



National Energy Retail Amendment (Notification of end of fixed benefit period) Rule 2017 No. 2

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 (Notification of end of fixed benefit period) Rule 2017 No. 2

1 Title of Rule

This Rule is the National Energy Retail Amendment (Notification of end of fixed benefit period) Rule 2017 No. 2.

2 Commencement

Schedule 1 commences operation on 1 February 2018.

Schedule 2 commences operation on 14 November 2017.

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

Omit rule 45A and substitute:

45A Definitions

In this Division:

benefit change means:

- (a) a change to, or the expiry of, a benefit (such as a price discount) provided to a customer for a minimum period or a fixed benefit period under a market retail contract during the term of that contract (whether or not as a result of the variation to the contract); and
- (b) a change of the type specified in the benefit change notice guidelines, but does not include an excluded change.

benefit change date means the date on which the benefit change will take effect.

benefit change notice means a notice provided by a retailer to a small customer under rule 48A.

benefit change notice guidelines means the guidelines made by the AER under rule 48B.

excluded change means a change to the tariffs, charges or benefits to a small customer under a market retail contract that is specified not to be a benefit change under the benefit change notice guidelines.

fixed benefit period means a period of a market retail contract during which a benefit to the customer (such as a price discount) is available and where the end date of that period is:

- (a) specified or ascertainable at the beginning of that period; and
- (b) earlier than the date on which the contract will end.

fixed term retail contract means a market retail contract that contains a term or condition that specifies:

- (a) the date on which the contract will end; or
- (b) a method for calculating the date on which the contract will end and which is ascertainable at the time the contract is entered into.

price comparator has the same meaning as in *the Law*.

relevant benefit period means, in respect of a benefit change notice, the period in which the benefit that is changing was provided to a customer under a market retail contract.

[2] New Rule 48A Retailer notice of benefit change– market retail contracts

After rule 48 insert:

48A Retailer notice of benefit change – market retail contracts

- (1) If a market retail contract provides for a benefit change, the retailer must, in accordance with this rule, notify the small customer of each benefit change.

Note:

Under rule 46A and *the Law* the retailer is required to fully disclose to the customer any term of a market retail contract that provides for the variation of benefits to the customer prior to the customer's entry into the contract.

- (2) The benefit change notice must be given:
 - (a) in writing;
 - (b) no earlier than 40 business days and no later than 20 business days before the benefit change date; and
 - (c) otherwise in the manner and form required by the benefit change guidelines.
- (3) The benefit change notice must state:
 - (a) the small customer's *metering* identifier;
 - (b) that a benefit change will occur and the benefit change date;
 - (c) that the small customer may use the price comparator to compare offers that are generally available to classes of small customers in their area;
 - (d) the name and web address of the price comparator;
 - (e) that the customer can request historical billing data and, if they are being sold electricity, energy consumption data, from the retailer that will assist it to use the price comparator to compare offers that are generally available to classes of small customers in their area; and

Note:

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

- (f) any early termination charges payable under the contract.
- (4) In addition to the information required by subrule (3), the benefit change notice must contain such other information that the AER specifies in the benefit change notice guidelines in the form and manner specified in those guidelines.

[3] New Rule 48B Benefit change notice guidelines

After rule 48A, insert:

48B Benefit change notice guidelines

- (1) The AER must make guidelines (benefit change notice guidelines) in accordance with the retail consultation procedure.
- (2) The benefit change notice guidelines must specify:
 - (a) the required form of benefit change notices;
 - (b) the manner in which a benefit change notice is to be provided;
 - (c) the information a retailer must include in the benefit change notice in order to enable a small customer to:
 - (i) use the price comparator to compare offers that are generally available to classes of small customers in their area; and
 - (ii) compare the amounts that would be payable by the customer under its existing market retail contract following the benefit change date with the offers referred to in subrule (c)(i); and
 - (d) how a retailer must calculate the amounts required to be included in a benefit change notice.
- (3) In addition to specifying the matters referred to in subrule (2), the benefit change notice guidelines may specify:
 - (a) what constitutes a benefit change for the purposes of subrule (b) of the definition of “benefit change” in rule 45A; and
 - (b) what constitutes an excluded change;
 - (c) any information a retailer must include in the benefit change notice:
 - (i) with respect to the nature of the benefits provided under the market retail contract during the relevant benefit period;
 - (ii) with respect to the nature of the change to the benefits on the benefit change date;
 - (iii) to enable a small customer to compare the amount billed for their energy consumption during the relevant benefit period with the amounts referred to in subrule (2)(c);
 - (iv) with respect to dual fuel contracts (as defined in rule 117(1)); and
 - (v) which the AER considers would be reasonably required by a small customer to assess the energy offers available to it and which is held by the retailer.
- (4) The AER may amend the benefit change notice guidelines in accordance with the retail consultation procedure.

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

(Clause 4)

[1] Schedule 3 Savings and Transitional Rules

In Schedule 3, after Part 7, insert:

Part 8 Rules consequential on the making of the National Energy Retail Amendment (Notification of end of fixed benefit period) Rule 2017

1 Definitions

In this Part:

Amending Rule means the National Energy Retail Amendment (Notification of end of fixed benefit period) Rule 2017.

2 Benefit change notice guidelines

- (1) By 1 July 2018, the AER must make the benefit change notice guidelines in accordance with the retail consultation procedures.

3 Benefit change notice requirements

- (1) A retailer is not required to comply with rule 48A in respect of a benefit change under any market retail contract if that benefit change will occur less than 20 business days after Schedule 1 of the Amending Rule commences operation.
- (2) Subject to subrule (3), a retailer is not required to comply with rule 48A(2)(c) or rule 48A(4) until 1 October 2018.
- (3) If the AER publishes its first benefit change notice guidelines under this Part 8 before 1 July 2018 a retailer must use its best endeavours to comply with rule 48A(2)(c) and rule 48A(4) as soon as practicable after the AER publishes those guidelines but in any event must comply with rule 48A(2)(c) and rule 48A(4) no later than 1 October 2018.

[END OF RULE AS MADE]
