



National Energy Retail Amendment (Advance notice of price changes) Rule 2018 No. 3

under the National Energy Retail Law as applied by:

- (a) the National Energy Retail Law (South Australia) Act 2011 of South Australia;
- (b) the National Energy Retail Law (ACT) Act 2012 of the Australian Capital Territory;
- (c) the National Energy Retail Law (Adoption) Act 2012 of New South Wales;
- (d) the National Energy Retail Law (Queensland) Act 2014 of Queensland;
- (e) the National Energy Retail Law (Tasmania) Act 2012 of Tasmania; and
- (f) the Australian Energy Market Act 2004 of the Commonwealth.

The Australian Energy Market Commission makes the following Rule under the National Energy Retail Law.

John Pierce
Chairman
Australian Energy Market Commission

National Energy Retail Amendment (Advance notice of price changes) Rule 2018 No. 3

1 Title of Rule

This Rule is the National Energy Retail Amendment (Advance notice of price changes) Rule 2018 No. 3.

2 Commencement

Schedule 1 commences operation on 1 February 2019.

Schedule 2 commences operation on 4 October 2018.

3 Amendment of the National Energy Retail Rules

The National Energy Retail Rules are amended as set out in Schedule 1.

4 Savings and Transitional Amendments to the National Energy Retail Rules

The National Energy Retail Rules are amended as set out in Schedule 2.

Schedule 1 Amendments of the National Energy Retail Rules

(Clause 3)

[1] Rule 45A Definitions

In rule 45A, after the definition of **fixed term retail contract**, insert:

GST has the meaning given in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

[2] Rule 46 Tariffs and charges

Omit subrule 46(4) and substitute:

- (4) The notice must:
 - (a) be given at least five business days before the variation in the tariffs and charges are to apply to the customer; and
 - (b) be delivered by the customer's preferred form of communication where this has been communicated to the retailer, or otherwise by the same method as that used for delivery of the customer's bill.

[3] Rule 46 Tariffs and charges

After subrule 46(4), insert:

- (4A) The notice must:
 - (a) specify that the customer's tariffs and charges are being varied;
 - (b) specify the date on which the variation will come into effect;
 - (c) identify the customer's existing tariffs and charges inclusive of GST;
 - (d) identify the customer's tariffs and charges as varied inclusive of GST;
 - (e) specify that the tariffs and charges identified in subrules (4A)(c) and (d) are inclusive of GST; and
 - (f) specify that the customer can request historical billing data and, if they are being sold electricity, energy consumption data, from the retailer.

Note:

Rules 28 and 56A make provision for customers to request historical billing information and energy consumption data.

- (4B) Despite this rule 46, a retailer is not required to provide a notice under subrule (3):
- (a) where the customer has entered into a market retail contract with the retailer within 10 business days before the date on which the variation referred to in subrule (3) is to take effect, and the retailer has informed the customer of such variation pursuant to rule 46A and section 39(1)(a) of *the Law*;
 - (b) where the variations to the tariffs and charges are a direct result of a benefit change and the retailer has provided the customer with a notice under rule 48A;
 - (c) with respect to a tariff or charge that continually varies in relation to the prevailing spot price of energy. For the avoidance of doubt, this exemption does not apply (and the retailer must provide notice under subrule (3)) with respect to variations to any remaining tariffs and charges that form part of the same market retail contract;
 - (d) where the variations to the tariffs and charges are a direct result of a change to, or withdrawal or expiry of, a government funded energy charge rebate, concession or relief scheme; or
 - (e) where the variations to the tariffs and charges are a direct result of a change to any bank charges or fees, credit card charges or fees, or payment processing charges or fees applicable to the customer.
- (4C) Despite subrule (4)(a), a retailer must provide the notice under subrule (3) as soon as practicable, and in any event no later than the customer's next bill, where the variations to the tariffs and charges are a direct result of a tariff reassignment by the distributor pursuant to clause 6B.A3.2 of the NER. For the purposes of providing a notice under this subrule (4C), the reference to:
- (a) "are being varied" in subrule (4A)(a) is taken to be "are being varied or have been varied (whichever is applicable)"; and
 - (b) "will come into effect" in subrule (4A)(b) is taken to be "will come into effect or has come into effect (whichever is applicable)".

[4] Schedule 1 Model terms and conditions for standard retail contracts

Omit clause 8.2 and substitute:

8.2 Changes to tariffs and charges

- (a) If we vary our standing offer prices, we will publish the variation in a newspaper and on our website at least 10 business days before it starts.

- (a1) We will also:
 - (i) notify you at least five business days before the variation in the tariffs and charges are to apply to you; and
 - (ii) deliver the notice by your preferred form of communication where you have communicated this to us, or otherwise by the same method as that used for delivery of your bill.
- (a2) The notice must:
 - (i) specify that your tariffs and charges are being varied;
 - (ii) specify the date on which the variation will come into effect;
 - (iii) identify your existing tariffs and charges inclusive of GST;
 - (iv) identify your tariffs and charges as varied inclusive of GST;
 - (v) specify that the tariffs and charges identified in paragraphs (a2)(iii) and (iv) are inclusive of GST; and
 - (vi) specify that you can request historical billing data and, if you are being sold electricity, energy consumption data, from us.
- (a3) Despite clause 8.2 of this contract, we are not required to provide a notice under paragraph (a1):
 - (i) where you have entered into a standard retail contract with us within 10 business days before the date on which the variation referred to in clause 8.2(a) is to take effect, and we have informed you of such variation;
 - (ii) where your standing offer prices are regulated, or are otherwise set by legislation, a government agency or regulatory authority;
 - (iii) where the variations to the tariffs and charges are a direct result of a change to, or withdrawal or expiry of, a government funded energy charge rebate, concession or relief scheme; or
 - (iv) where the variations to the tariffs and charges are a direct result of a change to any bank charges or fees, credit card charges or fees, or payment processing charges or fees applicable to you.
- (a4) Despite paragraph (a1)(i), we will provide you with the notice under paragraph (a1) as soon as practicable, and in any event no later than your next bill, where the variations to your tariffs and charges are a direct result of a tariff reassignment by the distributor pursuant to clause 6B.A3.2 of the NER. For the purpose of providing a notice under this paragraph (a4), the reference to:

- (i) “are being varied” in paragraph (a2)(i) is taken to be “are being varied or have been varied (whichever is applicable)”; and
 - (ii) “will come into effect” in paragraph (a2)(ii) is taken to be “will come into effect or has come into effect (whichever is applicable)”.
- (b) Our standing offer prices will not be varied more often than once every 6 months.

Schedule 2 Savings and Transitional Amendments to the National Energy Retail Rules

(Clause 4)

[1] New Part 10 Rules consequential on the making of the National Energy Retail Amendment (Advance notice of price changes) Rule 2018

In Schedule 3, after Part 9, insert:

Part 10 Rules consequential on the making of the National Energy Retail Amendment (Advance notice of price changes) Rule 2018

1 Definitions

effective date means 1 February 2019.

2 Variation date

- (1) Retailers must make the required alterations to their standard retail contracts by the effective date.
- (2) Alterations made under subrule (1) must take effect on and from the effective date.

[END OF RULE AS MADE]
