



1 November 2018

Australian Energy Market Commission
201 Elizabeth Street
Sydney NSW 2000

Submitted: via AEMC submission portal

NATIONAL ENERGY RETAIL AMENDMENT (MINOR CHANGES 2) RULE 2018

Alinta Energy Retail Sales (**Alinta Energy**) welcomes the opportunity to commend on the proposed rule change ERC0245 National Energy Retail Amendment (Minor changes 2) Rule 2018.

Alinta Energy is a fast-growing Australian energy generator and retailer with an owned and contracted generation portfolio of around 3,000MW and over one million combined electricity and gas retail customers in Australia.

Alinta Energy commends the AEMC with regard to proposing a minor rule change to clarify the intent of the provisions under 117 (1) (**the proposed rule**) of the National Energy Retail Rules (NERR). That being said, having reviewed the AEMC's proposed rule change it is Alinta Energy's view that the proposed rule change may not fully mitigate the compliance exposure associated with the de-energisation of a dual fuel contracted customer.

Intent and context of the AEMC's rule change *Preventing discounts on inflated energy rates*

The AEMC's final rule change *Preventing discounts on inflated energy rates* was primarily in relation to;

preventing behaviour (by retailers) that is considered to be inherently confusing for the average consumer – the practice of applying discounts to rates that significantly exceed the base rate as represented by the retailer's standing offer. Because the base rate against which the discount applied is inflated, it can lead the consumer to believe the discount is of relatively greater value than it is.¹

Having reviewed the intent of the draft rule change during the consultation process in April 2018, Alinta was supportive of the proposed rule change and actively supported the Australian Energy Council's submission. Alinta Energy unequivocally supports the eradication of these types of products and in our view, will contribute to a more transparent and fluid competitive energy market.

Background on the way Alinta Energy service our dual fuel customers

Alinta has customers contracted to legacy contracts that initially established eligibility for it gas offerings as - contingent on entry into an electricity offering (**our dual fuel customers**). The purpose of establishing this eligibility criteria for our dual fuel customers was simply from a marketing perspective

¹ AEMC (2018), *Rule Determination – National Energy Retail Amendment (Preventing discounts on inflated energy rates) Rule 2018*, 15 May 2018

and not from a contractual perspective. Once our dual fuel customers formed these two contracts, the contracts operated independently of each other. To illustrate this point, the following processes were formally established for our dual fuel customers;

- i. Offer, consideration and formation of two separate and independent contracts,
- ii. Either gas or electricity can be cancelled without any impact on the prices or conditions of the remaining contract,
- iii. Both contracts are billed separately,
- iv. Both contracts have different commencement dates,
- v. Both contracts have different billing frequencies and timing, and
- vi. Both contracts are treated individually for credit treatment processes,

Compliance exposure relating to Alinta's right to de-energise electricity customers under the current version of the NERR

Alinta's primary concern associated with broadening the definition of Dual fuel contracts under the final rule change relates to the construction of its application under 117(3) of the NERR, as stated;

(3) De-energisation of electricity supply The retailer may exercise the right to arrange for de-energisation of the customer's electricity supply in accordance with timing determined under the dual fuel market contract but no earlier than 15 business days after the date of the de-energisation of the customer's gas supply under subrule (2).

Looking at the above provisions relating to the right to de-energise under the NERR, it can be interpreted that retailers are prohibited from de-energising the electricity account associated with any of our dual fuel customer until 15 business days after the date of their gas supply has been de-energised.

The practical application of these provisions results in a customer outcome where – as long as our dual fuel customers maintain their gas supply we can not initiate any credit related de-energisation processes associated with the electricity supply, regardless of the status their electricity account.

The AEMC's proposed rule change to clarify the intent of 117 under the NERR and mitigate any compliance exposure

Alinta Energy acknowledges that the proposed rule change does, to some extent, clarify the intent of the rule by stating that provisions under 117 only apply when the retailer has the right to de-energise for both fuels at the same time.

However, Alinta Energy's concern with the proposed rule is that current drafting will still over-capture circumstances where the retailer has the right to de-energise for both fuels - yet the billing and credit collection timings are not aligned contractually. In practical terms, the right to de-energise both fuels may overlap inadvertently due to retailers having the flexibility to extend the period of time before a retailer exercises their right to de-energise. As noted in our submission, our dual fuel customers' contract are serviced as independent contracts and are not dependant on each other in any way.

If the proposed rule is unchanged, it may create ambiguity that requires retailers to monitor and review both electricity and gas contracts as if they were dependent on each other.

Alinta Energy's proposed rule change to fully reflect intent of rule 117 under the NERR and mitigate any compliance exposure.

Alinta Energy would propose the below amended preferable rule, which we believe will provide greater clarity on its application.

This rule applies where a retailer and a customer have entered into a dual fuel market contract for the customer's premises and the retailer has the right to arrange for de-energisation of the ~~premises under this Division~~ customer's gas supply and the customer's electricity supply under this Division under which the billing and credit collection timings are aligned.

In our view the intent and application of the proposed rule should only apply when both contracts (despite being on separate bills) have contractually agreed to 'aligned' billing and credit collection timings. This would capture these types of dependent contracts and not over-capture circumstances where the right to de-energise has inadvertently occurred.

Should you have any questions or wish to discuss any aspect of our application I may be contacted on (03) 8533 7344 or via email: ante.klisanin@alintaenergy.com.au.

Yours sincerely



Shaun Ruddy
Manager – National Retail Regulation