



Draft National Energy Retail Amendment (Strengthening protections for customers in hardship) Rule 2018

under the National Energy Retail Law to the extent 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

Draft National Energy Retail Amendment (Strengthening protections for customers in hardship) Rule 2018

1 Title of Rule

This Rule is the Draft National Energy Retail Amendment (Strengthening protections for customers in hardship) Rule 2018.

2 Commencement

Schedule 1 and Schedule 2 of this Rule commences operation on [DATE RULE AS MADE].

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] New rule 70A Definitions

After rule 70, insert:

70A Definitions

In this Part:

customer hardship policy guideline means the guideline made by the AER under rule 75A.

customer hardship policy means a policy as submitted by the retailer to the AER under section 43 of *the Law*.

AER Performance Reporting Procedures and Guidelines means the procedures and guidelines made by the AER under section 286 of *the Law*.

[2] Rule 75 Hardship program indicators

In rule 75(1), after “indicators” insert “to be included in the AER Performance Reporting Procedures and Guidelines”.

[3] New rule 75A Customer hardship policy guideline

After rule 75, insert:

75A Customer hardship policy guideline

- (1) The AER must, in accordance with the retail consultation procedure, develop, maintain and publish a customer hardship policy guideline.
- (2) The customer hardship policy guideline must specify:
 - (a) processes, timeframes and requirements to be complied with by retailers in connection with the approval (or variation) of their customer hardship policies by the AER;
 - (b) standardised statements that retailers must include in their customer hardship policies to:
 - (i) give effect to the minimum requirements as set out in section 44 of *the Law*; and
 - (ii) provide guidance to customers on their rights, and retailer obligations, with respect to Part 2, Division 6 of *the Law*.

- (3) The AER may, from time to time, amend the customer hardship policy guideline in accordance with the retail consultation procedure.

[4] New rule 75B Customer hardship policies

After rule 75A, insert:

75B Customer hardship policies

- (1) A retailer's customer hardship policy (or variation) submitted to the AER must:
- (a) comply with the customer hardship policy guideline; and
 - (b) contain clear and specific statements of the actions the retailer will take to meet the minimum requirements for a customer hardship policy in section 44 of *the Law*.

Note 1:

Section 44 of *the Law* sets out the minimum requirements for a customer hardship policy.

Note 2:

See section 44(i) of *the Law*.

[This provision is recommended to be a civil penalty provision].

- (2) A retailer must:
- (a) submit a customer hardship policy (or variation) in compliance with subrule (1):
 - (i) in accordance with section 43(2) of *the Law*; and
 - (ii) within 3 months of any amendment to the customer hardship policy guideline made by the AER under rule 75A(3); and
 - (b) implement and publish the customer hardship policy (or variation), as approved by the AER, on the retailer's website as soon as practicable after it has been approved.

[This provision is recommended to be a civil penalty provision]

- (3) The AER must approve, subject to section 45 of *the Law*, a customer hardship policy (or variation) that complies with subrule (1) within 3 months:
- (a) of the AER receiving a customer hardship policy for approval under section 43 of *the Law*; and

- (b) of the AER receiving a customer hardship policy for approval under subrule (2)(a)(ii).

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 (Strengthening protections for customers in hardship) Rule 2018

In Schedule 3, after Part 9, insert:

Part 10 Rules consequential on the making of the National Energy Retail Amendment (Strengthening protections for customers in hardship) Rule 2018

1 Definitions

In this Part:

Amending Rule means the National Energy Retail Amendment (Strengthening protections for customers in hardship) Rule 2018.

existing customer hardship policy means a retailer's customer hardship policy that, as at the effective date, has been approved by the AER under section 45 of *the Law*.

effective date means 29 November 2018.

first customer hardship policy guideline means the first customer hardship policy guideline made by the AER under rule 2 of this Part 10.

first customer hardship policy guideline publishing date means 1 April 2019.

updated customer hardship policy means a customer hardship policy submitted to the AER by a retailer with an existing customer hardship policy under rule 3 subrule (2)(a) of this Part 10.

2 The first customer hardship policy guideline

- (1) The AER must make and publish the first customer hardship policy guideline in accordance with the retail consultation procedure by no later than the first customer hardship policy guideline publishing date.

3 Application of new rules 75A and 75B to customer hardship policies

- (1) A retailer is not required to comply with rules 75A and 75B until the AER publishes the first customer hardship policy guideline.
- (2) Where a retailer has an existing customer hardship policy, the retailer is taken to have complied with rule 75B if:
 - (a) within 2 months of the AER publishing the first customer hardship policy guideline, it has submitted a customer hardship policy to replace its existing customer hardship policy in accordance with the requirements in rule 75B(1) for approval by the AER (updated customer hardship policy); and
 - (b) within 2 months from the date the AER has approved the retailer's updated customer hardship policy, the policy is implemented by the retailer.
- (3) Following any amendment by the AER of the first customer hardship policy guideline in accordance with rule 75A(3), the retailer must amend its most recently approved customer hardship policy (including any updated customer hardship policy) in accordance with rules 75A and 75B.

(4) AER approval of updated customer hardship policy

- (1) The AER must approve an updated customer hardship policy within 2 months from the date it has received the updated customer hardship policy.
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