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National Energy Retail Amendment (Advance notice of price changes) Rule 2018 (RRC0015)

Energy Consumers Australia is the national voice for residential and small business energy consumers. Established by the Council of Australian Governments Energy Council (the Energy Council) in 2015, our objective is to promote the long-term interests of energy consumers with respect to price, quality, reliability, safety and security of supply.

We appreciate the opportunity to comment on the National Energy Retail Amendment (Advance notice of price changes) Rule 2018 (the Proposed Rule). This letter sets out our general comments on the Proposed Rule. Our specific responses to the questions in the Australian Energy Market Commission's (AEMC) Consultation Paper (the Paper) of 26 April 2018 are included in the **Appendix**.

An important context for the Proposed Rule is that after a 10-year period where electricity prices have doubled, households and small businesses are doing everything they can to bring their bills down. These consumers are telling us they want better information and tools and advice to get control over their costs.¹

Australian households and small businesses have a right to expect that their retailers will be transparent about their pricing, will work with them proactively to ensure they're on the right deal and will help them manage their energy use. The fact that the current retail energy market is in many ways defined by the converse – by complexity and a lack of clarity about offers and prices or 'noise'² – is driving recent government interventions.

It will take significant, very concrete improvements in the way electricity and gas services are structured and priced to give consumers confidence that the energy market is working in their interests and enable governments to step back from further intervention.

We, like many others, are looking forward to the conclusions the Australian Competition and Consumer Commission (ACCC) will reach in its wide-ranging Retail Electricity Price Inquiry (the Inquiry).³ We are hopeful that the Inquiry will result in a comprehensive review of retail market design.

Energy Consumers Australia supported an earlier rule change that inserted rule 48B in the National Energy Retail Rules (NERR). This required retailers to notify a small customer via a benefit change notice when a benefit provided to them through their market retail contract is expiring or changing. We also supported the rule change aimed at preventing discounts on inflated energy rates.

¹ Energy Consumer Sentiment Survey (ECSS) 2017 <http://energyconsumersaustralia.com.au/publication/energy-consumer-sentiment-survey-findings-december-2017/>

² See our submission to National Energy Retail Amendment (Preventing discounts on inflated energy rates) Rule 2018 (Ref. RRC0012) (<https://www.aemc.gov.au/sites/default/files/2018-04/Energy%20Consumers%20Australia.pdf>) for a discussion of the competitive implications of noisy markets.

³ <http://energyconsumersaustralia.com.au/publication/accs-electricity-supply-pricing-inquiry-preliminary-report-response-submission/>

These rule changes, and the Proposed Rule, are addressing market design issues that have resulted in the retail market not operating to deliver the benefits that consumers expect. That is, the market is not operating in a way that meets with consumers' expectations.

Limitations of the Proposed Rule

The Proposed Rule is premised on the idea that providing advance notice (of a price variation) to consumers will change consumers' behaviour. Behavioural insights tell us this is unlikely to be the case.

Simply providing more information can add to the confusion and 'noise' in this market. Consumers may have a justifiable expectation that all retailers are varying prices at the same time, and so there are unlikely to be benefits from "shopping around." If the consumer perception that all suppliers' prices are increasing is indeed correct, switching supplier will not achieve a benefit to the consumer, who must take other actions to manage the impact of higher prices on their energy bills.

The evidence base built through ECA's Power Shift⁴ project demonstrated that consumers have diverse needs and preferences. Consumers have diverse motivation, opportunities and abilities around managing their energy bills. To be effective, information should be individualized to suit the way they live, and how they (and the members of their household) makes decisions. (For example, sending the account holder a text message or email when they live in a shared house may have no impact.) Vulnerable consumers respond to information that is contextualized to their lifestyles, including language and cultural needs. We are concerned that the rule change will not prompt all households to consider their energy offers and, given it is likely to increase consumers' costs, believe that the Proposed Rule should therefore track consumer outcomes.

The very low level of confidence consumers have in this market⁵ – and which encompasses communications from their energy retailers – also underlines the need to track the impact of the rule change, to ensure it is achieving the desired outcome of instilling confidence in the market.

We recommend that the Proposed Rule's implementation should therefore be informed by behavioural insights research, to track the range of consumer responses, and – more importantly - outcomes. The simulation of real life responses to test consumer reactions to the receipt of such notices from retailers is critical to understanding how consumers will engage with notices from retailers on price changes and what action, if any, that they take.

A principles-based approach

Generally, Energy Consumers Australia is of the view that the rules should be sufficiently detailed and clear to be enforceable but avoid being prescriptive about detailed conduct, such as the form of notices provided to consumers.

Focus should be placed on the objectives of the Proposed Rule and metrics to determine whether these are being achieved. Consequently, any requirement to issue price change notices should not be overly prescriptive in terms of the content and construction of the notices themselves.

⁴ See *Driving Change* (GEER, 2017) at <http://energyconsumersaustralia.com.au/wp-content/uploads/Driving-Change-What-caused-low-income-consumers-to-change-behaviour.pdf>. Our forthcoming research guiding the development of consumer tools makes a similar point, identifying that households with high motivation, opportunity and ability are likely to respond to such messaging.

⁵ ECSS 2017, op cit

In addition to the obligation to send notices, retailers should have a responsibility to monitor the effectiveness of the notices by measuring and reporting the extent to which consumers receiving the notice act and how they act. If there is a low level of observed response, the retailers must refine their approaches to the manner and form of the notices in an iterative way in line with an understanding of consumer behaviour informed by behavioural insights. The results should be reported to the Regulator and made public.

Conclusion

Energy Consumers Australia sees value in consumers being notified in advance of price changes, and we agree with suggestions by the Queensland Consumers Association that this notice requirement should be extended to price decreases.

For this reason, we support the Proposed Rule. However, it is not a costless activity - the retailer and, ultimately, consumers pay for any extra communication, so it is critical that positive consumer outcomes are achieved from the Proposed Rule. This Proposed Rule and wider market design considerations need to be developed with an empirically derived understanding of the way consumers actually make their decisions while recognising that the choice of supplier is only one variable in managing the energy bill.

Our preference is that additional market research and considerations of alternative designs are incorporated into consideration of the Proposed Rule. Our thoughts on the form of the rule are covered in the responses in the Appendix to the AEMC's detailed consultation questions.

If you have any questions regarding our submission, please contact Energy Consumers Australia on 02 9220 5500 or sabiene.heindl@energyconsumersaustralia.com.au.

Yours sincerely,

Sabiene Heindl

Director, Strategic Engagement

Appendix

Issues Raised

Issue 1 - Significance of issue

1. What do you view as the primary purpose of the notice?

The stated primary purpose of the notice under the Proposed Rule is to encourage consumers to consider switching plan or supplier prior to the price change taking effect. Given that the price increase probably represents an increase in input costs common across all suppliers, consideration should be given to other behavioural responses to managing the energy bill might be appropriate.

Unfortunately, the consumer benefits of more customers switching plans or providers in general is overstated. The amount that one consumer can save is not the amount that all consumers can save. That is, the end of price dispersion would see all consumers on a price between the extremes, not all at the lower price point that may be currently available.

2. Does the delay in notice of a price change negatively impact consumers? Why or why not?

To the extent the Proposed Rule results in simply bringing forward the time at which consumers switch, the average customer will not receive the full benefit of a three-month saving. On average customers will receive their notification about one and a half months earlier. The number of consumers switching plans or providers as a consequence of price changes alone has not been quantified, though given that currently price changes are aligned amongst retailers, we suspect the rate is very low.

3. Will advance notice of price changes lead to increased consumer engagement? Why or why not?

As the Independent Pricing and Regulatory Tribunal (IPART) Report that prompted the NSW Minister to make this rule change request notes, ‘the switching rates for electricity providers are high compared to other products and services.’⁶ From this data it appears that consumer engagement, in general, is not low. Therefore, we are of the view that the advance notice of price changes under the Proposed Rule will not lead to increased consumer engagement.

Issue 2 - Length of notice period

4. Is there a significant benefit to consumers from ten business days’ advance notice rather than just advance notice? Why or why not?

Without empirical study, a case can be made for both a longer, shorter or unspecified period. Longer notice gives the consumer more time to affect a change before the price change occurs while a shorter timeframe creates a sense of urgency that might result in the consumer taking immediate action rather than deferring and potentially forgetting to act.

Our response to this question underpins the reasons why we are of the view that proposed rule changes like this one should be subject to behavioural research before specification.

5. Should the same period of advance notice also apply in the case of standing offers? If not, Why not?

As noted above, Energy Consumers Australia has proposed to the ACCC that the consumer protections for all retail offers should be aligned.

⁶ <https://www.ipart.nsw.gov.au/files/sharedassets/website/shared-files/investigation-compliance-monitoring-electricity-publications-market-monitoring-201617/final-report-review-of-the-performance-and-competitiveness-of-the-retail-electricity-market-in-nsw.pdf> P.59

6. What options are available to limit issues that may arise in relation to the difference in the timeframes between the timing for providing notice of price changes and the requirements related to when offers are available on Energy Made Easy?

We see two scenarios where consumers could be confused

- *where a consumer looks at Energy Made Easy and is presented with a range of offers, but is not told they are about to change*
- *where they visit a retailers' website and are unable to find information about their product at its new price.*

Should the Rule be made, the Australian Energy Regulator (the AER) must further consider how it deals with prices change in its redesign of Energy Made Easy. The price comparison offered to a consumer for the next twelve months should ideally be based on the best available information of forward prices, for example.

A framework of restricting price changes to two dates could enable a more thorough approach to the overall timing of the inclusion of the information in Energy Made Easy. For example, retailers could be required to provide advice to Energy Made Easy of new prices some specified number of days prior to the date of effect and all future prices could be updated together in advance.

In the interim, the AER will have to make some additional provision for 'announced future prices' because the revised Retail Pricing Information Guidelines mean retailers cannot provide a pricing fact sheet in advance.

Issue 3 - Gas

7. Is there any reason why the proposed rule should not apply equally to both retail electricity and gas contracts?

No.

Issue 4 - Notice coverage

8. Should ten business days' advance notice also be provided in the case of decreasing prices? If not, why?

Yes. Amongst other things this avoids any question of whether notice is required when one component increases and another component decreases.

Issue 5 - Method and contents of notice

9. What methods, if any, should be specified in the rule (for example: letter, email, website or app) as sufficient for informing the customer of price changes?

The consumer should be required to be communicated with in the same manner as they have chosen to receive their bill. However, the retailer should be allowed to use alternative or multiple means if they have detailed research that explains why an alternative approach will be more likely to achieve the desired outcome.

10. Should the method of advance notice be specified in the rule or should the method of notice be left to the retailer?

No, the method of advance notice should be left to the retailer to agree with the consumer.

11. What information, as a minimum requirement, should be contained in the price variation notice? Why?

In our view if the focus is only on switching, there are only three relevant elements that should be specified in the Proposed Rule, namely:

1. *The detail of the price change.*
2. *The estimated impact on the customer based on their last twelve months' usage.*
3. *Details on how to access www.energymadeeasy.com.au.*

Where the focus is on helping consumers manage their energy bills, then an indication of where the consumers may find additional resources should be provided (e.g. energy.gov.au, retailers' energy auditing schemes, appliance use and management)

12. Is this dependent on your view of the purpose of the notice, either as purely a notification of a price increase or a prompt to engagement?

Yes.

13. Is there any other information not identified by the proponents that should be included in the notice? If so, what? What purpose should it serve?

The only information required should be the information identified in answer to Question 11 above. However, the notice should not be limited to the requirements.

Issue 6 - Exemptions

14. Should businesses that have their prices set by the regulator be exempt from the proposed rule?

No. As far as we are aware a regulated price is a derogation from the Rules. Therefore, if there is a need to exempt retailers in these circumstances that should be achieved as part of the specific derogation.

15. Should a retailer be given an exemption if it acquires a customer that was informed of the future price increase at the time the customer switched to the retailer?

No. Simply because (a) the cost of implementing differential treatment is likely to be high and will ultimately be borne by consumers and (b) this is likely to be difficult and complex from a compliance perspective.

16. If this exemption is included in any rule made, what terms, conditions or restrictions should apply so it only captures consumers who have churned as a result of being provided a price change notice?

None.

Issue 7 - Commencement Date

17. How long from when a final rule is made, if found appropriate, would it take to make the required changes to implement the rule?

We are not in a position to comment on timeframes. However, we would be surprised if it would take longer than three months.

18. Besides billing systems changes, are there any other systems or processes that would need to be made before any final rule could be implemented?

The bigger operational impacts will be (or should be) in the management (and training of) various channels including call centres and websites. The notice could generate traffic surges to both that need to be prepared for.

Retailers should, however, have operational experience from Queensland which they should be expected to share appropriately with the AEMC.