Impact Analysis Statement

Summary IAS

Details

Lead department	Department of Energy and Climate
Name of the proposal	Regulations to enhance consumer protections in the smart meter rollout
Submission type	Summary IAS
Title of related legislative or regulatory instrument	*National Energy Retail Law (Queensland) Amendment Regulation (No. 2) 2024*
Date of issue	September 2024

What is the nature, size and scope of the problem? What are the objectives of government action?

Under the *Electricity Act 1994* and the *Electricity Regulation 2006*, all new and replacement electricity meters must be smart (digital) meters. The electricity retailer is responsible for managing the installation of smart meters and it is intended that all older style accumulation meters will be replaced with a smart meter by 2030. As at June 2024, more than 680,000 (32.9 per cent of total meters) and 380,000 (37.7 per cent of total meters) smart meters have been installed in South East Queensland (SEQ) and regional Queensland, respectively.

Energex's Tariff Structure Statement (TSS), approved by the Australian Energy Regulator (AER), means that customers are automatically assigned to the default network demand tariff after the installation of a smart meter. Following the network tariff reassignment, some customers are being moved by their retailer to a demand or time of use (TOU) retail tariff without timely notification.

The movement of a customer to a demand or TOU retail tariff, following the installation of a smart meter, is permitted under the National Energy Retail Rules and National Electricity Rules, with customers being advised via their next electricity bill (up to three months later). Switching a customer to a demand or TOU retail tariff is a commercial decision by the retailer.

A TOU retail tariff means that the price of electricity changes at difference times of the day (i.e., in peak times, such as in the weekday evenings, prices are the highest and in off-peak times, such as overnight and on the weekends, the prices are the cheapest). A demand tariff charges customers for the peak amount of electricity used during the peak period. Demand or TOU retail tariffs can be a good option for customers who are home during the day and can shift usage from peak periods. However, not all customers benefit from demand or TOU retail tariffs; some customers (i.e., those who cannot move their electricity consumption to the middle of the day) are likely to be worse off.

Further, customers who are on a demand or TOU retail tariff are not protected by the Default Market Offer (DMO). The DMO came into effect in 2019 and is a maximum price that retailers can charge electricity customers on default contracts, or standing offers. Flat tariff market offers must be compared to the DMO which helps customers understand if their offer is competitive. There is no DMO for demand or TOU tariffs, given bill amounts can vary greatly depending on when customers use electricity. As such, there is no cap for demand or TOU standing offers, and customers could struggle to compare demand or TOU market offers.

The impact of customers being switched to demand or TOU retail tariffs, following the installation of a smart meter, has been raised in other jurisdictions given this issue is occurring across the National Electricity Market.

On 15 August 2024, the Australian Energy Market Commission (AEMC) published a directions paper for public consultation, which attempts to deal with the issue of customers being switched without proper notification. The directions paper outlines the potential for enhanced consumer protections during the rollout of smart meters, including a consent period for retail tariff changes and requirements for designated retailers to offer flat tariff options. The AEMC is currently reviewing submissions and a final determination is anticipated in November 2024. If the proposed rule change is approved, the additional customer protections are anticipated to commence on 1 January 2025.

However, in the interim, customers face the continued risk of being unknowingly switched to a demand or TOU retail tariff, without the ability to switch back to a tariff with a flat rate structure. This has the potential to pose significant costs to customers if they cannot move their electricity consumption to the middle of the day. With current cost of living pressures, immediate action is required to provide the necessary, additional protections for customers. These required protections include:

- requiring designated retailers to offer a standing offer with a flat-rate tariff structure; and
- requiring retailers to advise market offer customers of the availability of a standing offer with a flat tariff structure at the same time they are notified of a tariff change, and (if applicable), time of use tariff options that could provide household savings if energy usage is moved away from peak periods.

What options were considered?

The below analysis considers four options.

- Option 1: Develop Regulation to amend *National Energy Retail Law (Queensland*) *Regulation 2014* (NERLQ Regulation) ***(preferred option)***
- Option 2: Amend the Queensland TSS
- Option 3: Non-regulatory approach
- Option 4: No action

Option 1: Develop Regulation to amend NERLQ Regulation

Under this option an amendment regulation would be prepared to amend the *National Energy Retail Law (Queensland) Regulation 2014* to provide enhanced consumer protections through the rollout of smart meters. The amendment regulation would:

- require a designated retailer to offer a standing offer with a flat-rate tariff structure; and
- require retailers to advise its market offer customers of the availability of a standing offer with a flat tariff structure, at the same time the customer is notified of a tariff change, and (if applicable), time of use tariff options that could provide household savings if energy usage is moved away from peak periods.

This option would ensure that immediate, additional protections are afforded to consumers, following the installation of a smart meter, including providing the ability for consumers to switch back to a tariff with a flat rate structure from a demand or TOU retail tariff.

Option 2: Amend the Queensland Tariff Structure Statement (TSS)

Under the National Electricity Rules, distribution businesses must prepare a TSS for each regulatory period. The TSS sets out network price structures and indicative network tariffs that will apply during that regulatory control period and it cannot be amended during that regulatory control period. The current regulatory control period is 2020 to 2025, and the next period is 2025 to 2030.

The current TSS (i.e., 2020 to 2025) requires Energex to assign a demand network tariff to a household after a smart meter is installed. Once a customer has been assigned a demand network tariff, the customer cannot be reverted to a flat network tariff.

Under this option, the TSS would be amended for the next regulatory control period (i.e., 2025 to 2030) to remove the requirement for Energex to assign a demand network tariff to customers following the installation of a smart meter (or allow customer to revert back to a flat-rate network tariff). This would mean customers continue to be exposed to the risk of being moved, by their retailer, to a demand or TOU retail tariff following the installation of a smart meter (and higher electricity costs) until 1 July 2025.

Option 3: Non-regulatory approach

Under this option, a non-regulatory approach would be pursued to prevent consumers from being switched to a demand or TOU retail tariff following the installation of a smart meter. Two methods were considered:

1. Shareholding Minister (i.e., Queensland Energy Minister and Treasurer) issue a direction to Energy Queensland to not comply with its own TSS, ensuring customers can continue to be assigned a flat network tariff. This would be in breach of the National Electricity Rules.
2. Shareholding Ministers could request retails to continue to offer a flat rate tariff, following the installation of a smart meter. Effectiveness would be at the discretion of retailers, and retailers are not bound to comply with a Ministerial request.

Option 4: No action

Under this option, the status quo is maintained. This would not deliver the required enhanced consumer protections until implemented by the AEMC, and will mean following the installation of a smart meter, retailers could continue to switch customers to a demand or TOU retail tariff without the customer having the ability to switch back to a tariff with a flat rate structure. This could have substantial financial implications for some customers.

What are the impacts?

Option 1 is the preferred option. It is the only option that provides immediate enhanced protections for consumers, removing the risk that retailers move customers to a demand or TOU retail tariff following the installation of a smart meter, without the customer having the ability to switch back to a tariff with a flat rate structure. Without this enhanced protection, customers could potentially face significant increases in their electricity bill, compared to a flat rate tariff, if they are unable to move their consumption to off-peak periods.

Option 1: Develop Regulation to amend NERLQ Regulation (preferred option)

Option 1 has been identified as the only option that immediately provides enhanced consumer protections through the smart meter rollout, removing the risk consumers are switched onto demand or TOU tariffs with no other option available. This will ensure consumers continue to be offered a flat rate tariff, which could provide significant financial benefits for Queenslanders (compared to being switched to a demand or TOU tariff, particularly if the customer is unable to move consumption to off-peak periods, such as the middle of the day). With many Queenslanders already facing cost of living pressures, despite a substantial relief package in the recent State Budget, this additional consumer protection (and cost-of-living protection) is essential.

For retailers, this option is anticipated to have very little administrative burden associated with implementation and there is a small risk of some financial impacts. However, these risks can be outweighed by the anticipated protections and benefits for consumers.

Retailer financial impacts:

Standing offers in south east Queensland (SEQ) are capped at the DMO (based on 4,600 kW/h). That means that households on standing offers have tariff rates capped; the rates cannot go above the DMO. However, the DMO tends to be set above an efficient market offer, so retailers can offer discounted market offers to customers. Only 8 per cent of households are on a standing offer, whereas around 92 per cent are on a market offers.

Flat rate market offers must be compared to the DMO, but these rates can exceed the DMO. This means, in situations where customers are on a network demand tariff but remain on a flat retail tariff, and have high demand during peak periods, retailers can increase the flat rate offer to recover the additional network charges faced.

This small group of customers may choose to stay on a revised market offer (which may be higher or lower than the DMO), revert to the DMO, or switch to a demand or TOU retail tariff; this could be more financially beneficial for the customer, compared to the revised flat market offer.

For those switching to a DMO equivalent standing offer, the DMO includes additional margins for retailers compared to the actual cost of supplying electricity – this could mitigate most or all of the additional costs from some customers with higher peak demand/usage. However, there is still a small risk retailers could be out of pocket, particularly if they have a higher proportion of customers with a smart meter. Mitigation techniques are available to retailers and, therefore, this risk is considered limited.

Retailer administrative considerations:

It is understood that all retailers have at least one flat market offer available. This means retailers already have the billing system required to offer flat rate retail offers, and requiring retailers to offer flat rate retail tariffs as a standing offer does not impose additional administrative burden.

Overall:

Overall, it is expected there will be minimal additional administrative or regulatory burden experienced by retailers under this option; retailers already have flat rate tariff options available and have the systems and processes in place to obtain EIC. Further, this option is expected to result in overall positive outcomes for consumers by increasing customers choice, and minimising adverse financial impact.

Option 2: Amend the Queensland Tariff Structure Statement

Option 2 amends the TSS, preventing Energex from assigning a default demand network tariff to customers (or allowing customers to revert to a flat structure network tariff), following the installation of a smart meter. This would ensure households can remain assigned to a flat network tariff which significantly increases (but not guarantee) the likelihood of retailers continuing to offer a flat retail tariff to customers who have installed a smart meter. However, this option could not be delivered before 1 July 2025, leaving customers being exposed to demand or TOU retail tariffs following the installation of a smart meter and potentially facing higher electricity bills in the interim.

This option would add administrative burden (which could possibly be significant) to network businesses, without the realisation of customer benefits within the required timeframes.

Given this option does not bring forward customer protections, and leaves customers exposed to the risk of potentially higher electricity bills following the installation of a smart meter, it is not preferred. It does not provide the immediate, enhanced protections for consumers (which have the potential to prevent significant financial impacts) as outlined in Option 1.

Option 3: Non-regulatory approach

Ministerial Direction to EQL on Tariff Structure Statement compliance

This option poses substantial reputational risk to the Queensland Government, as it would require the issuing a public direction to Energy Queensland (i.e., a publicly owned energy business) to breach their current TSS and the National Electricity Rules.

This option would also pose administrative and financial risk to Energy Queensland. The AER could take compliance action against Energy Queensland for a breach of their current TSS (i.e., financial risk) and there would be additional administrative risk (potentially significant) in addressing, and seeking to resolve, the compliance action.

Compared to Option 1, this presents potentially significant administrative and financial risks, and does not guarantee a benefit for consumers. As such, this option is not preferred.

Ministerial request to retailers

A Ministerial request for retailers to continue offering customers a flat retail tariff, following installation of a smart meter, is not a legally binding. It will not ensure that consumers are granted the additional consumer protections required through the smart meter rollout. As such, this option was assessed as not feasible as, compared to Option 1, retailers do not have to comply with a Ministerial request.

Option 4: No action

This option would see no change to the status quo. Retailers would be permitted to continue switching customers to demand or TOU tariffs, following the installation of a smart meter, without timely customer notification. While this option poses no additional regulatory burden or financial risk for retailers, it will not deliver the immediate, additional customer protections required and mean customers could continue to be forced onto products they do not want, which may have higher costs. As such, this option is not preferred.

Who was consulted?

The Department of the Premier and Cabinet and Queensland Treasury were consulted on the proposed amendments. Discussions centred on potential impacts on SEQ retailers. On 29 August 2024, electricity retailers in SEQ were notified of the Government's intention to deliver enhanced customer protections.

What is the recommended option and why?

The recommended approach is Option 1 – *Develop Regulation to amend the NERLQ Regulation*. This will ensure immediate, additional protections are provided to customers, following the installation of a smart meter at their premise. It is the only option that will ensure customers have access to these additional protections before January 2025, when the proposed AEMC rule change is proposed to commence.

Further, Option 1 generates the greatest net benefit to the Queensland community; it will protect consumers through the smart meter rollout (including from risk of being moved to demand or TOU retail tariffs and facing significantly higher electricity bills). While some retailers may face some financial risk under this option, it is considered retailers will have mitigation options available, and the benefits to Queensland consumers outweigh this risk.

Impact assessment

All proposals –

	First full year	First 10 years**
Direct costs – *Compliance costs**	Zero costs expected	Zero costs expected
Direct costs – *Government costs*	Zero costs expected	Zero costs expected

* The *direct costs calculator tool* (available at www.treasury.qld.gov.au/betterregulation) should be used to calculate direct costs of regulatory burden. If the proposal has no costs, report as zero. **Agency to note where a longer or different timeframe may be more appropriate.

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Director-General
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Date: 9/9/2024

Mick de Brenni MP
Minister for Energy and Clean Economy Jobs

Date: 16/9/2024