

1 August 2019

Mr John Pierce
Chairman
Australian Energy Market Commission
Level 6, 201 Elizabeth Street,
Sydney NSW 2000.

Submitted online: www.aemc.gov.au/contact-us/lodge-submission

AEMC Rule Change Consultation: Reducing Customers' Switching Times

Thank you for the opportunity to provide a submission in response to the Australian Energy Market Commission's (AEMC) Rule Change Consultation covering the National Electricity Amendment (Reducing Customers' Switching Times) Rule (NER) and the National Energy Retail Amendment (Reducing Customers' Switching Times) Rule (NERR).

Momentum Energy is a 100% Australian-owned and operated energy retailer. We pride ourselves on competitive pricing, innovation and outstanding customer service. We retail electricity in Victoria, New South Wales, South Australia, Queensland, the ACT, and on the Bass Strait Islands. We offer competitive rates to both residential and business customers along with a range of innovative energy products and services. We also retail natural gas to Victorian customers.

Momentum Energy is owned by Hydro Tasmania, Australia's largest producer of renewable energy.

Overview of Proposed Rule Changes

We note that concerns related to customer switching times and retailer saves programs were discussed in the ACCC Retail Electricity Pricing Inquiry Report (REPI) in June 2018. This resulted in the ACCC making recommendations¹ to AEMO and the ACCC to make changes to procedures and rules to address these market issues. Momentum supports changes to market rules and procedures to accelerate the customer transfer process and to minimise or eradicate saves programs. We accept that the current transfer procedures were established at the commencement of full retail competition in January 2002² when:

- only 5 -10 % customer churn was contemplated;
- small customer meter contestability did not exist;
- smart meters were not available; and

¹ ACCC Retailer Electricity Pricing Inquiry – Final Report 11 July 2018 Recommendations 8 & 9.

² Full Retail Competition commenced in 2002 in Vic and NSW.

We acknowledge that customers' expectations on utility transfer timelines have significantly changed in recent years.

We also agree that retailer "saves" programs have largely been developed as a consequence of the current transfer rule notifications which advise the losing retailer of a pending transfer. However we point out that the very existence of these programs are an indication of an active competitive energy market. Nevertheless, we agree that "saves" programs do not necessarily deliver an ideal customer experience and we support changes to the procedures that will minimise the effectiveness of these programs.

It was also mentioned in the ACCC REPI report that direct marketing activities were discussed in a review of the Australian Consumer Law (ACL) in a 2017 review. The ACL originally established the ten business day cooling off period to primarily protect customers from intrusive sales caused during unsolicited sales activities. This same cooling off period is reflected in various other energy specific regulatory codes for all forms of sales activities related to energy contracts.

The AEMO procedure change proposes, in its High Level Design (HLD), that customers will be able to transfer between retailers within two business days. It is unclear why AEMO has selected the two day period for transfers to be completed other than it would minimise saves activities and deliver exceptional customer service.

The AEMO HLD proposes that if a customer cools off within ten business days that the procedures will facilitate a transition of the customer back to its original retailer. This is unlikely to be a seamless process for industry and it could also cause customer confusion especially if a bill was issued by the new retailer before the transition.

Momentum is of the view that it may now be an appropriate time for the AEMC and AEMO to reconsider the cooling off period for energy sales and that this outcome could be included into the final rules and procedures determined to accelerate customer transfers. For example the cooling off period could be reduced to three business days with the transfer to complete after another two business days ensuring a total transfer period of five business days. This could accommodate a customer changing their mind within the cooling off period, prior to the transfer occurring and avoid a transfer back to the original retailer as would occur under the AEMO proposal. It would still result in a five day transfer period which is a substantial reduction of the current average transfer timelines of 14 – 70 days³ depending on which jurisdiction the site is located.

Rule Change Request Approach

Overall we agree that the rule changes required to implement the AEMO HLD appear minimal but it is not ideal to be considering rule changes in parallel with procedure changes which have not been fully consulted on or finalised. The AEMC advised this approach has been taken to reduce the overall implementation timeline. Momentum is of the view that there is no urgency or immediate market failure that justifies this rapid approach to such an

³ With manually read meters up to 70 days post the cooling offer period. With remotely read metering 14 days with uncertainty as to whether this timeframe includes any part of the cooling off period.

important change, which will likely have significant system impacts and costs to most market participants.

We consider that the case to progress such reforms has in fact reduced since the publication of the REPI as the recent introduction of a Default Market Offer has reduced the risk of customers being stranded on uncompetitive offers and consequently the need to ensure that they can switch more quickly. Any analysis used to underpin the justification for this rule change must reflect the current rather than the historical state of the market.

The proposal to remove or separate the role nomination functions related to metering and meter data from the customer transfer process in MSATS will reduce objections and time delays in the transfer process. However it may also require an alternative system and associated cost to perform these functions. There appears to be too many unknowns at this stage to fully assess and make comment on all of the rules and the procedures. The procedures should be fully determined prior to assessing all of the relevant rules including a review of the cooling off period.

Cooling Off Period

While we understand that any changes to the cooling off period will be a sensitive consumer issue, nevertheless we would like to highlight the following additional issues that reinforce that a review is warranted:

- The purchase of residential and farming land properties in Victoria are subject to a 3 business day cooling off period. Residential properties in Victoria have an average value of around \$650K. Whereas an average electricity annual account is around \$1500;
- The existing 10 day cooling off period was originally initiated to provide better protection for unsolicited energy sales. A large proportion of energy sales are now initiated by customers proactively utilising various mediums and there are regulated requirements for pre-sale information provisions such as Energy Fact Sheets and clear advice obligations;
- With the introduction of a reduced transfer period a customer will be able to promptly transfer back to another retailer if they believe they had made an inappropriate contractual decision; and
- Many retailers do not charge contract exit fees and these fees are regulated in some jurisdictions so re-contracting will not incur significant costs in most cases.

Specific Questions Raised in the Consultation Paper

Momentum has addressed the specific questions raised in the attached Stakeholder Feedback Template attached to this submission and is generally of the view that changes to the NER are minimal with some changes required to the NERR.

NERR Clause 30 Undercharging

However we are particularly concerned about the proposed rule change to the NERR clause 30 that will prohibit the losing retailer from recovering any undercharge that resulted from the use of any substitute or estimated read used in the transfer process. We note and agree

that the final bill from the old retailer is required to be adjusted when there is a material inaccuracy that resulted in a materially higher final bill to the customer.

While it is understood that it would be difficult to recover any under charge, from the old customer, retailers must still have the right to recover this undercharge under the rules. It is acknowledged that material inaccuracies are likely to be minimal as:

- they will primarily only occur where manually read meters exist;
- manually read meters are progressively being replaced with remote meters;
- there is an existing obligation of every manual meter to be read at least once every 12 months so substitute reads will be relatively accurate; and
- retailers have the option to request special reads to minimise this risk.

We also realise that the prospect of material inaccuracies that could affect customers, in the proposed new transfer process could present negative consumer sentiment and impact their support for the rule change, but retailers must retain the right to remain whole in these transactions otherwise unrecovered costs will need to be smeared across the rest of our customer bases creating inequitable cross subsidies.

Meter Reversion

Clause 7.8.3 of the NER - Small Customer Metering Installations mandates (unless exempt due to communications deficiencies in the meter location) that any new or replacement meter must be a type 4 meter. We are concerned that the proposed transfer rules, which allow the customer transfer to occur prior to the cooling off period, will result in the losing retailer being financially responsible for metering costs they cannot recover from the customer under their original customer contract.

For example a retailer may offer an existing customer with a basic type 6 meter a new bundled electricity contract that includes a type 4 meter. If the customer accepts this offer and then cools off after the meter has been upgraded the transition back to the original retailer can occur but the type 6 meter cannot⁴ be reinstalled. Therefore we suggest that new rules be included in the NER that allow retailers to pass through additional metering costs to customers in these instances.

Should you require any further information with regard to these issues, please don't hesitate to contact me on 0478 401 097 or email randall.brown@momentum.com.au

Yours sincerely

[Signed]

Randall Brown
Regulatory Manager

⁴ Meter reversion can only occur with Ministerial approval.