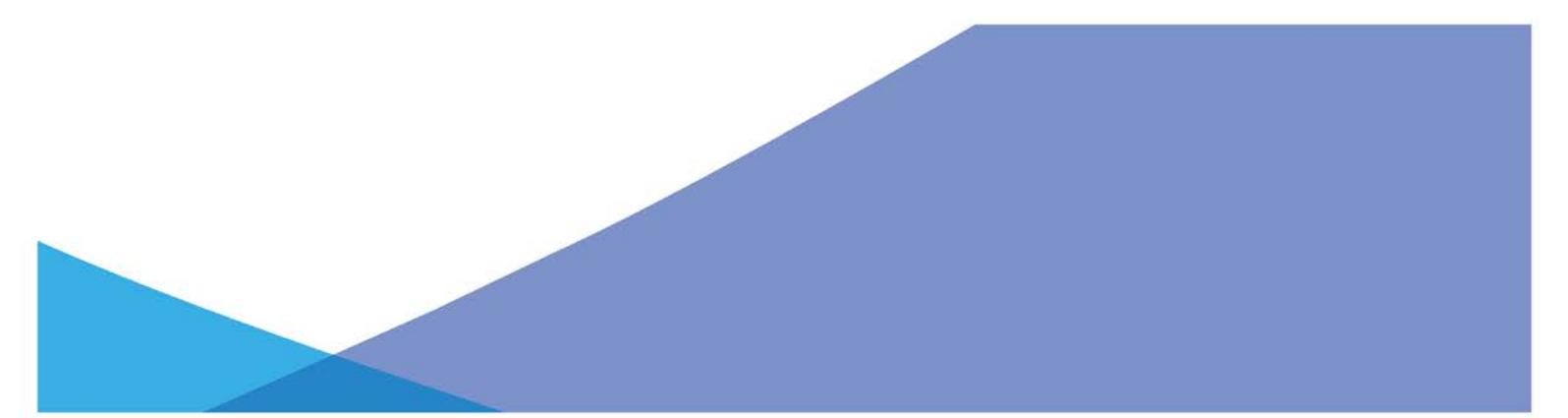


# Consumer Protections for Behind the Meter electricity supply

Consultation on regulatory implications

Energy Market Transformation Team

19 August 2016



Submissions are invited on this consultation paper by 4 October 2016. Electronic submissions are preferred and can be sent to the COAG Energy Council Secretariat at [energycouncil@industry.gov.au](mailto:energycouncil@industry.gov.au).

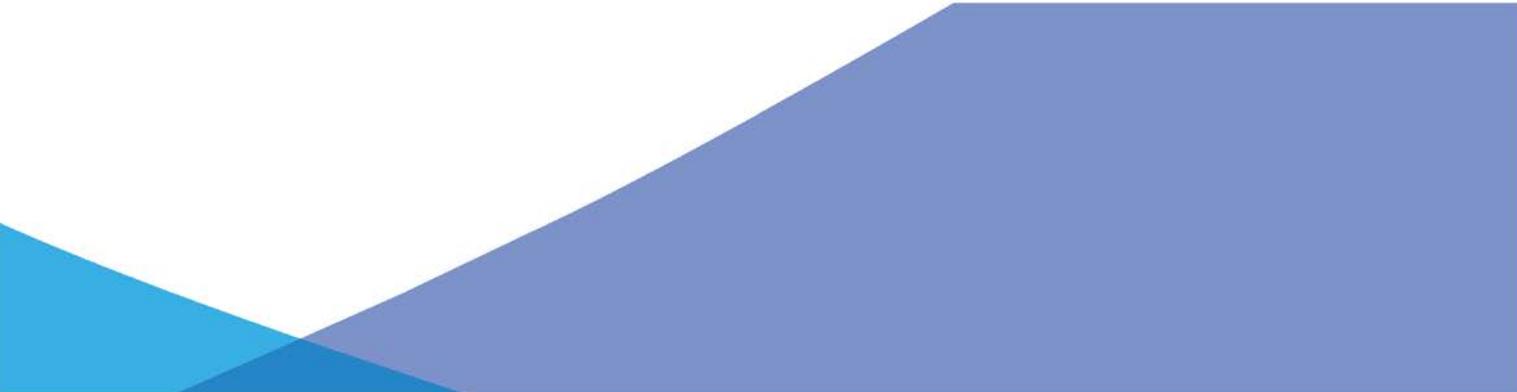
Those who wish to provide hard copies by post may do so by addressing their submissions to:

COAG Energy Council Secretariat  
GPO Box 9839  
Canberra ACT 2601

All submissions will be published on the Energy Council website ([www.coagenergycouncil.gov.au](http://www.coagenergycouncil.gov.au)) unless stakeholders have clearly indicated that a submission should remain confidential, either in whole or in part.

Please note that this paper does not provide legal advice about any of the laws discussed in it, and it should not be relied on for any purpose. It is intended as a consultation paper only. It does not reflect the final views of officials or Energy Council policy.

The Energy Market Transformation Project Team consists of officials from the state, territory and Commonwealth agencies with responsibility for energy policy. It operates under the COAG Energy Council framework.



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## Introduction

The traditional, centralised electricity supply model that has existed in the Australian electricity market is being challenged. Emerging products and services that allow consumers greater control over how their electricity is delivered and consumed are expected to become more prevalent in the market. This has led the COAG Energy Council to consider a range of issues related to the uptake of emerging energy products and services. One of the key work streams being undertaken by the Energy Council is seeking to understand the elements required of the competition and consumer protection framework to support consumers who receive their supply from products that sit behind the electricity meter.

Current energy specific consumer protections in the National Electricity Market are provided as part of the National Energy Customer Framework (NECF) through the National Energy Retail Law (NERL) and National Energy Retail Rules. Currently the NECF framework applies in the Australian Capital Territory, Tasmania, South Australia, New South Wales and Queensland. Consumer protections in Victoria are provided by jurisdictional legislation. These protections work in conjunction with the general protections provided through the Australian Consumer Law (ACL). The two frameworks often overlap for behind the meter supply depending on the arrangements a customer has for example with their electricity supplier and exempt seller.

When the NECF was being developed, it was assumed that purchasing a supply of electricity generated and transported in the interconnected electricity system, under a retail contract, would be the way most consumers got their electricity. The NECF was therefore designed around a model of retailing of electricity to a mass market consumer base. Currently, energy consumers connected to the grid and receiving energy supply from an authorised retailer are covered by a range of consumer protections provided under this framework, by virtue of the obligations placed on their retailer.

Since the development of the NECF, business models have emerged for the sale of electricity to a consumer from a behind the meter product. These business models include situations where a company installs a solar photovoltaic (PV) system at a customer's premises, retains ownership of and maintains the system, and sells the electricity it produces to the customer at a fixed price over a fixed period.

The Australian Energy Regulator (AER) has managed this offering by granting persons selling electricity in this manner an exemption from the requirement to hold a retailer authorisation.

However, certain emerging technologies and businesses are not covered by either a retailer authorisation or an exemption as they are not considered to be a 'sale of energy'. These arrangements apply to consumers who may receive their electricity supply from products that produce energy behind the meter, rather than buying energy directly from a grid supplier. Under these business models the consumer may purchase or lease a solar PV system itself from a company, rather than purchasing the energy it produces (as in the above example).

Under this supply arrangement, consumers are covered by general consumer protections in the ACL.

Behind the meter products and services for electricity supply are becoming increasingly common. As storage and other technologies enter the market, the challenges for supporting competition and protecting consumers will increase.

## Purpose

The purpose of this paper is to begin consultation on what consumer protections should exist in the context of products and services which supply electricity that sit behind the meter. Whilst it is acknowledged that there are existing consumer protections for products and services which supply electricity behind the meter in the ACL and NECF exemption framework, the aim of this consultation is to understand what consumer protections should apply. The question as to how to apply for example the NERL, ACL or other model is a matter for future consultation.

In considering the appropriate consumer protections for products and services which supply electricity behind the meter, it is also important to acknowledge that in many circumstances they compete with supply from the interconnected electricity system. Accordingly, this paper seeks initial views on the impact of competition on the required level of consumer protections.

Issues regarding product safety regulation are provided via individual jurisdictions regulatory frameworks and, as such, are outside the scope of this paper.

## Why conduct this consultation now?

Consultation on new products and services in the electricity market was undertaken in March 2015. The resulting advice to Ministers recommended that officials undertake further work to inform Ministerial decisions on whether the scope of energy consumer protections needs to change when customers have a range of electricity supply options.

Emerging technologies and business models are challenging the traditional model of energy sale and supply. This changing landscape offers significant opportunities for consumers to capture benefits and better manage their energy costs. However, this innovation is also driving new energy business models that are by-passing existing regulatory arrangements.

It is timely to look at the regulatory implications of behind the meter systems because:

- The AER is increasingly encountering proposals from energy service providers that offer services to energy customers that differ markedly from the traditional energy supply model.
- A number of technology options and business models are already in the market.
- This review will help to ensure that the regulatory frameworks are not creating barriers to innovation or unnecessary red tape and that supporting frameworks are in place to ensure an adequate level of protection for consumers based on evident risks.
- Stakeholders are seeking certainty from governments about how consumers are protected in regard to behind the meter electricity systems.

This consultation forms part of a broader area of work where officials are considering the regulatory implications of emerging technologies. This work aims to ensure that the regulatory framework is not creating barriers to innovation, and that supporting frameworks are in place as products emerge in the market. Officials are aware that uncertainty is problematic for potential consumers of emerging energy products and services, and may be a barrier to providers. Clarifying the arrangements will give all parties greater certainty in understanding their obligations and the issues that may arise.

### Making a submission

Stakeholders are invited to provide written submissions on the consultation paper by close of business on **Tuesday, 4 October 2016**.

All stakeholder submissions will be published on the Energy Council website unless stakeholders have clearly indicated that a submission should remain confidential, either in whole or in part. Electronic submissions are preferred and can be sent to the COAG Energy Council Secretariat at [energycouncil@industry.gov.au](mailto:energycouncil@industry.gov.au).

Those who wish to provide hard copies by post may do so by addressing their submissions to:

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### What will happen after this consultation?

Submissions on this consultation paper will be used to inform a discussion paper to be presented to Ministers at the COAG Energy Council meeting in December 2016. The paper will identify any priorities for regulatory reform that officials consider should be addressed in the context of consumer protections for electricity products and services behind the meter.

Consideration of the regulatory mechanism for consumer protections for products and services which supply electricity that sit behind the meter will be a matter for future consultation. Consequential amendments to NECF for electricity supply from the interconnected electricity system will also be a matter for future consultation.

## Problem

Products and services for electricity supply behind the electricity meter are becoming more prevalent in the market. As the costs of these products and services reduce, the opportunity increases for these products and services to supply a greater proportion of a customer's electricity at their site.

Electricity has become an indispensable necessity, powering products that keep our homes safe and comfortable and supports economic activity and quality of life.

Currently, different customer protections apply to products and services for electricity supply behind the meter depending on the business model employed. For example, a solar PV system which is purchased or leased is subject to the ACL whilst a solar PV system installed at a customer site in accordance with a power purchase agreement is regulated by the NECF exemption framework.

The NECF was designed for the interconnected electricity system and a model of retailing of electricity to a mass market consumer base. The ACL is a generic national consumer law with the overarching objective to improve consumer wellbeing through consumer empowerment and protection, to foster effective competition and to enable the confident participation of consumers in markets in which both consumers and suppliers trade fairly.

## Objectives

In addressing this problem, the Energy Council must bear its objectives in mind. Clause 2.1 of the Australian Energy Market Agreement sets out the Energy Council's overarching objective which is:

*The promotion of the long term interests of consumers with regard to the price, quality and reliability of electricity and gas services.*

The Energy Council aims to ensure that where behind the meter energy systems are adopted, those systems aid in the pursuit of the long term interests of consumers, those consumers being both those that are served by behind the meter systems and those which are not. The Energy Council also wishes to ensure that consumers can fully benefit from innovation and that their interests are adequately protected.

**Discussion points:**

***What objectives, beyond the Energy Council's general objective, should be held in mind in addressing regulatory arrangements for behind the meter electricity systems?***

## What is a behind the meter electricity system?

A behind the meter electricity system could be defined as a product that can provide electricity at the site for on-site use in a home, or other building. The location of the system is either literally "behind the meter", on the owner's property, not on the side of the electricity grid.

If defined this broadly, a behind the meter electricity system would include a wide range of products used by both large and small electricity customers. For example, it would capture a solar PV system, a battery storage unit, a co-generation plant, a diesel generator and a portable generator.

It would not, under this definition, include an off-grid electricity system that supplies more than one site. However, it may capture electricity supply to more than one consumer located on one site, for example a number of consumers on a single site such as in a high rise building.

This definition does not take into account the role of the behind the meter electricity system. For example, a diesel generator or portable generator may be used for emergency backup supply, a solar PV system may be used as an additional electricity supply or a solar PV system with battery storage may be used as the primary electricity supply at a site.

It also does not distinguish between a behind the meter electricity system owned by a customer from one which is leased or installed at the customer's site in accordance with a different business model (for example, a solar PV system which is owned by a third party and installed at a customer site in accordance with a power purchase agreement).

**Discussion points:**

***Is the behind the meter electricity system definition appropriate for our purposes?***

***In defining a behind the meter system, is it important to consider other factors about the system such as:***

- a) the ownership model***
- b) the role of the system***
- c) the number of customer's supplied.***

***Is it important to consider behind the meter electricity systems for small and large customers for our purposes?***

## Potential scenarios

There are a number of scenarios for the deployment of behind the meter electricity systems:

- Emergency back-up – this could include for life support customers or for large customers that require uninterrupted electricity supply for process reasons.
- Temporary electricity supply – this could include for site commissioning or significant work on a site.
- Co-optimised electricity supply – a consumer may combine a behind the meter electricity system with supply from the interconnected electricity system for reasons which may include to optimise their electricity costs or to reduce the emissions associated with their electricity supply.
- Primary electricity supply – a behind the meter electricity system could be the primary electricity supply where a consumer has disconnected from the interconnected electricity system or has never connected to the interconnected electricity system.

Alternately, the consumer may remain connected to the interconnected electricity system for back-up emergency supply when their behind the meter electricity system is unavailable or fails.

#### **Discussion Points**

***Are there any unique regulatory challenges that are presented by the different deployment scenarios?***

## **Ownership models**

In considering the consumer protections that may be appropriate for behind the meter electricity systems, it is important to consider potential operating models and the challenges such models may raise:

- Consumer hire model – a consumer hires a product which is used to supply electricity behind the meter on a short term basis.
- Consumer ownership model - a consumer purchases a product which is capable of supplying electricity at the site.
- Landlord model - a landlord installing a behind the meter electricity system and providing power to tenants under a lease; agreement.
- Power purchase model – a third party installs a behind the meter electricity system at a consumer's site, retains ownership of that system and enters into a long term agreement with the consumer for the sale of electricity from the system.

#### **Discussion Points**

***Are there any unique regulatory challenges or consumer protection issues that are presented by the different ownership models?***

## **Issues**

The national framework for energy-specific consumer protections was established due to the nature of energy as an essential service, and the need for regulation that balances the goal of fostering innovation and competition while also providing a strong consumer protection regime for small consumers. The reliable and safe supply of energy is fundamental to the well-being of consumers. The NECF reflects that consumers should be able to access a reliable, safe and high quality supply of energy.

In considering the appropriate consumer protection regime for a behind the meter electricity system it is important to consider why protections are required in the first place.

It could be argued, that in a well-functioning market, competition should be sufficient to ensure appropriate outcomes for consumers. It is therefore important to establish that there is a market failure that warrants regulation to protect consumers. Despite strong competition existing in a market, market failures that may warrant protections for consumers may include inequality in bargaining power or the necessity for a product or service to be available or reliable and may be rationale for consumer protection regulation.

### **Competition**

The consumer protection framework must appropriately balance addressing consumer harm, while not imposing unnecessary compliance burden or impacting effective competition and market innovation.

Traditionally, behind the meter electricity systems have not been a competitive substitute for electricity supply from the interconnected electricity system. As new technologies come down the cost curve, this situation is changing.

This competition should create an incentive for providers of electricity supply from the interconnected electricity system and behind the meter electricity systems to lower their prices, offer better service and introduce innovative products and services to meet the consumer's needs. However, with three different consumer protection frameworks applying to electricity supply products and services, and the associated regulatory costs, there may be barriers to effective competition for certain types of electricity supply products and services.

It is important to note, however, the deployment of behind the meter electricity systems can also occur in a range of scenarios, some of which do not seek to directly compete with electricity supply from the interconnected electricity system. For example, deployment of a behind the meter electricity system for emergency back-up is an additional service deployed because consumers are not guaranteed uninterrupted supply from the interconnected electricity system. Accordingly, it could be argued that a consistent consumer protection framework may impact the price of innovative electricity supply products and services developed to meeting consumer's needs which are not being met by the interconnected electricity system.

The potential for consumer harm may also differ based on the service being provided. For example, a consumer may have a solar PV system as part of a behind the meter electricity system which in some circumstances is purchased outright whilst in others is obtained via

the power purchase model. In the later model, a consumer may have contracted long-term payment obligations and this raises the potential for consumer harm which may not exist with the former model where upfront payment is required.

Questions may also be raised in this changing environment as to whether the requirements to provide consumer protections are appropriately balanced and imposed on the correct party. For example, a comprehensive consumer protection framework applies to electricity supply from the interconnected electricity system. Authorised retailers must develop and implement hardship policies, manage payment programs, and manage the risks involved in offering to supply customers who might not always be able to pay. In some future circumstances, however, the electricity supply from the interconnected electricity system may only be provided for emergency back-up purposes. If regulatory requirements related to consumer protections are applied to an inappropriate party, the consumer could remain at risk of harm.

While strong consumer protections are essential, a further consideration is the need to seek a balance between the benefits of such protections and the cost of additional regulatory obligations. Requiring consistent protections in these situations could act as a barrier to competition and innovation. The introduction of emerging products and services in the energy market may be stifled if the correct balance is not achieved.

**Discussion points:**

**What are the issues for behind the meter electricity systems and competitive neutrality?**

**Could different regulatory environments for consumer protections associated with electricity supply products and services be justified based on:**

- a) the service provided?**
- b) the ownership model?**
- c) other?**

**Are there particular consumer protections that need to be consistent for competition or to protect a consumer harm that has the potential to arise in all circumstances, for example dispute resolution?**

**How can we ensure that regulatory requirements to provide consumer protections are imposed on the appropriate party?**

**Asymmetric Information**

Generally, when consumers consider making purchase decisions the more information they have about the product or service that they are purchasing, the more confident they are in making their decision. The information would allow the consumer to understand the product or service they are considering, and enable them to consider any risks or benefits that may be associated with the purchase of this product or service. This information is especially important when considering purchases that are expensive, long-term or that involve complex matters.

It is generally acknowledged that companies providing a product or service hold a disproportionate amount of information about the products or services they are offering, when compared to the consumer considering the purchase. Small consumers can also have little bargaining power and can be put at a significant disadvantage by the practices of product and service providers if those practices are not regulated to ensure certain standards. It could therefore be argued that consumers making complex decisions about their electricity supply require a level of information about the agreements they are entering into.

With the increased choice that comes from new types of supply arrangements there may be an increase in the need for appropriate information to be provided to consumers to enable them to an informed choice of the product or service that meets their supply needs, and also provides the appropriate protections that they desire.

A consumer considering the purchase of a behind the meter electricity system may need to be aware of the risks associated with the electricity system they are considering, in addition to the benefits. Some consumers may expect their behind the meter electricity system to have supply reliability consistent with that of their grid supply, which may not be the case at certain times, for example.

Other potential risks may include any impacts the product or service may have on the consumers overall energy supply. A consumer may install a behind the meter electricity system and then consider other options, such as removing their grid supply. They may also consider the installation of the behind the meter electricity system will enable them to consume a greater amount of electricity and therefore make further purchases based on this assumption, such as a pool. These secondary considerations will have supply or cost impacts, so it is important that the consumer is aware of the impact a behind the meter electricity system will have on their supply.

The consumer may be making trade-offs when making their decision so it is important they understand the nature of these trade-offs. For example, if they disconnect from the grid once behind the meter supply arrangements are purchased, there may be a trade-off of price versus reliability.

Consumers of behind the meter electricity systems may also need to be made aware of certain information to obtain certain benefits associated with the system, such as the optimal position to install solar PV panels.

Further, longer term contracts associated with behind the meter electricity systems that require installation at a consumer's home may introduce a greater need for information provisions compared to shorter term contracts for supply from the grid. Consumers may need to be made aware that, by taking up a contract for a behind the meter electricity system they may be subject to certain additional charges if, for example, they move house and equipment needs to be removed or relocated. They may also require information regarding what happens to their behind the meter electricity system should the company they purchased it from exit the market. While under some business models the relationship with the provider may end once the purchase has been made, there may be other situations where there is an ongoing relationship between the consumer and the provider, such as a leasing arrangement for solar PV. Consumers would need to be aware of the implications for their energy supply should this provider no longer be able to provide the service.

The protections provided to consumers may help to ensure that they have a level of knowledge when entering an agreement, and during an agreement, that is greater than the information they may otherwise have received. The information a consumer receives may impact on the consumer's decision to choose a new product or service, or reject it in favour of the status quo. Consumer protections considered may therefore include rights to a range of information to be provided by companies providing these products or services.

**Discussion points:**

***Do you agree that risks of this nature may exist to consumers of behind the meter electricity systems?***

***Do you believe consumers would receive sufficient information to enable them to make considered decisions regarding behind the meter electricity systems? Or are consumer protections required regarding information provision?***

***Should there be further information provided to consumers if they are only reducing their reliance on the network (considering this did not happen for solar customers)? Should this be different if the electricity system completely removes the consumer from the grid?***

***What information should be provided to consumers regarding the nature of behind the meter electricity systems, before signing up to them? Does this level of information change as product offerings become more complex?***

***Does the business model under which the behind the meter system was acquired impact on the information provided to the customer?***

***Do you consider that consumers of all behind the meter supply electricity systems should be given clear information about the implications of their supply choice, including clearly demarcating the protections available under the NECF for grid supply?***

***Do stakeholders believe consumers could be provided with a behind the meter electricity system without their consent?***

#### Availability and Reliability

Electricity has become an indispensable necessity, powering products that keep our homes safe and comfortable and supporting economic activity and quality of life. To ensure that all consumers have access to electricity, the energy frameworks provide a right of access to the interconnected electricity system on fair and reasonable terms and conditions. The National Electricity Market reliability standard, which relates to ensuring that there is enough capacity to generate and transport electricity to meet all consumer demand, as well as network reliability standards offer comfort to consumers regarding the reliability of electricity supply from the interconnected electricity system.

In some circumstances, the cost of connection to the interconnected electricity system is too high and consumers choose to rely on behind the meter products and services for electricity supply. Currently, this situation occurs primarily in rural areas, however, behind the meter electricity systems may become more prevalent, and over time, increased numbers of consumers may elect to disconnect from the interconnected electricity system in favour of behind the meter electricity systems.

Availability and reliability in these situations is primarily a contractual arrangement between the suppliers of the behind the meter electricity systems and the consumer, supported by consumer protections set out in the ACL. Consumers determine the level of redundancy they are willing to invest in and may purchase parts of their behind the meter electricity system from different suppliers. Individual components of the behind the meter electricity system may not be capable of providing reliable electricity supply, for example a solar PV system which is an intermittent form of generation. In these circumstances, applicable consumer protections may primarily relate to consumer guarantees for products and services such as fit for purpose, acceptable quality and undisturbed possession.

The design of the energy frameworks right of access did not contemplate that a consumer may disconnect from the interconnected electricity system in favour of onsite electricity supply to reconnect at a later date. It is possible that a consumer which disconnects from the interconnected electricity system may seek to reconnect if the availability and reliability of their behind the meter electricity system fails or ceases to meet their needs.

Regulation regarding the availability and reliability of behind the meter electricity systems may significantly increase the costs of these systems for consumers, inhibiting their ability to select this option and impact the ability of individual suppliers to offer behind the meter products and services. The regulatory framework associated with reconnection to interconnected electricity system may also influence a consumer's decision to disconnect from the interconnected electricity system. Decisions made with inadequate information or understanding on availability and reliability could significantly impact a consumer's quality of life.

**Discussion points:**

***Is the right to access the interconnected electricity system a sufficient consumer protection to ensure consumers have access to electricity supply?***

***Where a customer has chosen to disconnect from the interconnected electricity system, which party should bear the costs associated with the customer reconnecting to the interconnected electricity system?***

***Do you consider that determining the level of redundancy incorporated in a behind the meter electricity system is a matter to be determined by the consumer?***

***What, if any, consumer protections should apply in relation to the availability and reliability of behind the meter products and services?***

**Vulnerable consumers**

The installation of a behind the meter electricity system is an alternative to electricity supply from the interconnected electricity system. It may supplement the existing grid supply, or a customer may be reliant on the system for the bulk of their supply with the grid simply there as a back-up. The type of consumer that may be vulnerable in relation to behind the meter electricity systems may not be the same as those which are vulnerable in relation to the interconnected electricity system.

As noted above, consumers have a right of access to the interconnected electricity system on fair and reasonable terms and conditions because electricity is considered an indispensable necessity. It has long been recognised that some vulnerable consumers could potentially lose access to their supply because financial hardship is limiting their capacity to pay. Consumer protections, including requirements for hardship programs and payment plans, are provided to consumers accessing the interconnected electricity system to help manage this risk.

Whilst there is the potential for financial hardship in relation to behind the meter electricity systems, this issue may not arise in relation to all behind the meter electricity systems. In many circumstances, obtaining a system of this type requires access to upfront funding for a behind the meter electricity product, however, this is not always the case. In some circumstances a behind the meter electricity system can be obtained by entering into an arrangement for the purchase of the electricity generated from the system. Generally this requires a longer term commitment and ongoing payment for the electricity generated. Accordingly, the contractual model applicable to the consumer's behind the meter electricity system can impact the length of the contract (up-front versus ongoing) and the frequency of payments (one-off versus regular). The potential for consumer harm may also be different, for example financial hardship is likely to be a concern for consumers in a longer term, ongoing payment model. If upfront payment is required for a behind the meter electricity product, future financial hardship may not impact the consumers supply of electricity from the product unless the product breaks.

It has been recognised that there is a class of vulnerable consumers whose health, wellbeing or safety may be at an increased risk when electricity supply is interrupted. Behind the meter electricity systems may be installed to mitigate the risk of interruption in electricity supply for the interconnected electricity system. Equally, these consumers may consider behind the meter electricity systems as their sole electricity supply solution. Reliability and information regarding reliability would be of greater concern for these vulnerable consumers.

As discussed earlier, the behind the meter electricity system may enable a consumer to consider removing their grid connection. The decision to disconnect from the interconnected electricity system is a complex one, requiring consumers to make decisions about the level of redundancy needed in the behind the meter electricity system to reliably support their electricity demand. Importantly, uninformed decisions could place a consumer's health, wellbeing or safety at risk. Sufficient information on which to base purchase decisions may be necessary to support vulnerable consumer classes. This should include detailed, accurate, standardised and easy to understand information about the product or service that is on offer, and the anticipated risks and benefits that may arise from their use before they sign up to the product or service. It will also be important for these consumers to have clear information on the risks associated with disconnecting from the integrated electricity system.

There may be other examples of vulnerable customers not contemplated in this discussion. Vulnerability can occur for a wide range of reasons. Some of which may be sudden, such as through loss of employment or falling seriously ill, while others may occur over time. It will be important that these categories of vulnerable customers are well defined to enable appropriate consumer protections to be considered, in the context of behind the meter electricity systems.

**Discussion points:**

***Are there classes of vulnerable consumers in relation to behind the meter electricity systems? What do these classes of vulnerable consumers look like? At what point does a consumer become vulnerable?***

***What consumer protections are needed for these identified classes of vulnerable consumer?***

## Resolving disputes

In a new and emerging market it may be necessary to provide support to consumers should a dispute arise with the suppliers of the new electricity system. This may involve mechanisms to resolve complaints regarding the service, the cost or ongoing payment issues or the way in which the provider engages in its marketing activity.

While individual providers may have internal dispute mechanisms there may be a need for consumers to have access to an independent service that could investigate and resolve disputes should they not be resolved by the providers individual processes. An independent dispute resolution service may prevent cases being pursued through a court process which can result in large costs to consumers, and lengthy processes before a dispute can be resolved.

Currently, whether an electricity service is provided by an authorised or exempt retailer determines the accessibility of dispute resolution services under the NECF. Customers of authorised retailers are able to access the services of their local energy Ombudsman to resolve disputes with their retailer. Customers of exempt sellers or customers who are not grid connected can access dispute resolution services under the ACL, such as through state fair trading offices.

In the future, with more behind the meter electricity systems deployed, it may be considered appropriate for an independent dispute resolution arrangement to apply to providers of these electricity systems. Such a requirement may increase confidence for consumers to engage in the emerging market. However, the benefit of providing this protection would need to be assessed against the cost involved in doing so. Consideration on how the costs would be allocated would also be required.

It is also possible that a consumer with a behind the meter electricity system may maintain their grid supply from an authorised retailer. If this were the case there may be an argument for utilising existing energy ombudsman mechanisms for both supply arrangements. The benefits of doing so would include providing a consistent approach for disputes covering energy supply matters regardless of the supply model. It may also assist if a supply dispute existed but it was not clear whether it was the authorised retailer or the behind the meter supplier who was at fault. If different dispute resolution schemes applied this type of dispute could be difficult to resolve.

### ***Discussion points:***

***Should consumers with behind the meter electricity systems have access to an independent dispute resolution scheme?***

***How should the costs associated with the scheme be allocated?***

***Are there benefits in a consistent dispute resolution scheme (i.e. an Ombudsman scheme) applying across grid connected and behind the meter arrangements?***

## Transaction costs

The cost involved for a small consumer to search for appropriate electricity products or services, and the relevant information to enable an informed decision to be made, can be overwhelming for some consumers. Behind the meter electricity systems will be new to most consumers and therefore concerns may arise when attempting to find suitable products, and compare them before making purchase decisions. Search and information costs to consumers include costs in determining the product or service that has the lowest price that best suits their needs.

As the market for behind the meter electricity systems emerges, there may be risks that can be overcome by requiring providers to supply information to a price comparator service or to provide certain information on a transparent and consistent basis to allow cost comparisons to be made. Requiring all similar behind the meter electricity systems to have standard contracts in place may also be an option to provide a basis for consumers to compare and choose between alternative products.

By including these types of protections in the framework small consumers' ability to search for, and evaluate, various energy supply options could be enhanced. However, the benefit of providing this protection would need to be assessed against the cost involved in doing so.

### ***Discussion points:***

***Should a regulated service be provided to small consumers to enable them to compare prices for similar behind the meter electricity systems?***

***Should all similar behind the meter products have standard contracts in place?***

## Conclusion

This paper is intended to begin a consultation on what consumer protections should apply to behind the meter energy systems.

The Energy Council recognises the opportunities presented by delivering energy services through these models. These systems, however, challenge many of the principles that underlie the regulation of the interconnected grid and require a regulatory approach that is appropriately designed to allow for the benefits of these systems to be realised. Officials would like to hear from stakeholders about the



balance of regulation that is required so that consumers are appropriately protected under these energy service models, but at the same time not creating barriers to this model of energy service delivery.

Energy Ministers have sought to ensure strong protections for consumers, while also seeking to balance the benefits of such protections against the cost of additional regulatory obligations, which ultimately get passed through to consumers, and can act as a barrier to competition and innovation. The Energy Council is confident that the right balance has been achieved to date, and aims for this to continue following the introduction of emerging products and services in the energy market.

***Discussion points:***

***Of the various issues raised in this paper, which areas have the highest risks and should be prioritised?***

***Is there potential for consumer harm that has not been identified in this paper which warrants regulated consumer protection?***