



EnergyAustralia

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7 December 2017

Mr James Clinch
Essential Services Commission
Level 37, 2 Lonsdale Street
Melbourne Victoria 3000

Lodged electronically: energy.submissions@esc.vic.gov.au

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Dear Mr Clinch

Submission on draft decision: Fixed Benefit Periods – notification obligations for energy retailers

1. Introduction

EnergyAustralia welcomes the opportunity to make a submission to the Essential Services Commission (the Commission) on the proposed changes to the *Energy Retail Code (the Code)*, *Fixed benefit periods – notification obligations for energy retailers*.

We are one of Australia's largest energy companies, with over 2.6 million household and business customer accounts in NSW, Victoria, Queensland, South Australia and the Australian Capital Territory. We also own and operate a multi-billion dollar portfolio of energy generation facilities across Australia, including coal, gas and wind assets with control of over 4,500MW of generation in the National Electricity Market.

EnergyAustralia supports the Commission's proposed amendments to the Code and we are pleased that drafting and timing are consistent with Australian Energy Market Commission's (AEMC) new rules: *Notification of end of fixed benefit period* under its changes to the National Energy Rules (NERR). We note that the objectives of the AEMC in giving effect to the new rule are to improve consumer engagement and participation in the retail energy market and should lead to greater competition in the retail market.¹ It is also pleasing to see that the Commission agrees with the AEMC's findings that the adoption of the new rule within the Code is in the long-term interest of consumers and will promote retail competition.²

We understand that in adopting the AEMC's new rule, the Commission is interested in promoting a nationally consistent approach³ and within this front of mind, we encourage the Commission to also adopt the Commission's interpretation of the new rules as they apply to retailer practices.

¹ AEMC, *Rule Determination National Energy Retail Amendment (notification of the end of a fixed benefit period) Rule 2017*, 7 November 2017, p 9 -10

² ESC, *Fixed benefit periods notification obligations for energy retailers – Draft Decision*, 17 November 2017, p7

³ ESC, *Fixed benefit periods notification obligations for energy retailers – Draft Decision*, 17 November 2017, p7

Our concern is to avoid the Commission adopting an interpretation whereby retailers must comply with the rule in circumstances where a customer's fixed benefit term has expired, but there is no change to the benefit they receive, i.e. we do not believe the amendments to the Code should apply to circumstances where a retailer rolls over the customer's benefit term for a future period.

The AEMC specifically addressed this issue in its determination:

- *'Retailers must send notices in relation to benefit changes; if a fixed benefit period ends but the retailer continues the benefit, no notice is required.'*⁴
- *'The [AEMC] also understands that some retailers currently roll over existing benefits under the same terms and conditions when periods initially set for those benefits expire. The final rule avoids the need to notify consumers where these benefits are rolled over.'*⁵

Any misalignment of interpretation would be costly and confusing for customers who will not experience any change to their contract arrangements.

We are encouraged by the discussion in the Commission's Draft Decision that coverage of the amendment to the code is limited to those *'customers on retail market contracts for gas and electricity where those contracts provide a benefit for a minimum period or a fixed benefit period that **does not continue for the life of the contract.***⁶ Further, in its summary of the draft decision the Commission appears to agree with the AEMC's interpretation where it recognises that the AEMC's new requirements will apply in circumstances *'where a customer receives benefits – such as discounts on their energy bill – which end, or change before their contract expires.'*⁷

The shared objectives of the AEMC and the Commission and the adoption by the Commission of the AEMC's drafting indicates to us that amendments to the Code will be implemented consistently by the Commission and the AEMC. We encourage the Commission to provide an explicit interpretation on this matter like the AEMC had done to avoid the risk of misunderstanding in respect of future compliance with the Code.

EnergyAustralia welcomes the Commission's steps to adopt the AEMC's New Rule and its intentions to increase competitiveness in Victoria. We believe this is timely given the current state of the market, and in particular we welcome the Commission's promotion of national consistency in respect of both the draft amendments to the Code and its ultimate implementation in Victoria.

Should you require further information regarding this submission please call me
or Samantha Nunan .

Yours sincerely

Melinda Green
Industry Regulation Leader

⁴ AEMC, *Rule Determination National Energy Retail Amendment (notification of the end of a fixed benefit period) Rule 2017*, 7 November 2017, p 9

⁵ AEMC, *Rule Determination National Energy Retail Amendment (notification of the end of a fixed benefit period) Rule 2017*, 7 November 2017, p 32

⁶ ESC, *Fixed benefit periods notification obligations for energy retailers – Draft Decision*, 17 November 2017, p3

⁷ ESC, *Fixed benefit periods notification obligations for energy retailers – Draft Decision*, 17 November 2017, piii