

10 October 2017

Australian Energy Market Commission
PO Box A2449
SYDNEY SOUTH NSW 1235

DRAFT RULE DETERMINATION – National Energy Retail Amendment (Notification of the end of a fixed benefit period) Rule – "RRC0010"

Sumo welcomes the opportunity to respond to the Australian Energy Market Commission's 'Notification of the end of a fixed benefit period' consultation paper.

Sumo is a dynamic new entrant energy retailer with operations in Victoria. It is authorised to retail electricity in New South Wales, Queensland, South Australia, Tasmania and the ACT, and so has an interest in the outcome of this rule change proposal.

In summary:

1. **Policy considerations:** As a policy measure, it is more important to focus on customers who have not engaged with the competitive retail market, recently or at all. This could mean writing to customers on standing offers every 12 months. The customers who receive notification of the end of a fixed benefit period are customers who have shopped around recently and are likely to do so again.

Having said this, we broadly support a rule change that requires retailers to write to customers before the end of a fixed benefit period.

2. **Content issues:** The content requirements should mirror those in existing Rule 48. Additional content requirements would not enhance the benefit to consumers, but will take time and cost to implement.
3. **Implementation:** There should be an implementation period of at least 6 months.

Policy considerations

As noted in the consultation paper, there is already a requirement on retailers to notify customers before a fixed term contract ends (NERR 48). The proposed rule change addresses a 'gap' in the rules where a benefit (such as a discount) ends before the end of the contract. Sumo already writes to customers before the end of any fixed benefit period, and is broadly supportive of a rule change that plugs that gap.

It should be noted that the benefits of the proposed rule change are somewhat limited. A letter – regardless of its specific content (our concerns regarding content are set out below) – would likely be a trigger for a customer to shop around and find a better deal. As such, it may result in a benefit for those customers. However, the customer who receives this notification has recently engaged with the competitive energy retail market and so is likely to do so again. The proposed rule change does nothing for those customers who remain on standing offers or who have not shopped around for a long time.

Content issues

The proposed content requirements for the new notice far exceed the current requirements under NERR 48. Sumo considers this to be unnecessary – as above, the letter itself would act as a trigger for the customer to shop around, and additional content is unlikely to change this outcome. The additional content requirements would take time to implement and would come at some cost to retailers. In Sumo's view, it would be more appropriate to maintain the same content requirements as set out in NERR 48, but broaden the scope of this existing provision to cover fixed benefit periods.

Sumo would need to undertake system development to meet the requirements in proposed Rule 48A. In particular, we would need to undertake system development work to include the following content:

- a) the nature of the benefit available;
- b) the amount of dollars that was payable by the customer, and that would have been payable but for receiving the financial benefit during the fixed benefit period, under the contract;
- c) a reasonable estimate of the amount that will be payable under the contract as a result of the expiry of the fixed benefit period.

Our estimate is that this would take Sumo approximately 6 months to implement, which would make a commencement date of 1 January 2018 impossible to achieve.

As noted above, proposed Rule 48A(5)(c) would require the retailer to provide a reasonable estimate of the amount that will be payable after expiry of the fixed benefit period. This is to be based on average energy usage of the customer over the previous 12 months. One difficulty of calculating this cost is that the retailer will not know at that time if, and by how much, the customer's energy tariff will change over the coming 12 months. This, combined with the uncertainty of any estimate of future usage, makes the proposed estimate very unreliable. In our view, if the rule change goes ahead, an estimate of future amounts payable by the customer should not be included in the notice. Even with appropriate 'disclaimers', such a number will set expectations for customers, who may later complain when those expectations are not met. Rather, the comparison afforded by providing the amount of dollars that was payable versus the amount that would have been payable but for the benefit, would achieve much the same outcome (in terms of illustrating to the customer the impact of losing the benefit).

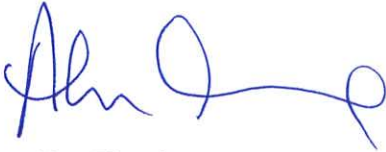
Proposed rule 48A(5)(a) provides for the notice to include the amount in dollars that 'was payable' by the customer. As a matter of interpretation, it is not clear whether this is intended to be based on actual billing and payment history, or whether it is intended that retailers assume that all possible benefits were provided. For instance, if a customer is offered a pay-on-time discount, but the customer does not in fact pay a particular bill on time, does Rule 48A(5)(a) require the inclusion of the amount payable if the customer had paid on time, or the amount that was ultimately payable because he or she did not in fact pay on time? In Sumo's case, the required system development would be simpler (and therefore cost and development time would also be less) if it is based on actual payment history rather than total possible benefits.

Implementation

As above, if the proposed rule change is adopted, we would expect it to take 6 months to implement.

Please contact me if you would like to discuss any aspect of this submission.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Alex Fleming', with a stylized flourish at the end.

Alex Fleming
GM – Legal, Regulatory & Compliance