

Australian Energy Market Commission
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Lodged online: <http://www.aemc.gov.au/Rule-Changes/Notification-of-end-of-fixed-benefit-period>

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Notification of the end of a fixed benefit period
Reference: RRC0010

The Australian Energy Council (the Energy Council) welcomes the opportunity to make a submission to the Australian Energy Market Commission (AEMC) on the *Notification of the end of a fixed benefit period consultation paper*.

The Energy Council is the industry body representing 21 electricity and downstream natural gas businesses operating in the competitive wholesale and retail energy markets. These businesses collectively generate the overwhelming majority of electricity in Australia, and sell gas and electricity to over 10 million homes and businesses.

Discussion

The AEMC's consultation paper has sought feedback on the rule change proposal submitted by the Minister for the Environment and Energy, the Hon Josh Frydenberg on behalf of the Australian Government. The Energy Council broadly supports the rule change which requires electricity retailers to notify small customers on a market offer of when their fixed benefit period is due to expire. The Energy Council believes that this rule change will assist customers to access the information they need, when they need it – and in doing so, will promote informed consumer engagement in the retail electricity market. In the Energy Council's view, appropriate notice requirements prior to the end of a fixed benefit period will promote competition in the electricity markets and consumer confidence in the industry.

(a) Aim of rule change

The rule change proposal aims to improve a small customer's ability to engage with and navigate the retail electricity market. The national energy retail objective (NERO) requires that efficiency in the investment, operation and use of energy services is the principal consideration for determining what is in the long term interests of consumers. The AEMC will only make a rule if it is satisfied that the rule will, or is likely to contribute to the achievement of the NERO. As the NERO test has the long-term interests of consumers at its heart, the AEMC should ensure the changes achieve measurable positive outcomes for consumers. The Energy Council suggests objectives of the rule change be clearly identified, to provide the basis of future assessment.

In our view, the objective of the proposed rule change is to promote competitive retail electricity markets by:

- providing timely, accurate and pertinent information to small customers on the terms of the customer's market contract; and
- promoting small customer engagement in retail electricity markets.

(b) Form of rule change

We understand that the AEMC is considering alternative rule change formats.

Drafting approach and exemptions

In our view, the proposed rule as drafted is unclear, and in particular the exemptions are unclear. We note concerns regarding how, in practice, the concept of whether a customer would be ‘financially worse off’ at the end of a fixed benefit period would work. Many factors outside of a retailer’s control may impact on whether the small customer is financially worse off, for example the application of government-run concessions (which may coincide, or not, with the term of a fixed benefit period). Accordingly we recommend that the notice requirement only arise if the end of the fixed benefit period would *result in* (or cause) a reduction in the financial benefit enjoyed by the small customer. Accordingly, a suggested approach would be to require that retailers provide notice if:

the end of the fixed benefit period will result in a change in tariff, charge or other benefit that reduces the financial benefit of the market contract to the small customer.

Under this approach, a retailer would be required to give notice in circumstances including where:

- charges or tariffs increase at the end of the fixed benefit period; or
- a conditional discount ceased at the end of the fixed benefit period (even if in practice the customer did not receive the conditional discount).

In our view, upfront incentives and short-term benefits should be excluded from the scope of the rule. As noted above, the rule change aims to increase customer understanding of the terms of the contract by providing timely information. The issue identified by the rule change proponent – that customers may not notice or understand changes at the end of a fixed benefit period – does not arise in the context of short-term benefits. A small customer is informed of such short-term benefits (for example, a ‘free first month’, one-off signing bonus, or similar) when granting explicit informed consent on entry into the market contract. Requiring that retailers also notify the small customer of the end of the fixed term benefit (when the customer has just signed up and received paperwork in connection with the new market contract) is not helpful and risks confusing the customer. In seeking to strike a balance between providing too much and too little information to promote customer engagement and confidence in the retail electricity market, we consider that a benefit period of 2 months or less should not trigger the notice requirement under the proposed new rule.

Our suggested approach aims to increase certainty for retailers as to when the notice requirements arise. However, we note that there are a wide variety of fixed term benefits in retail electricity markets – including ‘capped’ price arrangements, bonuses to feed in tariff amounts, and a range of other innovative offerings. It is important that the AEMC considers the impact of the rule change on the divergent fixed term benefits available on the market – and that retailers clearly understand what is captured by the rule. We encourage the AEMC to hold a forum with retailers to workshop alternative approaches to the proposed rule and consider how the approaches would apply in practice.

Notice requirements

In the context of the AEMC evaluating the information requirements in the notice, we make the following observations.

The Energy Council supports the provision of simple, tailored and helpful information to assist customers engage with the retail electricity market. The Energy Council notes that there is a risk of information overload if there is too much information contained in the written notice to customers. Whereas the rule change aims to prompt customer engagement with the market, providing too much information can lead consumers to delay or abandon decision making. In this context it is important that the notice requirements support clear, concise and targeted information being provided to consumers.

We consider that a common set of assumptions, and common approach to the calculations which underpin the notice requirements, will be important to ensure that customers can compare information provided by different retailers.

We further encourage the AEMC to consider interactions between this proposed rule change and the work that the AER is currently undertaking to improve energy pricing information and consumer engagement in energy markets. The rule should provide clear guidance to the AER around its application in the context of the AER's work programme on energy pricing. This work programme includes:

- revising energy price fact sheets;
- revising the retail pricing information guide; and
- in this context, considering a form of energy price comparator or reference prices.

This work is consistent with the approach in the National Energy Customer Framework (NECF) generally, noting that the National Energy Retail Rules (NERR) have not previously prescribed the form of pricing information to be provided to customers.

We understand that the Government has set a tight timeframe for the AER's work, with revised energy price fact sheets to be completed by 1 January 2018. The Energy Council and its members are actively engaged with this work programme, including by participating in an AER reference group on energy price information and customer engagement.

To the extent possible, we would encourage that the notice requirements adopted in implementing this rule change align with the approach to pricing information which is adopted by the AER (for example, by prescribing that the notice contain information as required by the AER). In our view, an aligned approach will remove the risk of information asymmetry and ensure that customers can compare the information they are receive from their current retailer at the end of the fixed benefit period with other offers available on the market.

(c) Implementation timeline

In our view, the proposed rule change commencement date of 1 January 2018 does not allow sufficient time for retailers to build the system requirements to implement the rule change. As the AEMC would be aware, this rule change proposal forms part of a suite of commitments that retailers have made to the Prime Minister. Among other things, retailers are currently writing to standing offer customers to encourage the take-up of market offers. Retailers are also devoting significant resources to implementing systems changes to effect the Power of Choice reforms, to be effective from 1 December 2017.

The proposed notice requirements in the rule change proposal require retailers to provide tailored information, specific to each customer. The NECF has not, to date, required retailers to provide such information, and current back-end systems in industry do not allow this information to be easily generated on mass.

The purpose of this rule change is best achieved if accurate information is provided to customers in the notice, and call center and online support staff within retailers are fully briefed to address queries from customers following receipt of the new end of fixed benefit period notice. The Energy Council recommends a later implementation date to provide adequate time for retailers to implement the changes and avoid any unintended negative consequences of an incorrectly designed or implemented process.

(d) Queensland derogation

The Energy Council supports a unified approach to retail energy regulation across the NECF jurisdictions. We encourage the AEMC to work with the Queensland Government to consider whether Queensland's derogation to the NERR introducing a different form of rule 48A remains appropriate and in the best interest of Queensland's small customers, in the context of this proposed rule change.

(e) Application to gas

The Energy Council understands that the issues raised by the rule change request arise predominantly in the electricity context. In this context, the implementation cost of applying the rule change to retail gas markets may not outweigh the benefit that may flow from the rule change.

The Energy Council supports limiting the scope of the proposed rule to retail electricity markets. We would encourage the AEMC to review the impact of the new rule in the electricity context after a three year period to assess whether it has achieved its objectives. As part of this review, the AEMC could then consider extending the rule to small customers in retail gas markets.

(f) Notice timeframe

The Energy Council is supportive of the proposed notice period of between 20 and 40 business days before the end of a fixed benefit period as this aligns with the current NERR requirements to notify customers when the end of their contract is upcoming.

Conclusion

Considering the possible benefit to consumers stemming from this rule change, the Energy Council supports the rule change, subject to the matters raised in this submission being addressed.

Should you have any questions in relation to this rule change request please contact Tess Fitzgerald, telephone 03 9205 3115 or tess.fitzgerald@energycouncil.com.au

Yours sincerely



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