



5 August 2018

SUBMISSION ON AEMC DRAFT DETERMINATION ON NATIONAL ENERGY RETAIL AMENDMENT (ADVANCE NOTICE OF PRICE CHANGES) RULE 2018

BACKGROUND

The Queensland Consumers' Association (the Association) is a non-profit organisation established over 40 years ago and which exists to advance the interests of Queensland consumers. The Association's members work in a voluntary capacity and specialise in particular policy areas.

The Association is a member of the Consumers' Federation of Australia, the peak body for Australian consumer groups, and works closely with many other consumer and community groups.

The Association has been especially active for many years on energy issues in Queensland and nationally and is currently represented on the:

- Queensland Competition Authority's Consumer Consultative Committee
- Energy and Water Queensland Ombudsman's Advisory Council.

The Association is also a member of the Queensland Council of Social Service's Essential Services Consultative Group.

The Association has participated in, and made numerous submissions to inquiries etc. on energy issues conducted at national level, in Queensland, and in other states and participated in earlier consultations on this proposed rule change.

Therefore, although the Draft Rule would only apply to Queensland consumers if the current Queensland derogation on the same matter is removed, the Association welcomes the opportunity to make this submission. The contact person is Ian Jarratt, email ijarratt@australiainmail.com

GENERAL COMMENTS

We **support** that the Draft Rule would:

- Require customers to be notified in advance of **any** changes in tariffs and charges i.e. increases and decreases.
- Apply to standing offers and market offers.
- Apply to electricity and gas contracts.
- In some circumstances, provide for exemption.
- Require notification that historical data on bills and consumption (for electricity only) data can be requested from the retailer.
- Be covered by civil penalty provisions.
- Commence on 1 February 2019.

However, we are **concerned** about several matters and our comments on these are below.

SPECIFIC COMMENTS

Purpose of Draft Rule

We are concerned that the AEMC has used the following as the primary purpose of the Draft Rule: *“the consumers right to be informed of price increases before they occur and the avoidance of ‘bill shock’”*.

We are also concerned that purpose does not include facilitating consumer market engagement, which was a primary objective of the rule change request. Also, it is one of the easiest and most effective ways consumers can take action following receipt of a price change notification.

In this regard we note that the Draft Rule has been greatly influenced by the statement in the Draft Determination that: *“Stakeholder feedback has emphasised the degree of uncertainty in the level of consumer engagement following notices, including the possibility that consumers are disengaged by too much information, and varying views on the additional costs of making the notice more complex.”*

Given the importance of these matters, especially the likely degree of consumer engagement following notices, we consider that further investigation is required. If necessary, research should be undertaken prior to the finalisation of the Rule.

In this regard we also emphasise:

- The need to consider likely responses to price change notification rather than to other types of retailer communication with consumers.
- That the quality and accessibility of the information provided in price change notices, for example its prominence, legibility and understandability will greatly influence the resultant level of engagement.
- That it may not be in the interests of some retailers to encourage greater consumer market engagement.

Energy is a homogenous product. There are high levels of consumer concern about and interest in the cost of energy. There is great public comment when energy prices change. Therefore, in the absence of reliable, relevant evidence to the contrary, we consider that the provision of well-designed information prior to any price changes is likely to significantly increase consumer market engagement.

We also note that requiring the notification to inform the customer that that historical data on bills and consumption (for electricity only) data can be requested from the retailer is aimed at facilitating and encouraging market engagement.

Regarding the avoidance of “bill shock” as a purpose for the Draft Rule, we note that, unlike the proposal, the Draft Rule requires the provision of information about **any** price change, i.e. decreases as well as increases. Therefore, we question whether the avoidance of bill shock should be a primary purpose.

Provision of percentage price change information

We are concerned that the Draft Determination does not mention that our submission on the Discussion Paper recommended that the notification should include the percentage changes in prices and that this is not a requirement in the Draft Rule.

As indicated in our submission, percentage change information will make it very easy for consumers to understand and assess price changes. Percentage changes are commonly used in public discussion of energy price changes, are widely understood, and greatly increase price change transparency.

Consumers should not have to calculate percentage changes themselves, and this may be difficult for many consumers.

The fact that the prices provided, and differences between them, will generally be very small, for example consumption charges in cents/kWh and supply charges in cents/day, is also highly relevant to this matter. This is because research has shown that small monetary amounts and price differences are much less likely to be used by consumers in decision making than larger monetary amounts, even though the impacts on total cost are identical. Providing percentage change information will greatly reduce this problem.

We also consider that the provision of percentage changes would not greatly add to the complexity of the information provided. Indeed, it would be a highly beneficial simplification.

Provision of other information to encourage market engagement by consumers

We consider that the notice should include information indicating that the customer has the right to choose another retailer or another type of contract with the current retailer.

This would reduce consumer uncertainty about their rights and encourage greater market engagement and would not significantly lengthen or complicate any notification.

It would also build on the requirement of the current Queensland derogation regarding prior notification of the end of fixed benefit periods that the customer be provided with “*information about the ability of the small customer to choose an alternative retailer to purchase customer retail services after the fixed benefit period expires*”.

We also consider that the notice should include a reference to the existence of the Energy Made Easy (EME) website even though in some situations there may be a gap of some days between the consumer being notified of the price change and that being reflected in the information on EME.

We take this view because:

- Such gaps exist with the websites of retailer and commercial comparator websites
- Changes may be possible to the EME website to reduce or remove this problem.
- Advice about possible time gaps could be included in the notification.
- Information about EME has to be provided with benefit change notifications.

We also consider that after the Rule has been in operation for a reasonable period of time, it can be changed if the time gap is shown to be a significant problem.

Length of prior notice period

We note that the Draft Rule requires a minimum of 5 days notice of a price change compared with 10 days in the original proposal, and as required by the Queensland derogation.

We have considered the arguments in the Draft Determination regarding the possible effects on consumers and retailers of the minimum period of prior notice.

In the absence of the results of any research, especially on consumer impacts, which we consider should have been undertaken, on balance we consider that the minimum period for prior notice should be 10 days.

This would retain consistency with the Queensland derogation, should be achievable by retailers if steps are taken to ensure that network prices are available early enough, and provide customers with a reasonable prior notification period. Only five days prior notification could result in consumer disengagement if considered by many to be too short a period to take any action prior to the price change date, especially if they mistakenly consider this to be a cut-off date for taking any action.

Also, in our submission on the Discussion Paper we raised the issue of whether there should be a **maximum** period of prior notice. However, this is not mentioned in the Draft Determination.

Effective display of information

As mentioned in our submission on the Discussion Paper, and earlier in this submission, this rule change will only be fully beneficial if the price change information provided is well presented.

Therefore, the Rule should recognise the crucial importance of providing consumers with the type of information, and in ways, that will assist them to make informed choices as is recognised in the 2016 United Nations Guidelines for Consumer Protection which includes the General Principle: *“Access by consumers to adequate information to enable them to make informed choices according to individual wishes and needs”*.

The need for this was also emphasised in the Harper Review of Competition Policy published in 2015 which in Recommendation 21 - Informed Choice (supported by the Federal Government) said: *“Governments should work with industry, consumer groups and privacy experts to allow consumers to access information in an efficient format to improve informed consumer choice.”* and ... *“governments, both in their own dealings with consumers and in any regulation of the information that businesses must provide to consumers, should draw on lessons from behavioural economics to present information and choices in ways that allow consumers to access, assess and act on them.”*

The Rule should also take fully into account federal and other disability discrimination policies and legislation, especially for consumers with sight disabilities.

In this regard we consider it is extremely important to have the maximum possible consistency/uniformity in how information is provided and to consider requiring minimum standards designed to achieve high levels, and consistency of wording/layout, prominence, legibility and location of required information.

We note also that 3.1.2 of the Draft Determination says *that “The proponents argued that the current requirements in the NERL and NERR do not specify the manner and form of the notice that retailers must provide to consumers when tariffs change. Some retailers, it has been reported, place relatively small ‘price change’ notices on bills, which can be easily missed.”*

Therefore, we consider that, as with the end of benefit rule change, this one should also require the AER to determine by Guidelines how the required information should be provided and that the Guidelines should be influenced by the results of research on how consumers respond to

different types of notices. The aim should be to ensure that all retailers provide information that is accurate, unambiguous, understandable, prominent and legible.

Examples of a possible approach to the provision of price change information (with % changes provided and not provided), and associated information, are in Appendix 1.

Exemptions

We note that in the Draft Rule 8.2(a3)(ii) it is proposed to provide an exemption “where your standing offer prices are regulated, or are otherwise set by legislation, a government agency or regulatory authority, in the applicable jurisdiction”

We suggest that this should also include charges.

We also suggest that the exemption also apply to market contracts. This is because currently in some jurisdictions some charges/fees associated with market contracts are regulated. Also, in the future it is possible that there will be some regulation of market contract prices, for example if some of the ACCC’s recommendations are implemented by governments.

GST

We note that the Draft Rule appears to be silent on how GST should be shown for information prices and charge information. To maximise simplicity, we consider that the Rule should specify that prices and charges must be shown only inclusive of GST.

Customerspecific information

The Draft Rule refers to “your tariffs and charges”. However, it is not clear whether this means only those tariffs and charges that the customer is actually being charged or all the possible components of a particular type of tariff/contract.

Depending on the cost implications, we favour the customer being provided only with information about the prices and charges that actually apply to them and they see on their bill **not** all the prices and charges that may be associated with that particular tariff type. This will reduce the amount of information received and greatly increase its use.

Tariffs and prices

The Draft Rule refers several times to “tariffs”. However, 8.2(a3)(ii) and 8.2(b) refers to “prices”. Therefore, we suggest that the Draft Rule be reviewed to ensure that this is not resulting in inconsistency, ambiguity or misinterpretation.

Monitoring

We consider that the Rule should include requirements for ongoing monitoring of retailer compliance and of its effectiveness. We also consider there should be a requirement for a review after 3 years of operation.

APPENDIX A - Examples of price change notices with and without percentage change information

Example WITH % changes

COMPANY NAME

Date: 10 June 201X

NMI: 1234567

Supply address: abcdefghijklmn

**CHANGES TO ELECTRICITY PRICES
ON 1 JULY 201X**

Our electricity prices are changing on 1 July 201X

The current prices and those that will apply to you as at 1 July 201X are shown below.

Tariff Type: Domestic

Description	Units	Prices to 30 June 201X	Prices as at 1 July 201X	% change
		<i>Including GST</i>	<i>Including GST</i>	
All usage	c/kWh	24.2618	25.7539	+4.4
Daily supply charge	c/day	125.1768	128.2317	+2.4

To get your historical billing and/or consumption data contact us on: ph: 123456789 or at www.xxxxxx.com.au

To obtain information about, and compare, all available electricity offers from retailers in your area, go to the Australian government's free comparison website www.energymadeeasy.gov.au

Example WITHOUT % changes

COMPANY NAME

Date: 10 June 201X

NMI: 1234567

Supply address: abcdefghijklmn

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ON 1 JULY 201X**

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