



## **Draft National Energy Retail Amendment (Improving the accuracy of customer transfers) Rule 2016**

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 (Improving the accuracy of customer transfers) Rule 2016 No. ##**

### **1 Title of Rule**

This Rule is the Draft National Energy Retail Amendment (Improving the accuracy of customer transfers) Rule 2016 No. ##

### **2 Commencement**

Schedule 1 commences operation [6 MONTHS AFTER RULE IS MADE].

Schedule 2 commences operation [DATE RULE IS 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] Part 1                              Introduction and definitions**

In rule 3, insert the following new definitions in alphabetical order:

*void transfer* means the transfer of a small customer from a retailer to another retailer which is void under section 41(1) of *the Law*.

*void transfer date* means the date of the *void transfer*.

### **[2] Rule 40                              Requirement for security deposit (SRC and MRC)**

In subrule 40(1)(a), after "customer retail contract and," insert "except in the circumstances specified in subrule (4A)."

### **[3] Rule 40                              Requirement for security deposit (SRC and MRC)**

After subrule 40(4) insert:

(4A) A retailer may require a small customer to provide a *security deposit* during the currency of a customer retail contract if:

- (a) the small customer previously provided a *security deposit* to the retailer in connection with the customer retail contract;
- (b) the *security deposit* was only returned to the small customer under rule 45(1)(b) because the small customer was transferred to another retailer; and
- (c) the small customer is transferred back to the retailer in accordance with rule 57A(4) because the transfer to another retailer was a *void transfer*.

### **[4] Rule 49                              Termination of market retail contract**

After subrule 49(1) insert:

- (1A) For the avoidance of doubt, where a new customer retail contract is made void by section 41(1) of *the Law* the provision of customer retail services under a different customer retail contract is taken never to have commenced for the purposes of subrule (1)(d).

**[5] Rule 57                      Retailer obligations in relation to  
customer transfer**

After subrule 57(2) insert:

- (2A) Subrules (1) and (2) do not apply to a transfer of a small customer requested by a retailer under rule 57A(4)(a).

**[6] New Rule 57A            Retailer obligations in relation to  
correction of transfers without consent**

After Rule 57 insert:

**57A            Retailer obligations in relation to correction of transfers  
without consent**

- (1) If:
- (a) a small customer contacts a retailer and indicates that it has been transferred to a retailer (the new retailer) without explicit informed consent; and
  - (b) the retailer the small customer contacts is not the customer's new retailer,

then the retailer the small customer contacts must notify the new retailer in writing within 3 business days of being contacted and request the new retailer to comply with subrule (3).

- (2) If the new retailer is contacted by another retailer under subrule (1) it will be taken to have been contacted by the small customer for the purposes of section 41(2)(a) of *the Law*.
- (3) Within 10 business days of receiving a notice from another retailer under subrule (1) or from a small customer (as contemplated by *the Law*), the new retailer must:
- (a) provide the record of the small customer's explicit informed consent to the customer; or
  - (b) if the small customer was transferred to the new retailer more than 12 months before the notification under subrule (1), notify the small customer that the transfer is not void under section 41(1) of *the Law*; or
  - (c) if it is established under section 41(2) of *the Law* that explicit informed consent was not obtained to the transfer of the small customer from a retailer (the original retailer) to the new retailer

then, in addition to its obligations under *the Law*, notify the original retailer in writing:

- (i) that the transfer of the small customer to the new retailer is a *void transfer* and the small customer is taken to have remained a customer of the original retailer despite the transfer of the customer to the new retailer under the Retail Market Procedures; and
  - (ii) of the *void transfer date*.
- (4) Within 3 business days after receiving a notice under subrule (3)(c), the original retailer must:
- (a) submit a request for the transfer of the small customer to the original retailer under the relevant Retail Market Procedures with effect from:
    - (i) the *void transfer date*; or
    - (ii) if the Retail Market Procedures do not permit a transfer date equal to the *void transfer date*, to the earliest transfer date permitted under those procedures; and
  - (b) give notice to the small customer that the transfer to the new retailer was a *void transfer* due to an absence of explicit informed consent and that the customer is taken to have remained a customer of the original retailer.
- (5) a notice to a small customer under subrule (4)(b) must:
- (a) specify that the small customer is on the customer retail contract it was on with the original retailer immediately prior to the *void transfer date* unless:
    - (i) the previous customer retail contract was a market retail contract that has terminated other than as a result of the *void transfer*; or
    - (ii) immediately prior to the *void transfer date* the small customer was on a deemed customer retail arrangement with the original retailer,
  - (b) if subrule (a)(i) or(ii) applies, specify:
    - (i) that the small customer is on a deemed customer retail arrangement;
    - (ii) details of the prices, terms and conditions applicable to the sale of energy to the premises concerned under the deemed customer retail arrangement;

- (iii) the customer's options for establishing a customer retail contract (including the availability of a standing offer); and
  - (iv) the consequences for the customer if the customer does not enter into a customer retail contract (whether with the original retailer or another retailer), including the entitlement of the retailer to arrange for the de-energisation of the premises and details of the process for de-energisation.
- (6) If the original retailer charges a small customer an early termination charge in respect of the termination of a market retail contract and it is later established that the transfer to the new retailer was a *void transfer* the original retailer must credit the amount of any early termination charge paid by the small customer on the first bill after the transfer back to the original retailer in accordance with subrule (4)(a).
- (7) Despite this rule 57A, in the period from the *void transfer date* to the day on which the transfer requested under subrule (4)(a) is completed under the Retail Market Procedures, the new retailer is responsible for complying with these Rules as if it were the retailer of the small customer.
- (8) Rule 58 does not apply to transfers made under subrule (4)(a).

**[7] Rule 70 Termination of standard retail contract (SRC)**

After subrule 70(1) insert:

- (1A) for the avoidance of doubt, where a new customer retail contract is made void by section 41(1) of *the Law* the small customer is taken never to have received customer retail services under a different customer retail contract for the purposes of subrule (1)(c).

**[8] Rule 116 When retailer must not arrange de-energisation**

In subrule 116(1)(i), omit "." and substitute "; or".

**[9] Rule 116 When retailer must not arrange de-energisation**

After subrule 116(1)(i), insert:

- (j) where the customer transferred to the retailer from another retailer within the previous 12 months and the retailer does not have a record of the customer's explicit informed consent to the transfer of the customer to the retailer as required by section 38 of *the Law*.

**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 6, insert:

**Part 7                    Rules consequential on the making of the  
National Electricity Amendment  
(Improving the accuracy of customer  
transfers) Rule 2016**

**1                    Definitions**

(a) In this Part:

**Amending Rule** means the National Electricity Amendment (Improving the accuracy of customer transfers) Rule 2016.

**commencement date** means the date of commencement of Schedule 1 of the Amending Rule.

**2                    Retail Market Procedures**

(a) By the commencement date AEMO must amend the Retail Market Procedures, as required, to reflect the Amending Rule.