²⁷ In relation to South Australia, the ACCC found that 61% of SA energy customers on flat rate plans are paying at or above the DMO, with 9% of customers paying 25% or more above the DMO in 2023 (see Figure 2, below):²⁸

²⁵ ACCC, [Inquiry into the National Electricity Market Report](#), December 2023

²⁶ ACCC, [Inquiry into the National Electricity Market Report](#), December 2023, p.68

²⁷ ACCC, [Inquiry into the National Electricity Market Report](#), December 2023, p.39

²⁸ ACCC, [Inquiry into the National Electricity Market Report](#), Appendix C [Cost Stack Data and Charts in the NEM](#), December 2023

Supplementary Table C9.6

State by state, 2023

	VIC	NSW	SA	SEQ
>25% below	7%	2%	2%	2%
20-25% below	8%	1%	2%	0%
15-20% below	4%	1%	11%	3%
10-15% below	9%	6%	2%	3%
5-10% below	14%	17%	10%	12%
1-5% below	17%	12%	13%	21%
Equal to DMO/VDO	22%	21%	17%	33%
1-5% above	3%	15%	10%	12%
5-10% above	1%	11%	14%	3%
10-15% above	2%	4%	5%	3%
15-20% above	3%	2%	4%	1%
20-25% above	1%	6%	2%	1%
>25% above	9%	2%	9%	6%

Figure 2: Customers on flat rate offers at or above the DMO by State. Source: ACCC, December 2023

Clearly, households are not engaging in the energy market even where ‘better’ offers are available. Customer engagement cannot be an expectation that underpins the development of appropriate consumer protections. Even in circumstances where a customer does engage in the market, switching or ‘churning’ doesn’t guarantee a better plan for the long-term. A customer may sign up to an ‘acquisition offer’ and then be changed to a more expensive plan with only 5 days’ notice.²⁹ Greater protections are required, and those protections should be designed on the basis that customers should not be expected to continually engage with retailers to pay a fair price for an essential service.

In relation to the assumption that notice provisions will provide more time for customers to consider how they will ‘adjust their usage’, SACOSS once again points the AEMC to previously cited research by the Victorian Energy Policy Centre that clearly shows many households cannot and do not respond to price signals in TOU tariffs:³⁰

- *The ratio of peak to off-peak prices in TOU tariffs has little influence on the ratio of peak to off-peak electricity consumption.*
- *Whether a household installs rooftop photovoltaics does not affect responsiveness to peak and off-peak prices.*
- *Households in the lowest socio-economic areas do not respond to time-varying prices.*
- *Despite significant advancements since TOU tariffs were studied in the 1980’s, the elasticity of substitution is little changed.*
- *This evidence does not support the imposition of TOU tariffs as default pricing policy.*

We know that energy is largely inelastic, households cannot and do not respond to economic price signals, and will simply be punished by higher prices at peak periods. As noted in a recent Guardian article, even extremely engaged consumers find it too challenging to change usage patterns.³¹ If a super-engaged consumer with smart appliances

²⁹ NERR, Rule 46(4)(a)

³⁰ Kelly Burns and Bruce Mountain, Victorian Energy Policy Centre, [‘Do Households respond to Time-of-Use tariffs? Evidence from Australia’](#), VEPC Working Paper WP2001, June 2020

³¹ [I gamified Australia’s power industry – and learned just how weird and perverse it can be | Nick Miller | The Guardian](#)

and solar cannot shift usage patterns, how can a large family living in rental accommodation in inadequate housing with inefficient, old appliances be expected to ‘consider how to adjust their usage’ and ‘make investments’ in household appliances. This is simply unrealistic and unachievable, and if we are to avoid further inequitable impacts throughout the energy transition, a complete reexamination of the issues underpinning the need for increased consumer protections by the AEMC is required.

Further, the AEMC assumes TOU retail tariffs are ‘better tariffs’ and this has been included and quantified as a ‘key benefit’ by Oakley Greenwood in the cost benefit analysis,³² our previous submission questioned the assumption of TOU tariffs as a benefit, and we are calling for more data sampling, research and monitoring to support this theory, given current research would suggest that TOU tariffs do not benefit households, particularly low-income households, people living with disabilities and carers. Mandatory TOU Retail tariffs represent an additional burden for households to deal with in the midst of an energy transformation and affordability crisis. We acknowledge some households may benefit, but not all households will, and choice must be retained.

In this evolving market, SACOSS submits the current Regulatory Framework is failing to adequately protect consumers from significant detriment associated with the imposition of mandatory TOU retail tariffs for smart meter customers. This is an issue that is already having a significant impact on South Australian households (currently 39% of households) and needs to be addressed *prior* to the accelerated roll-out of smart meters in this State.

This rule change process represents an opportunity for the AEMC to acknowledge the burdens and barriers for all households in engaging in the market, but particularly the burdens and barriers for households who have the least capacity for engagement or to invest in renewable technologies. Clearly more ongoing (not transitional) protections are required at both a network and a retail level to ensure consumers do not continue to face punitive TOU tariffs, and are able to choose a structure that works for their household. This rule change process represents an opportunity to meaningfully support households through one aspect of the transition.

Relevantly, the ACCC’s December Report found that:³³

Many consumers can find navigating the electricity market difficult, from comparing prices and tariffs, to understanding how and why their electricity prices have changed at short notice.

However, as the market continues to evolve, market bodies and state and federal governments should ensure that our regulatory framework remains effective in supporting meaningful consumer engagement and providing the necessary levels of consumer protection, whilst also ensuring the conditions for competition are maintained.

³² AEMC, [Draft Rule Determination: National Energy Retail Amendment \(Accelerating Smart Meter Deployment\) Rule](#), dated 4 April 2024, p.3

³³ ACCC, [Inquiry into the National Electricity Market Report](#), December 2023, p. 72

SACOSS considers the AEMC's Draft Determination does not strike the right balance between providing the necessary consumer protections in an evolving market, and maintaining competition. The issues and challenges facing consumers cannot be solved solely by increased consumer education and engagement, these issues can only be addressed through regulatory reform that includes stronger and more meaningful consumer protections.

If you have any questions in relation to this submission, please contact Georgina Morris by email georgina@sacoss.org.au or phone 8305 4214.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'R. Tooher'.

Dr Rebecca Tooher
Director of Policy and Advocacy
South Australian Council of Social Service

9 February 2023

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

Marjorie Black House
47 King William Road
Unley SA 5061

P. 08 8305 4222
F. 08 8272 9500
E. sacoss@sacoss.org.au
www.sacoss.org.au

ABN 93 197 662 296

Lodged online: www.aemc.gov.au

Reference: EMO0040

Dear Mr Barr,

RE: EMO0040 - Review of the Regulatory Framework for Metering Services: AEMC Draft Report

The South Australian Council of Social Service is the peak non-government representative body for health and community services in South Australia, and has a vision of *Justice, Opportunity and Shared Wealth for all South Australians*. SACOSS does not accept poverty, inequity or injustice. Our mission is to be a powerful and representative voice that leads and supports our community to take actions that achieve our vision, and to hold to account governments, business, and communities for actions that disadvantage vulnerable South Australians.

SACOSS' purpose is to influence public policy in a way that promotes fair and just access to the goods and services required to live a decent life. We undertake policy and advocacy work in areas that specifically affect disadvantaged and low-income consumers in South Australia. With a strong history of community advocacy, SACOSS and its members aim to improve the quality of life for people disadvantaged by the inequities in our society. SACOSS has a long-standing interest in the delivery of essential services. Our research shows that the cost of basic necessities like water and electricity impacts greatly and disproportionately on people experiencing vulnerability and disadvantage.

SACOSS would like to thank the Australian Energy Market Commission (AEMC) for the opportunity to provide feedback on the *Review of the Regulatory Framework for Metering Services: Draft Report*, dated November 2022¹ (the Draft Report).

¹ AEMC, [REVIEW OF THE REGULATORY FRAMEWORK FOR METERING SERVICES](#), Draft report, 3 November 2022

This consultation comprises a further step in the AEMC’s review of the regulatory framework for metering services, which commenced in December 2020.² The AEMC’s Review has generated a very high level of interest and engagement amongst stakeholders, with the AEMC receiving 58 submissions on its Directions Paper³ in late 2021. The AEMC’s Review was paused in November 2021, and recommenced in April 2022.⁴

In January and February 2022, the South Australian government initiated its own smart metering consultation separate to (but associated with) the AEMC’s Review. The Department for Energy and Mining (the Department) was concerned recommendations from the AEMC’s Review may take too long to implement, and it was therefore considering separate jurisdictional changes to local regulations (the *Electricity (General) Regulations 2012*), as opposed to changes to the National Laws and Rules, to accelerate the smart meter roll out in this state. SACOSS refers the AEMC to our submission on that consultation:

- SACOSS, [Submission to the Department for Energy and Mining on the acceleration of the smart meter rollout in SA](#), 22 February 2022.

SACOSS supports, and is a signatory to, ACOSS’ submission on the Draft Report. This additional submission provides a South Australian perspective on some of the issues raised in Questions 5, 7, 10, and 12 of the Draft Report, highlighting the risks of an accelerated roll out leading to increased consumer vulnerability through:

- the demonstrated approach of retailers imposing mandatory (ToU) **retail tariffs** for South Australian smart meter customers where there is an underlying default ToU network tariff, thereby removing customer choice, creating the potential for negative customer impacts (including bill-shock), and exacerbating existing vulnerabilities
- the lack of advanced notification and education on ToU retail tariffs, and the need for regulatory changes to remove the exemption from advanced retailer notification of retail tariff variations under the *National Energy Retail Rules*, where the variation results from a distribution network tariff reassignment
- remote disconnection of smart meter customers for non-payment, and inadequate disconnection safeguards for smart meter customers in NECF jurisdictions.

We have also attached a Case Study to this submission detailing the lived experience of a regional South Australian smart meter customer, Amber* (Annexure A). Amber’s experience illustrates the current lack of adequate notification requirements, the absence of information on smart meters and ToU tariffs, the removal of retail tariff choice, and the complexity, confusion and disadvantage experienced by smart meter customers in South Australia (largely as a result of mandatory retail tariff reassignment). We know from our discussions with financial counsellors that Amber’s experience is not an isolated case and

² AEMC, [Consultation paper: Metering Services Review](#), 3 December 2020, see also AEMC, [Terms of Reference: Review of the Regulatory Framework for Metering Services](#), 3 December 2020.

³ AEMC, [Directions Paper: Review of the Regulatory Framework for Metering Services](#), 16 September 2021, Stakeholder submissions, can be found at <https://www.aemc.gov.au/market-reviews-advice/review-regulatory-framework-metering-services>

⁴ AEMC, [Accelerating smart meter roll-out in the National Electricity Market, Information Sheet](#), November 2021

these systemic and structural issues need to be urgently addressed prior to the acceleration of a smart meter rollout.

In addition, our submission reinforces the submissions of ACOSS, the Public Interest Advocacy Centre (PIAC) and others, in urging the AEMC to fully assess a proposal to vest the responsibility for appointing the Metering Coordinator with the DNSP, not the retailer, with the DNSP paying for the entire metering service. SACOSS considers a full assessment of this proposal must reasonably be undertaken by the AEMC in the exercise of its decision-making powers in this Review, in order to promote the achievement of the energy objectives.

Summary of submissions

- SACOSS is urging the AEMC to consider assessing the long-term costs and benefits to consumers of regulatory changes that would vest the responsibility for appointing the Metering Coordinator with the DNSP, not the retailer, with the DNSP paying for the entire metering service.
- On balance, SACOSS considers the risks around removing the option to disable remote meter access are greater than the benefits of requiring remote access in South Australia, and this option should be retained.
- SACOSS submits the AEMC, together with the AER, should investigate options for appropriate protections from remote disconnection for non-payment in NECF jurisdictions, having regard to the disconnection safeguards in place under the Payment Difficulty Framework in Victoria.
- Remote disconnection for non-payment by retailers must be prohibited in all jurisdictions until the engagement, consultation and regulatory amendments associated with Action 9 of the AER's *'Towards Energy Equity Strategy'* are completed, which may be in late 2024.
- SACOSS supports Recommendation 14 of the *Retail Electricity Pricing Inquiry Report*⁵ that 'Governments should appropriately fund communication campaigns around the benefits of cost-reflective pricing and smart meters to build community acceptance and awareness of individual and community wide benefits, as well as customer awareness of their rights'.
- In addition to a broad government-funded education campaign and retailer notification requirements on tariff changes, networks could play a role in providing SMS notifications of likely changes to retail tariffs prior to installation of a smart meter in South Australia.

⁵ ACCC, [Retail Electricity Pricing Inquiry Report](#), June 2018, p.xix

- The advanced notification exemption contained in Rule 46(4C) of the NERR needs to be urgently reviewed and amended in light of the South Australian experience and the current policy of the AER to promote default ToU network tariffs.
- SACOSS does not support a continuation of the current approach by the AER to promote default network tariffs for smart meter customers, in circumstances where the customer impacts of mandatorily assigned ToU retail tariffs have not been adequately assessed.
- Retail ToU tariff assignment should not be mandatory for smart meter customers, and the AMEC and ACCC must ensure customer retail tariff choice is retained. The South Australian Government should repeal Regulation 6A of the *National Energy Retail Law (Local Provisions) Regulations 2013*.
- Additional targeted assistance must be provided to customers experiencing vulnerability, including through bill protection,⁶ rate plan pricing, and energy efficiency measures to increase the comfort of buildings without needing high energy input.
- SACOSS supports strengthened customer impact principles and a transition period following the installation of a smart meter, during which time a Pricing Pilot Program⁷ is established together with a compulsory 'data sampling period' (in line with Recommendation 14 of the ACCC's *Retail Electricity Pricing Inquiry Report*), including monitoring and evaluation.

QUESTION 5: STAKEHOLDERS' PREFERRED MECHANISM TO ACCELERATE SMART METER DEPLOYMENT

1. What is the preferred mechanism to accelerate smart meter deployment?
2. What are stakeholders' views on the feasibility of each of the options as a mechanism to accelerate deployment and reach the acceleration target?
3. Are there other high-level approaches to accelerating the deployment that should be considered?

This Review is guided by both the National Electricity Objective (NEO) and the National Energy Retail Objective (NERO), as well as a specific objective developed for the Review in conjunction with the Consumer Sub-Reference Group (the Review's Objective):

⁶ See [Californian example](#).

⁷ See [California State-wide Opt-in Time-of-use Pricing Pilot](#)

To enable the roll out of appropriately capable smart metering to consumers in a timely, cost effective, safe and equitable way, and to ensure metering contributes to an efficient energy system capable of maximising the benefits for all consumers.

SACOSS does not consider ‘a timely, cost effective, safe and equitable roll out of smart meters where all consumers are able to access the benefits smart meters can enable’ will be achieved within the current industry structure.

SACOSS and other consumer organisations have urged the AEMC to consider reverting responsibility for metering back to Distribution Network Service Providers (DNSPs).⁸ This approach would recognise the essential nature of smart meter infrastructure, provide greater transparency around the economic costs and benefits of smart meters, greater regulatory oversight of prudent and efficient metering expenditure, more seamless and relevant access to data, and a better coordinated geographical rollout – all of which are in the long-term interests of consumers.

This is particularly relevant in South Australia where we have one DNSP, SA Power Networks. Transferring responsibility for metering back to SA Power Networks would be more cost effective for consumers, would support flow on system benefits through access to data, and would reduce the need for additional network infrastructure (like voltage monitoring) that would duplicate the information accessed from appropriately specified smart meters. In addition, distributors have no incentive to restrict access to customer data (unlike retailers).

The AEMC has determined not to consider or fully evaluate this alternative industry structure as a mechanism for accelerating the smart meter rollout in its Daft Report, stating it:⁹

‘...considers the current industry structure remains the appropriate arrangement to achieve accelerated deployment of smart meters. Retailers and metering parties will remain responsible for the provision of metering services for small customers.’

The reasons provided by the AEMC in its decision not to assess or undertake a more detailed cost / benefit analysis of a Distributer led smart-meter roll out included:¹⁰

- reassigning responsibilities for metering would require significant changes to the regulatory framework
- the unwinding of contractual relationships between retailers and metering parties would be required

⁸ [Joint submission from ACOSS, ACTCOSS, NCOSS, NTCOSS, QCOSS, Renew, SACOSS, TASCOS Total Environment Centre and Uniting to the Review of the Regulatory Framework for Metering Services – Directions Paper](#), 8 November 2021 [Public Interest Advocacy Centre, Submission to AEMC Directions Paper Review of regulatory framework for metering services](#), 11 November 2021

⁹ AEMC, [REVIEW OF THE REGULATORY FRAMEWORK FOR METERING SERVICES](#), Draft report, 3 November 2022, p. V

¹⁰ AEMC, [REVIEW OF THE REGULATORY FRAMEWORK FOR METERING SERVICES](#), Draft report, 3 November 2022, p. V

- there would be complications in transferring responsibilities for sites that have smart meters already installed
- such changes are likely to take significant time to implement and delay the ultimate goal of accelerating the deployment of smart meters and attaining the expected long-term benefits
- the current industry structure is more likely to deliver the benefits envisaged under the *Competition in metering* rule change, and innovation in technology and services to customers.

SACOSS considers the AEMC has not provided adequate reasons for failing to fully examine or model the suggested changes in industry structure as an alternative mechanism for an accelerated smart meter rollout. We are not convinced the current industry structure is in the long-term interests of consumers, and consider the review of the regulatory framework for metering services should properly include a detailed examination of this option. Consumer and industry feedback has clearly pointed to the failure of the current arrangements to deliver any of the benefits envisaged under the *Competition in metering* rule change.

The South Australian Department for Energy and Mining’s (DEM) smart meter consultation and online forum in February 2022, heard clear evidence from stakeholders around the complexity and barriers associated with installing smart meters in South Australia. At 105 pages in length, *SA Power Networks’ Retailer and Meter Service Provider Handbook*¹¹ (July 2021) further illustrates the complexity of the current arrangements. Complexity delays implementation and adds costs, which flow on to consumers.

With appropriate energy user protections and data access provisions in place, returning responsibility for metering back to DNSPs would reduce complexity and inefficiency, and would generate consumer and social benefit.

At the very least, we are **urging the AEMC to consider assessing the long-term costs and benefits to consumers of regulatory changes that would vest the responsibility for appointing the Metering Coordinator with the DNSP, not the retailer, with the DNSP paying for the entire metering service.** This structural change has both industry and consumer support, could potentially resolve many of the issues identified in the Draft Report, and should be properly examined by the AEMC in the exercise of its decision-making powers, against the criteria for this Review in order to achieve the relevant energy objectives.

QUESTION 7: REMOVAL OF THE OPTION TO DISABLE REMOTE ACCESS

1. Do stakeholders consider it appropriate to remove the option to disable remote meter access under acceleration?

¹¹ SA Power Networks, [Retailer and Meter Service Provider Handbook](#), 1 July 2021

SACOSS understands Question 7 is focussed on understanding whether customers should be able to retain the choice to disable remote access, however, the issue of remote access also has important implications for consumer protections around remote disconnection for non-payment, and we have taken the opportunity to explore those concerns under this consultation question.

In direct response to Question 7, on balance, SACOSS considers the existing provisions should be retained as the customer's ability to 'opt out' of remote access has assisted with alleviating some of the resistance to smart metering. A compulsory rollout requiring remote capabilities may feed into existing concerns about smart metering within the community, potentially risking delays to the rollout. We understand the benefits of universal functionality, but we consider the number of people choosing to opt out of remote access is unlikely to be material.

The Draft Report indicates the option to disable remote access, if retained, could lead to 'inefficiencies and high metering costs',¹² with the Oakley Greenwood Report identifying remote access as significant driver of positive net benefits for all states. However, the Draft Report also notes the net benefit of an accelerated rollout remains positive in Queensland, even with the removal of the benefits of remote disconnection and reconnection. Additionally, avoided annual meter reading costs in South Australia were analysed to be \$35.6m, compared to \$136m in NSW / ACT, meaning South Australia does not achieve the same level of benefits from an accelerated rollout, as the other jurisdictions.¹³ On balance, SACOSS considers the risks around removing the option to disable remote meter access are greater than the benefits of requiring remote access in South Australia, and this option should be retained.

SACOSS is more concerned about remote access specifically as it relates to remote disconnection for non-payment. In the absence of additional consumer protections from disconnection under the NECF, we consider remote disconnection for non-payment should be prohibited. Consideration also needs to be given to the adequacy of the procedures currently in place to ensure life support customers retain existing levels of protection from disconnection, and do not face additional risks from remote access.

As explored in more detail below, SACOSS submits the AEMC, together with the AER, should investigate options for appropriate protections from remote disconnection for non-payment in NECF jurisdictions.

Remote disconnection for non-payment

SACOSS has significant concerns about the impact of remote disconnection for non-payment on residential customers experiencing extreme cost of living pressures, increasing energy costs and increasing energy debt levels. We are strongly of the view that remote disconnection for non-payment will further exacerbate existing vulnerabilities and consider the current protections from disconnection under the NECF do not adequately cover circumstances surrounding remote disconnection.

¹² AEMC, [Draft Report](#), November 2022, p. 60

¹³ AEMC, [Draft Report](#), Summary of the Oakley Greenwood cost-benefit analysis results, p.128

SACOSS acknowledges the benefits of remote disconnection and reconnection in certain circumstances, but we are firmly of the view that remote disconnection for non-payment is not in the best interests of customers in vulnerable circumstances. In Victoria, where there has been a state-wide roll out of smart meters, there appears to be a strong link between smart meters and increases in disconnection completion rates, as well as increases in households experiencing multiple disconnections.¹⁴ SACOSS understands the stronger disconnection safeguards implemented in Victoria as part of its Payment Difficulty Framework (where the onus of proof is on retailers to show they have complied with the payment difficulty processes), were in response to increases in disconnections.

SACOSS supports retaining the distributor in the disconnection for non-payment process. The removal of the distributor from the disconnection process will also remove the 'last chance safety-net' of face-to-face contact, and offers of assistance. A trial of SA Power Networks' pre-disconnection visit service resulted in more than 50% of disconnections for non-payment service orders being cancelled.¹⁵ SA Power Networks' program has been picked up by Essential Energy in NSW, with even greater success (an 80% disconnection cancellation order in their pilot 'knock before you disconnect' program¹⁶).

The Energy Charter¹⁷ is currently working on developing a voluntary Industry Code to implement a 'knock to stay connected' process across willing retailers and networks. SACOSS is seeking SA Power Networks' site visits become part of the disconnection process, for all meter types, including smart meters, and in the interests of clarity and certainty we are calling for amendments to the NECF to improve disconnection processes to include 'knock before you disconnect' protections. This would align with Action 9 of the AER's Towards Energy Equity Strategy,¹⁸ which commits to scoping a project in 2023 to 'encourage improved engagement to promote disconnection truly as a last resort'. **Remote disconnection for non-payment by retailers must be prohibited in all jurisdictions until the engagement, consultation and regulatory amendments associated with Action 9 are completed, which may be in late 2024.**

¹⁴ St Vincent de Paul Society & Alvis Consulting, *Households in the Dark II: Mapping electricity disconnections in South Australia, Victoria, New South Wales and South East Queensland*, by Sophie Labaste, August 2019. <https://alvisconsulting.com/wp-content/uploads/2019/10/Households-in-the-Dark-II-Report.pdf>

¹⁵ 875 sites were "pre-visited" and 492 disconnection for non-payment service orders were cancelled prior to schedule date (56.23% successful pre-visit).

¹⁶ Essential Energy's personal contact approach to reducing disconnections was commended by the Energy Charter's Independent Accountability Panel in [its Assessment of achievement of better outcomes for Australian energy consumers in 2019-20](#), December 2020

¹⁷ The Energy Charter, [Customer Code knock to stay connected](#), Sept 2022

¹⁸ Australian Energy Regulator, [Towards Energy Equity Strategy](#), October 2022, p.29

QUESTION 10: STRENGTHENING INFORMATION PROVISION TO CUSTOMERS

1. Do you have any feedback on the minimum content requirements of the information notices that are to be provided by retailers prior to customers prior to a meter deployment?
2. Are there any unintended consequences which may arise from such an approach?
3. Which party is best positioned to develop and maintain the smart energy website?

Information and education

Education is essential for the realisation of smart meter benefits to consumers and the system more broadly. None of the benefits will be achieved, nor the risks avoided, without a comprehensive education campaign. Information should be accessible, clear, simple and consistent and should cover costs, tariffs, functions, services, consumer protections and the contribution of smart meter technology to the management of the changing energy system.

Importantly, in light of current retailer practices, it is essential South Australian consumers receive accessible information about the impact of smart meter installation on their retail tariffs and related energy usage patterns. Unless changes are made to the current frameworks to ensure consumer retail tariff choice is protected and retained, smart meter customers who are unaware or unable to change their energy usage patterns could face significant bill increases through an inability to opt out of mandatory ToU retail tariffs.

In terms of responsibility for funding, SACOSS fully supports Recommendation 14 of the Retail Electricity Pricing Inquiry Report¹⁹ (REPI Report) that:

Governments should appropriately fund communication campaigns around the benefits of cost-reflective pricing and smart meters to build community acceptance and awareness of individual and community wide benefits, as well as customer awareness of their rights.

SACOSS considers State and Federal governments should fund information and awareness campaigns around the impact of time of use tariffs and the benefits of smart meters more generally, and this should be actioned immediately given the proposed time-line of the rollout. In the absence of jurisdictional differences, the AER should be adequately resourced to develop and maintain an independent website with appropriate tools to assist customers to understand individual and system-wide impacts. However, it is essential that customers not be disadvantaged if they cannot / chose not to engage or change their behaviour.

In addition to a broad government-funded education campaign and retailer notification requirements on tariff changes, networks could play a role in providing SMS notifications of likely changes to retail tariffs upon installation of a smart meter in South Australia. This could be done on a household basis in line with a geographical rollout led by the DNSP. The SMS could provide a link to an AER / government website providing additional detailed information and tools.

¹⁹ ACCC, [Retail Electricity Pricing Inquiry Report](#), June 2018, p.xix

Education around retail tariff changes is discussed in more detail in our response to Question 12, below, and we also refer the AEMC to international examples of information and education on smart meters and the transition to time of use, for its consideration.²⁰

QUESTION 12: TARIFF ASSIGNMENT POLICY UNDER AN ACCELERATED SMART METER DEPLOYMENT

1. Which of the following options best promotes the NEO:
 - a. Option 1: Strengthen the customer impact principles to explicitly identify this risk to customers.
 - b. Option 2: Prescribe a transitional arrangement so customers have more time before they are assigned to a cost-reflective network tariff.
 - c. No change: Maintain the current framework and allow the AER to apply its discretion based on the circumstances at the time.
2. Under options 1 or 2, should the tariff assignment policy apply to:
 - a. all meter exchanges – for example, should the policy distinguish between customers with and without CER?
 - b. the network and/or the retail tariffs?
3. What other complementary measures (in addition to those discussed above) could be applied to strengthen the current framework?

The Oakley Greenwood Report identifies tariff reform to be an important contributor to the overall benefits case, with the main tariff-related benefits modelled from ‘solar sponge tariffs for customers **without solar / battery**’, which Oakley Greenwood believe ‘is a reform that is likely to be relatively appealing to end customers, networks and retailers’.

SACOSS suggests the positive appeal of a retail ‘solar sponge’ tariff to end customers is a significant assumption, and none of the risks associated with tariff reform have been acknowledged, identified, assessed, monitored or properly costed as part of Oakley Greenwood’s analysis. This would require visibility and analysis of the solar sponge **retail tariffs** being charged to customers, the length of the ‘peak’ periods, visibility of customer’s energy consumption patterns, visibility and understanding of a customer’s family structure / caring responsibilities / health requirements / ability to change usage patterns / access smart appliances / energy efficient housing. In SACOSS’ view, it is not possible to determine whether households are in fact likely to experience increased energy bills / increased stress levels / worse health outcomes / energy rationing behaviour, from a theoretical analysis of customer benefit based on a network tariff structure. The network tariff structure is not necessarily reflected by the retailer in retail tariffs, and consumer behaviour will depend on the circumstances of the household. Some households may not respond, or may not be able to respond, to a price signal to shift energy use.

²⁰ See for example: Pacific Gas and Electric Company (PG&E), [Transition to time-of-use tools](#) website

In fact, research on household responses to ToU tariffs by the Victorian Energy Policy Centre²¹ found that:

- *The ratio of peak to off-peak prices in TOU tariffs has little influence on the ratio of peak to off-peak electricity consumption.*
- *Whether a household installs rooftop photovoltaics does not affect responsiveness to peak and off-peak prices.*
- *Households in the lowest socio-economic areas do not respond to time-varying prices.*
- *Despite significant advancements since TOU tariffs were studied in the 1980's, the elasticity of substitution is little changed.*
- *This evidence does not support the imposition of TOU tariffs as default pricing policy.*

These findings align with international research. A recent study²² on ToU tariffs and child caregivers (parents or carers) in China and the United State found that the:

...timing and sequencing of peak activities for caregivers in both countries were largely structured by institutional and family rhythms, though with considerable differences in extent and timing of influences due to diverging childcare cultures. The necessity to follow these rhythms leaves caregivers little room to adjust their peak activities to ToU tariffs, turning this well-intended measure into an inequitable financial burden on the group.

Further, research by Dr. Lee White (now at Australian National University) and Nicole Sintov found:²³

The elderly and those with disabilities face greater increases in electricity bills and worse health outcomes under some time-of-use electricity rates. This suggests that vulnerable groups should be considered separately in time-of-use rate design, and future rate designs should be tested to ensure that they do not increase hardship.

To address the equity concerns surrounding ToU rates, researchers have recommended that:²⁴

- *Policies are needed to ensure that demand-side response does not increase hardships for vulnerable groups.*
- *Different vulnerable groups will have different capacities to respond to rates using price signals, so demand-side measures should be carefully targeted rather than 'one size fits all'.*

²¹ Kelly Burns and Bruce Mountain, Victorian Energy Policy Centre, [‘Do Households respond to Time-of-Use tariffs? Evidence from Australia’](#), VEPC Working Paper WP2001, June 2020

²² Pui Ting Wong, Henrike Rau, *‘Time of Use Tariffs, childcare and everyday temporalities in the US and China: Evidence from time-use and sequence network analysis’* Elsevier, Energy Policy 172 (2023) 113295

²³ L. V. White. & N. D. *‘Health and Financial impacts of demand side response measures differ across sociodemographic groups’*, Sintov *Nature Energy* <https://doi.org/10.1038/s41560-019-0507-y> (2019).

²⁴ White, L.V., Sintov, N.D. Policy Brief, 16 December 2019, Varied health and financial impacts of time of-use energy rates across sociodemographic groups raise equity concerns <https://www.nature.com/articles/s41560-019-0515-y>

- *Potential time-of-use rates should be tested using scientifically rigorous methods before widespread implementation, with separate evaluation of impacts on different groups.*
- *People who are elderly, have disabilities and/or are members of minority groups will likely require particular attention in future pilots and policies.*

The ACCC has also acknowledged the risks to customers of mandatory ToU tariffs, as evidenced by Recommendation 14 of the *Retail Electricity Pricing Inquiry Report* which states (SACOSS' emphasis):²⁵

Retailers should not be obligated to reflect the cost-reflective network tariff structure in their customers' retail tariffs, but should be free to innovate in the packaging of the network tariff as part of their retail offer.

Given the potential for negative bill shock outcomes from any transition to cost-reflective network tariffs should retailers pass these network tariffs through to customers, governments should legislate to ensure transitional assistance is provided for residential and small business customers. This assistance should focus on maximising the benefits, and reducing the transitional risks, of the move to cost-reflective pricing structures. This includes:

- ***a compulsory 'data sampling period' for consumers following installation of a smart meter***
- ***a requirement for retailers to provide a retail offer using a flat rate structure***
- ***additional targeted assistance for vulnerable consumers.***

The South Australian experience of retailers mandatorily assigning retail ToU tariffs to smart meter customers, with no ability to opt out, provides an important case study to inform responses to Question 12, and SACOSS considers it is worthwhile providing a summary of the South Australian ToU context.

The South Australian Time-of-Use tariff context

A 'solar sponge' or ToU tariff was approved by the AER as the default network tariff for smart meter customer in South Australia as part of SA Power Networks 2020-25 Regulatory Determination. Due to COVID-19, tariff assignment was delayed to 1 July 2021.²⁶

On 28 September 2020, the South Australian Government introduced a regulatory requirement,²⁷ that **the retail tariff structure** of the standing offer for smart meter customers must reflect the ToU network tariffs approved by the AER in SA Power Networks' Tariff Structure Statement (TSS). Retailers in SA are required to have a standing offer for smart meter customers that includes:

²⁵ ACCC, [Retail Electricity Pricing Inquiry Report](#), June 2018, p. xix

²⁶ SA Power Networks, [2020-25 Tariff Structure Statement Part A](#) (AER edited), June 2020, p. 10

²⁷ See: Section 22(1a) of the [National Energy Retail Law 2011](#) (NERL) and Regulation 6A [National Energy Retail Law \(Local Provisions\) Regulations](#)

- SAPN's TOU tariff structure OR
- SAPN's Demand tariff structure for residential prosumer OR
- A tariff structure determined by the retailer (which could be flat tariff), IF the retailer has a generally available TOU market offer that is approved by the Minister.

SACOSS has not been advised of any 'generally available market offers' that have been approved by the Minister.

Whilst this jurisdictional requirement only applies to standing offer customers, retailers in South Australia are mandatorily transferring all smart meter customers to ToU retail tariffs. This is evidenced by recent AER data for Quarter 1 2022/23²⁸ which shows:

- **75.1%** of South Australian smart meter customers are now on a ToU or flexible retail tariff with an underlying distributor based ToU or flexible network tariff, **up from 33.9%** in Quarter 1 2021/22, and **3.6% in Quarter 1 2020/21**²⁹
- **Alinta Energy: 81.5%** of Alinta Energy's smart meter customers are on a ToU retail tariff with an underlying ToU network tariff, up from 13.4% 12 months ago, and 5.6% in 2020/21
- **AGL: 82.5%** of AGL smart meter customers are on a ToU retail tariff with an underlying ToU network tariff, up from 34.2% 12 months ago, and 4.0% in Q1 2020/21
- **Origin: 88%** of Origin Energy smart meter customers are on a ToU retail tariff with an underlying ToU network tariff, up from 32.2% 12 months ago, and 2.9% in Quarter 1 2020/21.

There are substantial issues with this wholesale transfer of smart meter customers to ToU tariffs that could, and are likely to, lead to significant consumer detriment. We have explored some of those issues in more detail, below.

South Australian smart meter customers are not provided with advanced notification of the change to a ToU tariff. This is due to Rule 46(4C) of the *National Energy Retail Rules* which provides for an exemption to the requirement that the retailer must give at least five days' notice of a variation in tariffs and charges, before applying those charges to the customer.³⁰ Under Rule 46 (4C), retailers must only provide notice 'as soon as practicable', and in any event 'no later than the customers' next bill', in circumstances where the variation to the tariff is a direct result of a tariff reassignment by a distributor. We know from Amber's experience (outlined in the attached case study), that she received her notification 3.5 months after her tariff structure had been changed, during which time she had been charged peak rates for 14 hours of the day with no knowledge.

²⁸ AER, Schedule 2 – [Quarter 1 2022-23 retail performance data](#)

²⁹ The number of customers in SA on a time of use or flexible retail tariff with no underlying distributor-based time of use or flexible network tariff is low at 1.3%

³⁰ Rule 46(3) and Rule 46 (4) of the National Energy Retail Rules

The advanced notification exemption contained in Rule 46(4C) of the NERR needs to be urgently reviewed and amended in light of the South Australian experience and the current policy of the AER to promote default ToU network tariffs.

Customers are not being provided with information about the peak, solar sponge and shoulder times, which makes it impossible to understand the need to change usage patterns. SA Power Networks’ default ToU tariff for residential customers is structured in the following way:

Residential Time of Use (ToU)	Default	Fixed	\$/customer/day	Fixed supply charge per annum
	Interval meter, either: remotely read (Type 4); or - manually read (Type 5)	Usage – Peak	\$/kWh	Peak Pricing for the 14 hours per day not captured in the off-peak/solar sponge windows at 125% of the single rate price
		Usage – Off-peak	\$/kWh	Five-hour off-peak block every day: 1:00am to 6:00am (local time) at 50% of the single rate price
		Usage – Solar Sponge	\$/kWh	Five-hour off-peak block every day: 10:00am to 3:00pm (local time) at 25% of the single rate price
		Controlled load	\$/kWh	Usage-based companion tariff (see below)

In effect, the underlying ToU network tariff through which network costs are recovered from retailers provides for:

- peak pricing (125% of single rate price) between **3.00pm to 1.00am** and **6.00am to 10.00am**, or for 14 hours of the day during times when most household energy is consumed.
- the solar sponge period, described as the ‘shoulder period’ (25% of the single rate) which applies from between **10.00am and 3.00pm**, or for five hours during the middle of the day.
- the off-peak period (50% of the single rate price) which applies between **1.00am and 6.00am**.

SACOSS has viewed a copy of a retailer’s change of tariff notification that was received by the customer more than 100 days after the charges had been assigned. The notification contained the following information:

New Rates from 01/10/2021			
Description	Units	Rate	Discounted Benefit Rate
Peak Usage	c/kwh	59.246	42.657
Shoulder Usage	c/kwh	27.181	19.570
Off Peak Usage	c/kwh	33.044	23.792
Solar Export	c/kwh	0.000	0.000
Supply Charge	c/day	72.600	72.600
Retailer Payment	c/day	-8.800	-8.800

Peak Usage: SAPN_PEAK

Shoulder Usage: SAPN_SPONGE

Off Peak Usage: SAPN_OFFPEAK

Solar Export: GEN24/7

There is no information about the times of the day when each tariff rate applies, and there is no explanatory information in the body of the notification of the need to change usage patterns, or the risks of increased energy costs if usage patterns don't change. The charges do not align with the underlying network structure, with an extremely high peak usage rate of 59 cents (before discounts), and the 'solar sponge' tariff at around 50% of that amount at 27 cents.

SACOSS understands South Australian smart meter customers do not have the option to opt out of these ToU retail tariffs, even if they are unable to shift their usage patterns to between 10am and 3pm in order to take advantage of the lower 'solar sponge' tariffs. 14 hours a day on peak is impossible to avoid.³¹ A 14-hour peak period is regressive and punitive for many customers experiencing vulnerability.

Tariff assignment policy under an accelerated smart meter rollout

SACOSS does not support a continuation of the current approach by the AER to promote default network tariffs for smart meter customers, in circumstances where the customer impacts of mandatorily assigned ToU **retail tariffs** have not been adequately assessed. As evidenced above, any network modelling of consumer benefit that is based solely on the network tariff structure, is effectively meaningless in the absence of any visibility of actual retail ToU prices faced by customers.

SACOSS is seeking the AEMC and the AER have regard to California's state-wide, residential opt-in time of use pricing pilot which was conducted to guide policy around default ToU pricing.³² To our knowledge a pricing pilot was not directed by the AER or undertaken in South Australia prior to the decision to assign default ToU network tariffs to South Australian smart meter customers.

³¹ Californian's ToU tariff peak period is for five hours between 4pm and 9pm.

³² Nexant, [California Statewide opt-in Time-of-use Pricing Pilot, Final Report](#), 30 March 2018

Also, it is worth noting the transition to ToU pricing for PG&E customers in California (with peak pricing from 4pm-9pm every day) was accompanied by rate plan comparison pages and bill protection for the first 12 months.³³ Neither a rate plan comparison,³⁴ nor bill protection³⁵ have been offered, or provided to South Australian smart meter customers, and SACOSS considers a rate plan comparison is absolutely essential for customers to understand if a ToU would increase or decrease their costs, and bill protection measures should be introduced.

SACOSS supports strengthened customer impact principles and a transition period following the installation of the smart meter during which time a Pricing Pilot Program³⁶ is established together with a compulsory 'data sampling period' (in line with Recommendation 14 of the REPI Report), including monitoring and evaluation.

In addition, when considering tariff assignment policy under an accelerated smart meter rollout, SACOSS strongly submits:

- The AEMC, the AER and the ACCC draw on the South Australian experience and immediately undertake a detailed assessment of the customer impacts of ToU tariffs for smart meter customers in South Australia, including distributional load / usage impacts for separate rate types and bill impacts through access to retail data.
- It is critical people retain a choice of rate. Mandatory ToU rates have a high risk of disadvantaging customers experiencing vulnerabilities. If the element of choice is taken away, ToU tariffs become a potentially regressive instrument, particularly with 14-hour peak periods. The AMEC and ACCC must ensure customer choice is retained, retail tariff assignment should not be mandatory for smart meter customers. The South Australian Government should repeal Regulation 6A of the *National Energy Retail Law (Local Provisions) Regulations 2013*.
- Additional targeted assistance must be provided to customers experiencing vulnerability, including through bill protection,³⁷ rate plan pricing, and energy efficiency measures to increase the comfort of buildings without needing high energy input. People who have less flexibility are the ones who lose out on ToU rates. Research shows the elderly, carers and those with disabilities faced the worst financial impacts, and there needs to be extensive support to mitigate those impacts.

³³ PG&E, Transition to time-of-use [website](#)

³⁴ PG&E [Residential Rate Plan Pricing](#), including a personalised rate comparison.

³⁵ PG&E [Bill Protection website](#) with sample energy statement during bill protection period

³⁶ See [California State-wide Opt-in Time-of-use Pricing Pilot](#)

³⁷ See [Californian example](#).

- Appropriate notice requirements under the NERR (amending Rule 46(4C), together with education and information campaigns need to be immediately established **prior** to the acceleration of the rollout and the application of default ToU tariffs for smart meter customers. If people aren't aware that they're on ToU, they're not going to respond to it.

If you have any questions in relation to this submission, please contact Georgina Morris by email georgina@sacoss.org.au or phone 8305 4214.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'R Toher'.

Dr Rebecca Toher
Director of Policy and Advocacy
South Australian Council of Social Service

Appendix A: Case Study – SA Smart meter and default ToU customer

Amber* lives by herself in her own home, in an area of regional South Australia that experiences climate extremes. Amber lives with a disability that requires constant temperature regulation, meaning heating and cooling her house is essential to Amber's health. Amber is on a low fixed income, and is eligible for concessions. Amber doesn't have solar and struggles to afford efficient appliances, but recently made a significant investment to replace her old leaky fridge with a new, more efficient appliance. This purchase meant Amber had to postpone urgent renovations to her bathroom. Amber is highly educated, articulate and interested in understanding and monitoring her energy usage. Amber is an engaged energy consumer who understands energy systems.

In December 2020 Amber's 'time switch' for her off-peak controlled load (OPCL) failed and her old meter was replaced with a smart meter. Although unaware at the time, Amber's second and third quarterly bills in 2021 (after the smart meter installation), contained billing errors – her OPCL wasn't applied and all usage was billed at 'peak' single rate. On 1 October 2021, unbeknownst to Amber, her tariff type was changed to 'Time of Use' (ToU). In late December 2021, Amber realised her quarterly energy bill (due in late November, early December) hadn't been issued. Amber contacted her energy retailer and was issued with a bill. Amber noticed different tariff charges, including a considerable amount of 'peak' tariff charged on her E2 OPCL register. Amber called her energy retailer to discuss the billing anomalies, but only received one call attempt in response.

On 28 January 2022, Amber received a letter from her energy retailer notifying her that she had been changed to a ToU tariff. The notice was dated 18 January 2022, more than three and a half months after her energy retailer changed her to a ToU tariff on 1 October 2021.

The notice contained very general, vague information on the reason for the tariff change which covered a range of possibilities. Amber noticed the peak tariff was extremely expensive, at 59cents pkWh (before discounts), and her OPCL tariff had been removed. The notice didn't contain any information about what a ToU tariff involves, or at what time of the day the tariff time periods were applied. Amber tried to find further information online, but found this to be extremely difficult, and unclear.

Amber also realised the notice from her retailer contained confusing information, stating her plan would be 2% less than the reference price, both before and after the 28% pay on time discount was applied. Amber's energy retailer issued a later letter acknowledging the error and indicating Amber's energy bill would be 32% above the reference price if she failed to pay on time.

Amber contacted her Energy Ombudsman where she was told that retailers were having to change their retail offers to ToU tariffs for all smart meter customers in South Australia because SA Power Networks had changed the default tariff for smart meters. Amber confirmed she still has an OPCL register at her residence. Amber made numerous attempts over the next few weeks to contact her energy retailer and sort out the missing OPCL tariff. Lengthy conversations with customer service officers were unable to resolve or clarify the issue of the OPCL. Amber was told by her energy retailer that she may have something else

on that circuit, that she may have changed her usage type, that OPCL is the same as 'off peak'. The issue remained unresolved.

Amber investigated further and realised she could view her power usage data via SA Power Networks' online portal. She noticed a time difference between her meter and the local time. Amber realized that her meter data wasn't aligning with the 'E2' OPCL register (when her hot water system cycles on). Amber physically checked her meter and confirmed it was 30 minutes out and set to AEST. Amber's hot water system was set to heat at 00.57am, but was actually heating from 00.27am – half an hour before the ToU off peak kicked in at 1.00am.

Amber contacted the Ombudsman again, as she hadn't heard from her energy retailer. A meter investigation was ordered by her retailer which occurred in mid-march 2022. The meter investigator confirmed the meter was set to AEST, and that the meter board was correct and functional.

Amber's retailer eventually reissued old bills with OPCL re-installed. She received \$200 in compensation for the 'hassle'. Amber didn't receive any explanation about the delay in notification of the change to a ToU tariff, or the lack of contract clarification.

Amber has found the whole smart meter and ToU tariff experience to be extremely challenging and at times exhausting.

Amber still doesn't understand why, when she did receive notification of tariff change, there was **no** information on the timing of ToU periods, or what time zone/offset she was being charged at. She believes there needs to be a mandatory notice period **before** a customer is reassigned, and retailers should be required to provide education before being allowed to change a customer over to ToU tariff.

Once she was notified in general terms of the change to a ToU tariff, Amber educated herself on ToU tariffs. No information was provided, and information on the internet was difficult to locate, it took Amber about 6 months to understand ToU tariffs, and to become comfortable making informed choices.

Amber is worried about the current smart metering system, particularly about the end customer having no say on who handles their data, and how their data is treated. Customers have no influence on pricing costs that will be passed onto them, or choice around quality of service. Amber says she is stuck with a metering coordinator that appears to be under performing.

As a low-income homeowner, Amber says all she needed was the carrot incentive of a cheaper solar sponge tariff to move all the load she could to daytime - with the bonus 'feel good' customer experience of 'helping the grid out'. Instead, the higher peak 14-hour ToU tariff has introduced another unhelpful stressor in her life, leaving her with the choice of whether to cool/heat at a ridiculously high tariff rate, or sacrifice her health and ability to care for herself, and face a long recovery time.

***Name has been changed**