

**New part 2A – clear advice entitlement, bill change notice, best offer on bills**

**AMENDMENTS TO THE ENERGY RETAIL CODE: MARKET INTEGRITY**

**OCTOBER 2018**

**Amendments made by the Essential Services Commission on  
30 October 2018**

**1 Nature and commencement of this instrument**

- (1) This instrument amends the *Energy Retail Code*.
- (2) This instrument comes into operation on 1 July 2019.

**2 Table of amendments**

- (1) Insert the following definitions in clause 3, after *AMI retail tariff*:

*annual total cost of current plan* means the minimum possible amount payable by a *small customer* under the *customer's* current *customer retail contract* excluding the value of any one-off gift or sign-up credit, calculated on the basis of the *small customer's* annual usage history and the tariff, charges and discount rates current at, as relevant, the date a bill or *bill summary* will be issued, the date that a *price change* or *benefit change* becomes effective, or the date immediately prior to this effective date, with all discounts applied including any discount the *customer* receives because the *customer* buys another good or service, and including any amounts deducted, credited, or received by the *retailer* under a government funded *energy charge rebate, concession or relief scheme*;

**annual total cost of deemed best offer** means the minimum possible amount payable by the *small customer* under the *deemed best offer* excluding the value of any one-off gift or sign-up credit, calculated on the basis of the *small customer's annual usage history* and the tariff, charges and discount rates of the *deemed best offer* current at, as relevant, the date a bill or *summary bill* will be issued or the date that a *price change* or *benefit change* becomes effective, with all discounts applied (except any discount which applies to a *customer retail contract* because the *customer* buys another good or service) and including any amounts deducted, credited, or received by the *retailer* under a government funded *energy charge rebate*, concession or relief scheme;

**annual usage history** means the consumption or export of electricity or gas by a *customer* at the *customer's* current premises over the 12 month period preceding, as relevant, the *bill issue date*, the date a *bill summary* will be issued, or the date of the *bill change alert*, based on *meter* readings. Where the *retailer* does not have 12 months of *meter* readings for the *customer* at the *customer's* current premises, the *retailer* must estimate the *customer's* consumption and export of electricity or gas during a 12 month period having regard to any relevant information that is available to the *retailer* (and must have regard to any *meter* readings obtained during the 12 month period preceding the, as relevant, *bill issue date*, the date a *bill summary* will be issued, or the date of the *bill change alert*);

- (2) Insert the following definitions in clause 3 after *associate*:

**benefit change** means a change to, or the expiry of, a benefit (such as a price discount) provided to a *customer* for a minimum period or a *fixed benefit period* under a *customer retail contract* during the term of that contract (whether or not as a result of a variation of the contract) or under an *exempt person arrangement*;

**bill change alert** means a notice given under clause 70L;

**bill summary** means a communication from the *retailer* to the *customer* that:

- (a) informs the *customer* that the *retailer* has issued a new bill; and
- (b) includes the bill due date and the amount due;

- (3) Insert the following definitions in clause 3 after *de-energisation or disconnection*:

**deemed best offer** means the *customer retail contract* identified in accordance with clause 70P:

**deemed best offer check** means a comparison between the *customer's annual total cost of current plan* and *annual total cost of deemed best offer*, as set out in clause 70Q;

**deemed best offer check result** means the amount determined in accordance with the formula set out in clause 70Q;

**deemed best offer message** means either a *positive deemed best offer message* or a *negative deemed best offer message*;

- (4) Insert the following definition in clause 3 after *financially responsible retailer*:

**fixed benefit period** means a period of a *market retail contract* (where the end date of that period is specified or ascertainable at the beginning of that period) during which a benefit to the *customer* (such as a price discount) is available.

- (5) Insert the following definition in clause 3 after *General Exemption Order*:

**generally available plan** means any plan that is available to any *customer* in the relevant distribution zone unless it is classified as a *restricted plan*;

- (6) Insert the following definition in clause 3 after *move-in customer*:

**negative deemed best offer message** means a message which conforms with the form and content requirements set out in clause 70S(4);

- (7) Insert the following definition in clause 3 after *payment plan*:

**positive deemed best offer message** means a message which conforms with the form and content requirements set out in clause 70S(3); and

- (8) Insert the following definitions in clause 3 after *Price and Product Information Statement*:

**price change** means a change to any of the tariffs or charges payable by a *small customer* under a *customer retail contract*;

**price comparator** means a facility available on a website to assist a *small customer* to compare:

- (a) the tariffs available to a *customer* under a *standing offer*; and

- (b) the tariffs that are generally available to classes of *small customers* under *market retail contracts*,

in accordance with guidelines issued by the *Commission* under section 36A(2) of the *Electricity Industry Act* or section 43A(2) of the *Gas Industry Act*;

- (9) Insert the following definition in clause 3 after *responsible person*:

***restricted plan*** means a plan specifically targeted to an exclusive individual or group and tailored to the specific circumstances of that *customer* and their need(s), including:

- (a) family and friends plans, including *retailer* staff plans and staff plans for employees of companies with whom the *retailer* has a commercial relationship;
- (b) plans targeted to a specific *customer*, with traits and characteristics that cannot be easily acquired – for example, where the *customer* negotiates a specific plan with a *retailer* based on having multiple sites serviced by the same *retailer*;
- (c) obsolete plans;
- (d) *standing offer* plans that are not readily available to *small customers* in a particular location but which *retailers* publish to satisfy their financial responsible Market Participant requirements;
- (e) plans for *customers* in residential embedded networks where the *retailer* acts as the embedded network operator, or provides retail-only plans to an embedded network customer;
- (f) plans restricted to *customers* in a pilot program;
- (g) plans restricted to concession *customers*;
- (h) plans restricted to hardship *customers*;
- (i) ‘save’ plans which are offered by *retailers* in response to a *customer* signaling they intend to switch to another *retailer*;
- (j) ‘win-back’ plans, which are offered by *retailers* after the *customer* has switched to a new *retailer* to persuade the customer to return.

- (10) In subclause 25(1)(y)(iv), delete "." and insert ";".

- (11) Insert the following new subclauses after subclause 25(1)(y):

- (z) clear and simple information about the *price comparator* and how to access it, including a hyperlink on electronic bills.

(12) In subclause 25(5) delete "(v) and (w)" and replace with "(v), (w) and (z)".

(13) Insert the following new Part 2A, after Part 2:

**Part 2A Market Integrity**

**Division 1 Operation of this Part**

**70C Requirement**

A retailer is required to perform its obligations under this Part in a way that promotes the purpose of this Part.

**70CA Purpose**

The purpose of this Part is to establish that *small customers* have an entitlement to measures that assist them to engage confidently with the *energy* market.

**70D Application of this Part**

Except where otherwise provided, this Part applies to *customer retail contracts*.

**70E Interpretation of this Part**

The approach that the *Commission* will take to the interpretation of this Part is as follows:

- (1) clear words will be given their natural and ordinary meaning; and
- (2) where this Part appears to be capable of having more than one meaning, the *Commission* will have regard to the following, in the following order, in seeking to discover the intended meaning of the Part:
  - (a) first, the objective of the relevant Division(s);
  - (b) secondly, the purpose of this Part;
  - (c) thirdly, any guidelines published by the *Commission* under section 13 of the *Essential Service Commission Act 2001* (Vic);
  - (d) fourthly, any relevant guidance notes published by the *Commission* under its Energy Compliance and Enforcement Policy; and
  - (e) fifthly, any written information issued by the *Commission* regarding a *small customer's* entitlement to supporting measures under this Part.

## **Division 2 Customers entitled to clear advice**

### **70F Requirement**

A *retailer* is required to perform its obligations under this Division in a way that promotes the objective of this Division.

### **70G Objective**

The objective of this Division is to give *small customers* an entitlement to clear, timely and reliable information, provided in a respectful manner, to assist the *small customer* to assess the suitability of, and select, a *customer retail contract*.

### **70H Minimum standards – clear advice**

- (1) Prior to obtaining a *small customer's explicit informed consent* to enter a *customer retail contract*, a *retailer* must communicate to the *small customer* in a readily understandable manner information about:
  - (a) any terms pursuant to which the amounts payable by the *small customer* may vary depending on the actions of the *small customer* (for example, any conditional discounts);
  - (b) any terms pursuant to which the amounts payable by the *small customer* may vary depending on the actions of the *retailer* (for example, any terms pursuant to which the *retailer* may make *price changes*, or any specific *price changes* that will apply to that *customer retail contract*);
  - (c) any terms pursuant to which a *benefit change* may occur;
  - (d) the *retailer's* other *generally available plans* that the *retailer* reasonably believes may be more suitable for the *customer* having regard to any information the *retailer* has regarding the *customer* wherever it is practicable to do so; and
  - (e) if switching to the *customer retail contract* involves moving the *small customer* to a new tariff structure, the cost impact that the new tariff structure may have for the customer.
- (2) Subclause (1) does not apply to charges payable for distribution services other than standard control services (electricity) and ancillary reference services (gas).
- (3) The reference to “any information the *retailer* has” in subclause (1)(d) is a reference to any relevant information the *customer* provides during the communication required by subclause (1) including in response to any relevant inquiries by the *retailer*, or any other information the *retailer* has about the *customer* and which the *retailer* considers relevant in providing the advice.

- (4) In communicating the information required by subclause (1), the *retailer* must do so in a manner that:
  - (a) insofar as possible, is done by reference to the *retailer's* estimate of the dollar impact on the *customer*; and
  - (b) emphasises any information the *retailer* reasonably believes may be of particular relevance to that *customer*.

## **70I Compliance**

- (1) A *retailer* must maintain records that are sufficient to evidence its compliance with this Division.
- (2) The *retailer* must ensure that the records required to be maintained pursuant to subclause (1) are retained:
  - (a) for at least 2 years; or
  - (b) where a *small customer* has within that period made a complaint or referred a dispute to the *energy ombudsman* in relation to the provision of advice by the *retailer* in connection with a *customer retail contract*—for the period the complaint or dispute remains unresolved.

## **Division 3 – Customers entitled to notification of change**

### **70J Requirement**

A *retailer* is required to perform its obligations under this Division in a way that promotes the objective of this Division.

### **70K Objective**

The objective of this Division is to give *small customers* an entitlement to clear, timely, easily understood information to allow them to evaluate the ongoing suitability of their *customer retail contract*, before any changes that will affect their bill occur, and the steps the *small customer* can take to find an alternative *customer retail contract*.

### **70L Minimum standards - Notice of price or benefit change to be given**

- (1) If a *benefit change* or a *price change* is to take effect, the *retailer* must provide the *small customer* who is party to the relevant *customer retail contract* with a *bill change alert* in accordance with this Division 3.
- (2) The *bill change alert* must be given to the *small customer*:
  - (a) in writing;
  - (b) using the *customer's* preferred method of communication (if nominated, for example by post or by email to a specified address);
  - (c) at least 5 *business days* before the *benefit change* or *price change* will take effect.
- (3) The *bill change alert* must state:
  - (a) the *customer's* metering identifier;
  - (b) that the *customer* may use a *price comparator* to compare offers that are generally available to classes of *small customers* in their geographical area;
  - (c) the name and web address of the *price comparator* including a hyperlink to the *price comparator* website on notices provided electronically;
  - (d) that the *customer* may request historical billing data from the *retailer* that will assist the *customer* to compare offers that are generally available to similar classes of *small customers* in their geographical area;
  - (e) the nature of the *price change* or *benefit change* and the date on which the *price change* or *benefit change* will take effect;



- (f) any early termination charges payable under the *customer retail contract*;
  - (g) the *retailer's* estimate of the annual dollar impact of the *price change* or *benefit change* to the *customer*, determined by the *retailer* calculating the difference in dollars between the *customer's annual total cost of current plan* calculated from the effective date of the *price change* or *benefit change* and the *customer's annual total cost of current plan* calculated immediately prior to the effective date of the *price change* or *benefit change*;
  - (h) any information the *retailer* has regarding the *customer's* account that will assist the *customer* to use the *price comparator* and which is practicable to provide as part of the *bill change alert*; and
  - (i) a *deemed best offer message*.
- (4) For the purposes of subclause (3)(i):
- (a) the *retailer* must identify the *deemed best offer* for the *customer* in accordance with clause 70P as at the effective date of the *price change* or *benefit change*;
  - (b) using this *deemed best offer*, the *retailer* must perform the *deemed best offer check* for the *customer* in accordance with clause 70Q with *annual total cost of current plan* and *annual total cost of deemed best offer* determined as at the date the *price change* or *benefit change* becomes effective;
  - (c) if the *deemed best offer check result* is negative, the *retailer* must include a *negative best offer message* in accordance with clause 70S(4) on the *customer's bill change alert*;
  - (d) if the *deemed best offer check* is positive, the *retailer* must include a *positive best offer message* in accordance with clause 70S(3) on the *customer's bill change alert*;
  - (e) a *deemed best offer message* must:
    - (i) be on the front page of the *bill change alert*; and
    - (ii) be contained in a border;
  - (f) a *deemed best offer message* is not required to use the words "best offer", but must be written in a way which clearly and simply conveys the meaning of *deemed best offer*,
- (5) Where a *retailer* provides a *small customer* with a *bill change alert* in relation to a *price change*, in addition to the requirements of subclauses (3) and (4) the *bill change alert* must:

- (a) identify the *customer's* existing tariffs and charges inclusive of GST;
  - (b) identify the *customer's* tariffs and charges as varied by the *price change* inclusive of GST; and
  - (c) specify that the tariffs and charges identified in subclauses (a) and (b) are inclusive of GST .
- (6) A *retailer* is not required to comply with this clause in respect of a *benefit change*:
- (a) relating to a benefit that is a one-off gift or sign-up credit provided to a *customer* as a result of entering the *customer retail contract*;
  - (b) that occurs within 40 *business days* of the commencement of the *customer retail contract*; or
  - (c) where the benefit is rolled over on the same terms and conditions after the expiry of the existing benefit.
- (7) A *retailer* is not required to comply with this clause in respect of a *price change* where:
- (a) a *small customer* enters a *customer retail contract* less than 10 *business days* prior to a *price change* taking effect, and the *retailer* notified the *small customer* of the *price change* prior to *small customer* entering the *customer retail contract*;
  - (b) the *price change* is a result of a tariff or charge that continually varies in relation to the prevailing spot price of *energy*. For the avoidance of doubt, this exemption does not apply with respect to *price changes* to any remaining tariffs and charges that form part of the same *customer retail contract* and which do not vary in relation to the spot price of *energy*;
  - (c) the *price change* is a direct result of a change or withdrawal or expiry of a government funded *energy* charge rebate, concession or relief scheme;
  - (e) the *price change* is a direct result of a change to any bank charges or fees, credit card charges or fees, or payment processing charges or fees applicable to the customer.
- (8) Despite subclause (2)(c), a *retailer* must provide the *bill change alert* as soon as practicable, and in any event no later than the *customer's* next bill, where the variations to the tariffs and charges are a direct result of a tariff reassignment by the distributor. For the purposes of providing a notice under this subclause (8), the reference to:
- (a) “is to take effect” in subclause (1) is taken to be “is to take effect or has taken effect (whichever is applicable)”; and

- (b) “will take effect” in subclause (3)(e) is taken to be “will take effect or has taken effect”.
- (9) A *retailer* is not required to comply with subclause (3)(i) where:
- (a) the *customer* is or would be a *small customer* in relation to at least one of the relevant premises; and
  - (b) the aggregate of the actual or estimated annual consumption level of the relevant premises is higher than:
    - (i) in the case of electricity—the upper consumption threshold provided for in an Order made under section 35(5) of the *Electricity Industry Act*;
    - (ii) in the case of gas—the upper consumption threshold provided for in an Order made under section 42(5) of the *Gas Industry Act*.
- (10) A *retailer* is not required to comply with subclause (3)(i) where the *customer* receives a single bill in respect of the provision of *customer retail services* at two or more premises.
- (11) Nothing in subclauses (6) and (7) limits or otherwise affects the application of any other requirement in relation to the provision of information by a *retailer* to a *small customer*.

### **70M Compliance**

- (1) A *retailer* must maintain records that are sufficient to evidence its compliance with this Division.
- (2) The *retailer* must ensure that the records required to be maintained pursuant to subclause (1) are retained:
- (a) for at least two years; or
  - (b) where a *small customer* has within that period made a complaint or referred a dispute to the *energy ombudsman* in relation to the provision of notice of a *benefit change* or *price change*, including that such notice was not provided—for the period the complaint or dispute remains unresolved.

## **Division 4 - Customers entitled to deemed best offer information on bills and bill summaries**

### **70N Requirement**

A *retailer* is required to perform its obligations under this Division in a way that promotes the objective of this Division.

### **70O Objective**

The objective of this Division is to give *small customers* an entitlement to prominently displayed, helpful information that enables them to easily:

- (1) identify whether they are on their *retailer's deemed best offer*;
- (2) understand how to access their *retailer's deemed best offer*, if they are not already on the *retailer's deemed best offer*; and
- (3) understand how to access offers from other *retailers* via the *price comparator*.

### **70P Identification of deemed best offer**

- (1) Where a *retailer* is required to carry out a *deemed best offer check* for a *customer*, the *retailer* must identify the relevant *deemed best offer* for that customer.
- (2) The *deemed best offer* must be either:
  - (a) the *customer retail contract* that the *retailer* offers which:
    - (i) is the lowest cost *generally available plan* having regard to the *customer's annual usage history*; and
    - (ii) does not have as a precondition or condition that the *customer* have or maintain a paid affiliation or membership with an entity that is unrelated to the *retailer*; or
  - (b) a *customer retail contract* that has a lower cost than the lowest cost *generally available plan*.
- (4) Where the *customer* is party to a *customer retail contract* that provides a discount on condition that the *customer* buys another good or service, the *deemed best offer* identified in accordance with subclause (2) must be determined without any such discount.

## **70Q Deemed best offer check**

- (1) A retailer must carry out the *deemed best offer check* by calculating the *deemed best offer check result* in accordance with the following formula:

$$\text{deemed best offer check result} = A - B$$

Where:

A = *annual total cost of current plan*

B = *annual total cost of deemed best offer*

- (2) If the *deemed best offer check result* is less than or equal to \$22, the *deemed best offer check result* is positive.
- (3) If the *deemed best offer check result* is greater than \$22, the *deemed best offer check result* is negative.

## **70R Retailers to give customers deemed best offer message**

- (1) A retailer must provide a *deemed best offer message* on a bill or *bill summary* to a *small customer*:
- (a) at least once every 3 months (electricity);
  - (b) at least once every 4 months (gas); or
  - (c) where a *retailer* and a *small customer* have agreed to a billing cycle with a regular recurrent period that differs from the *retailer's* usual recurrent period and that period is 3 months or longer, once in each billing cycle.
- (2) A retailer must, before providing a *deemed best offer message*:
- (a) determine the *deemed best offer* for the relevant *customer* in accordance with clause 70P as at the date the bill or *bill summary* containing the *deemed best offer message* will be issued; and
  - (b) using this *deemed best offer*, perform the *deemed best offer check* for the *customer*.
- (3) If the *deemed best offer check result* is negative, the *retailer* must include:
- (a) a *negative deemed best offer message* on the *small customer's* bill; and
  - (b) a *negative deemed best offer message* on any *bill summary* of the bill that it sends to the *small customer*.
- (4) If the *deemed best offer check result* is positive, the retailer must include:

- (a) a *positive deemed best offer message* on the *small customer's* bill; and
  - (b) a *positive deemed best offer message* on any *bill summary* of the bill it sends to the *small customer*.
- (5) The requirement in subclause (1) is in addition to the requirement to provide a *deemed best offer message* on a *bill change alert* in clause 70L.
- (6) A *retailer* is not required to comply with this clause where:
- (a) the *customer* is or would be a *small customer* in relation to at least one of the relevant premises; and
  - (b) the aggregate of the actual or estimated annual consumption level of the relevant premises is higher than:
    - (i) in the case of electricity—the upper consumption threshold provided for in an Order made under section 35(5) of the *Electricity Industry Act*;
    - (ii) in the case of gas—the upper consumption threshold provided for in an Order made under section 42(5) of the *Gas Industry Act*.
- (7) A *retailer* is not required to comply with this clause where the *customer* receives a single bill in respect of the provision of *customer retail services* at two or more premises.

## **70S Form and content requirements of deemed best offer message**

- (1) The requirements in this clause 70S apply to any bill or *bill summary* that contains a *deemed best offer message*.
- (2) A *deemed best offer message* must:
- (a) if included on a bill, be on the front page of the bill;
  - (b) be contained in a border; and
  - (c) be located adjacent to and no less prominently than the amount due.
- (3) A *retailer* has discretion over what to include in a *positive deemed best offer message*, provided that the *retailer*:
- (a) ensures that it is clear to the *small customer* that they are on one of the *retailer's* lowest cost *customer retail contracts* available to the *customer* having regard to the *customer's* *annual usage history*; and

- (b) includes the name and web address of the *price comparator* and how to access it, including a hyperlink on electronic bills.
- (4) A *negative deemed best offer message* must:
- (a) contain a title using the exact words “Could you save money on another plan?”;
  - (b) contain the exact words “Based on your past usage, our ” followed by the name of the *deemed best offer* plan, followed by the exact words "may cost you up to", followed by the dollar amount of the *deemed best offer check result*, followed by the exact words "less per year than your current plan.”;
  - (c) must contain clear and simple instructions on how to switch to the *deemed best offer*.
- (5) A *deemed best offer message* is not required to use the words "best offer", but must be written in a way which clearly and simply conveys the meaning of *deemed best offer*, having regard to the objective of this Division.
- (6) Nothing in subclauses (3) and (4) otherwise limits a *retailer* in providing other information to *customers* in connection with a *best offer message* in a manner and form that promotes the objective of this Division.
- (7) Despite subclause (1), a *deemed best offer message* on a *bill summary* is not required to comply with subclause (2) only to the extent it is not practicable to do so because of the method by which the *bill summary* is communicated to the *customer*.

## **70T Compliance**

- (1) A *retailer* must maintain records that are sufficient to evidence its compliance with this Division.
  - (2) The *retailer* must ensure that the records required to be maintained pursuant to subclause (1) are retained:
    - (a) for at least 2 years; or
    - (b) where a *small customer* has within that period made a complaint or referred a dispute to the *energy ombudsman* in relation to the provision of information about a *deemed best offer*, including that such information was not provided—for the period the complaint or dispute remains unresolved.
- (14) Insert the following after item 2 of Schedule 3 (Transitional Provisions):

### **3. Best offer message**

- (a) A *retailer* may comply with the requirements of clause 70R(1) during the period 1 July 2019 to 30 September 2019 by providing the *customer* with a *deemed best offer message* other than on a bill or *bill summary*.
- (b) For the purposes of (a):
  - (i) subclause 70R(2)(a) is to be read as requiring the *deemed best offer* to be determined as at the date the *deemed best offer message* will be issued;
  - (ii) subclause 70R(3) is to be read as requiring the *negative deemed best offer* to be provided to the *customer* in writing and not necessarily on a bill or *bill summary*;
  - (iii) subclause 70R(4) is to be read as requiring the *positive deemed best offer message* to be provided to the *customer* in writing and not necessarily on a bill or *bill summary*;
  - (iv) the requirements of subclause 70S apply other than subclause (2);
  - (v) in the definition of *annual total cost of current plan*, the relevant date is to be read as the date the *deemed best offer message* will be issued; and
  - (vi) in the definition of *annual total cost of deemed best offer*, the relevant date is to be read as the date the *deemed best offer message* will be issued.
- (c) A *retailer* is not required to comply with the requirements of subclause 70L(3)(i) until after 30 September 2019.



## **GST inclusive pricing**

# **AMENDMENTS TO THE ENERGY RETAIL CODE: AMOUNTS TO BE INCLUSIVE OF GST**

**OCTOBER 2018**

## **Amendments made by the Essential Services Commission on 30 October 2018**

### **1 Nature and commencement of this instrument**

- (1) This instrument amends the *Energy Retail Code*.
- (2) This instrument comes into operation on 1 July 2019.

### **3 Table of amendments**

- (1) Insert the following definition in clause 3 after *General Exemption Order*:

*GST* has the meaning given in the *GST Act*;

*GST Act* means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth);

- (1) Insert the following new clause 3G after clause 3F:

#### **3G GST inclusive pricing**

- (1) Except where expressly provided to the contrary in this Code, where a *retailer* in a communication (whether oral or written and including, without limitation, a bill, *bill summary*, *bill change alert*, offer, advertisement, notice or information statement) to a *customer* refers to an amount in respect of which *GST* is or would be payable the *retailer* must:
  - (a) identify that amount inclusive of *GST*; and
  - (b) specify that the amount is inclusive of *GST*.
- (2) Any communication described in subclause (1) must not state an amount described in subclause (1) exclusive of *GST* except:
  - (a) where required to comply with *GST Act*; or
  - (b) where expressly permitted in this Code.
- (3) Subclause (2) does not limit the *retailer's* obligations under subclause (1)—

if the retailer is required to state an amount as exclusive of *GST*, it must also state that amount inclusive of *GST*.

- (3) Replace clause 15B(7)(c) with the following:

all monetary amounts must be shown on a *GST*-inclusive basis;

- (4) Replace clause 15C(4) with the following:

All monetary amounts presented on the *offer summary* must be shown on a *GST*-inclusive basis.

- (5) Replace clause 8.6 in Schedule 1 with the following:

**GST**

Amounts specified in the standing offer prices from time to time and other amounts payable under this contract are inclusive of *GST*.

- (6) In Schedule 4, in each table, delete each column with the header "Ex *GST*".

- (7) In Schedule 5 replace the Electricity section with the following:

<b>Electricity Tariffs</b>	<b>Including <i>GST</i></b>
<b>As set out in Schedule A</b>	XX.xxx
<b>Supply Charge</b> (\$/Day) (or how billed and calculated)	XX.xxx

- (8) In Schedule 5 replace the Gas section with the following:

<b>Gas Tariffs</b>	<b>Including <i>GST</i></b>
<b>As set out in Schedule A</b>	XX.xxx
<b>Supply Charge</b> (\$/Day) (or how billed and calculated)	XX.xxx

## Consequential technical amendments

# AMENDMENTS TO THE ENERGY RETAIL CODE: CONSEQUENTIAL AMENDMENTS

OCTOBER 2018

## Amendments made by the Essential Services Commission on 30 October 2018

### 1 Nature and commencement of this instrument

- (1) This instrument amends the *Energy Retail Code*.
- (2) This instrument comes into operation on 1 July 2019.

### 2 Table of amendments

- (1) Rename Division 7 of Part 2 "Particular requirements for contracts and exempt person arrangements"
- (2) Before section 45A insert new section:

#### **45AA Application of this Part**

- (1) This Division does not apply to *standard retail contracts*.
  - (2) This Division applies to *market retail contracts* unless otherwise expressly provided.
  - (3) This Division applies to *exempt persons* in particular *categories* where a clause in this Part specifies that the clause applies to *exempt persons* in that *category*.
- (3) In clause 45A, delete the definition of *benefit change*, *benefit change date*, *benefit change notice*, *fixed benefit period*, *price comparator* and *relevant benefit period*.
  - (4) Replace clause 46 with the following:

#### **46 Tariffs and charges**

- (1) This clause sets out some minimum requirements that are to apply in relation to the terms and conditions of *market retail contracts* and *exempt person arrangement*.
- (2) A *retailer* must set out in a *market retail contract* or an *exempt person arrangement* with a *small customer* all tariffs and charges payable by the *customer*.
- (3) The *retailer* must give notice to the *customer* of any variation to the tariffs and charges that affects the *customer*.

- (4) The notice must be given as soon as practicable, and otherwise no later than the *customer's* next bill.
- (5) The *retailer* must set out in the *market retail contract* the obligations with regard to notice that the *retailer* must comply with where the tariffs and charges are to be varied.
- (6) Any variation of the terms and conditions of a *market retail contract* must not be inconsistent with the requirements of this Code in relation to the variation of *market retail contracts*.

(7) **Application of this clause to market retail contracts**

Subclauses (3) and (4) do not apply in relation to *market retail contracts*.

(8) **Application of this clause to exempt persons**

Subclauses (1), (2), (3) and (4) of this clause applies to *exempt persons* in the following *categories*:

VD1, VD2, VD7, VR1, VR2, VR3 and VR4.

- (5) Replace clause 47A with the following:

**47A Notice of benefit change (EPA)**

- (1) If an *exempt person arrangement* provides for a benefit change, the *retailer* must, in accordance with this clause, notify the *small customer* of each benefit change.
- (2) The notice of *benefit change* must be given:
  - (a) in writing; and
  - (b) no earlier than 40 *business days* and no later than 20 *business days* before the date the *benefit change* takes effect.
- (3) The notice of the *benefit change* must state:
  - (a) the *small customer's metering* identifier; and
  - (b) that a *benefit change* will occur and the date *benefit change* will take effect; and

(4) **Application of this clause to market retail contracts**

This clause does not apply in relation to *market retail contracts*

(5) **Application of this clause to exempt persons**

this clause applies to *exempt persons* in the following *categories*:

VD1, VD2, VR1, VR2, VR3 and VR4.