



Regulating conditional discounting

Final determination

On 27 February 2020, the Australian Energy Market Commission (AEMC) made a final rule that protects consumers from large penalties when they miss pay-on-time conditions by capping the level of conditional discounts and fees to reasonable costs. The final rule comes into effect on 1 July 2020.

Context

Conditional discounts are pricing structures where consumers receive lower energy rates when a payment condition is met. Until recently, the majority of offers in the market included conditional pay-on-time discounts set above 20 per cent. In these cases, missing a payment resulted in a considerable financial burden to a small consumer. In 2018, the Australian Competition and Consumer Commission's (ACCC) found that 27 per cent of residential consumers failed to realise their pay-on-time conditional discount and subsequently recommended that these pricing structures be restricted.

This recommendation prompted a rule change request by the Honourable Angus Taylor, Federal Minister for Energy and Emissions Reduction, which sought to cap the level of conditional discounts to the reasonable cost savings a retailer expects to make when a consumer satisfies a conditional discount.

The final rule

The ACCC's findings demonstrate that large conditional discounts cause significant harm to a material group of consumers. The AEMC considers that this justifies targeted restrictions on the level of conditional discounts and fees. The final rule achieves this by restricting the level of conditional discounts and fees that can be offered to the reasonable costs likely to be incurred by the retailer when a consumer fails to satisfy a payment condition. Key aspects of the final rule include:

- Applies to gas and electricity retail contracts entered into after 1 July 2020.
- Does not set a specific level for "reasonable costs" because these will vary by payment condition and retailer.
- Only applies to conditional discounts and fees related to payment timing or method.
- Includes an AEMC recommendation for new civil penalties for breaches of the rule.

Importantly, retailers will still be able to manage the risk of late payment because they will be able to include pay-on-time discounts or fees up to the reasonable costs they face from late payment. The main change from the AEMC's draft rule is that the final rule only applies to new retail contracts signed from 1 July 2020 onwards.

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