

7 June 2024

Dear Retailer

Retailer notification of variation to tariffs and charges following the AER's revision to DMO 6

The purpose of this letter is to set out the AER's expectations in relation to the notification requirements for small customers on standard and market retail contracts of any variation to tariffs and charges following the AER's recent change to the DMO Determination.

This follows the AER's making and registration of the [Competition and Consumer \(Industry Code – Electricity Retail\) \(Updated Model Annual Usage and Total Annual Prices\) Determination 2024](#) on 31 May in accordance with our final determination on 23 May and publication of its [Default Market Offer Prices: Revised Final Determination 2024-2025](#) on 3 June ('revision to DMO 6').

Background

The AER made a revision to DMO 6 to address a small technical error by the AER within the DMO model in calculating wholesale costs.

The overall impact on customers remains the same as that in the initial determination, with customers in South East Queensland (Energex distribution zone) still seeing a price increase, and customers in other distribution zones seeing a price decrease. The AER acknowledges this revision may affect the ability of some retailers to meet their required pricing notification timeframes.

Notification requirements*Market retail contracts*

Rule 46 of the National Energy Retail Rules (**NERR**) requires retailers to provide at least 5 business days' notice to a small customer on a market retail contract for any variation to the tariffs and charges that affect the customer.

The National Energy Retail Law (Queensland) Regulation 2014 (**Queensland Regulation**) includes a derogation of rule 46 of the NERR which requires that if the variation results in an increase in the tariffs and charges, the retailer must provide the customer notice of at least 10 business days before the variation is to apply.

Standard retail contracts

Clause 8.2(a1) of Schedule 1 to the NERR requires retailers to provide at least 5 business days' notice to a small customer on a standard retail contract for any variation to the tariffs and charges that affect the customer.

The Queensland Regulation includes a derogation of this clause requiring, as applicable to the relevant retailer under the Queensland Regulation, either:

- at least 10 business days' notice for an increase in tariffs and charges or at least 5 business days' notice for a decrease in tariffs and charges; or

- details of any variation of the standing offer price to be provided in the next bill to customers.

Section 27 of the National Energy Retail Law (**NERL**), a civil penalty provision, requires a retailer to comply with the obligations imposed on the retailer under the terms and conditions of a standard retail contract.

The AER has functions to monitor compliance with the NERL and NERR, including relevant derogations under Queensland Regulation.

Feedback from retailers

We have consulted with energy retailers and the Australian Energy Council (**AEC**).

Retailers have submitted to us that they are committed to informing customers of changes in their energy costs and note requirements to notify customers in advance of price changes. We appreciate this commitment.

We note submissions from retailers that their operations teams are under significant pressure to complete the necessary updates following the revision to DMO 6. We acknowledge, in particular, submissions that meeting the 10-business day notification requirement may be difficult as a result of the AER's original error and the re-making of the Determination.

AER expectations

We expect retailers to use their best endeavours to meet all requirements in the NERL and NERR, including the relevant required notification periods. In this regard, we note the:

- importance of retailers delivering price reductions to customers in South Australia and NSW from 1 July and consider that this of higher importance than strict compliance with 5 business day notification periods for those customers.
- advice from retailers and the AEC that decoupling or delaying South East Queensland price increases from price changes in other jurisdictions is not a feasible option from their perspective.

We also recognise the need for customers who are about to experience a price increase to obtain advance notification in line with the expectations set out in Queensland legislation. We expect retailers to use their best endeavours to meet the 10-business day notification requirement, while acknowledging the challenges in doing so in the circumstances.

If a retailer finds itself in non-compliance of the required notification period, the retailer should report the non-compliance in accordance with the self-reporting framework in [AER's Retail Compliance Procedures and Guidelines \(version 6\) September 2018](#). Rule 46 of the NERR, relating to market retail contracts, is a half yearly reportable obligation. While clause 8.2(a1) of schedule 1 to the NERR, relating to standard retail contracts, is not a reportable breach, we request that retailers report any non-compliance with this notice obligation in the same manner.

The AER will assess non-compliance in line with our [Compliance and Enforcement policy](#). If a retailer is not able to provide the prescribed notice of a price change, we will take into account the relevant circumstances in deciding whether any enforcement action would be appropriate. At this stage the AER would not anticipate taking enforcement action for non-compliance:

- to the extent that a retailer's failure to provide the prescribed notice was caused by the revision to the DMO 6 determination, and
- the retailer has made all reasonable attempts to prescribed notification in each jurisdiction.

Next steps

As set out above, retailers should:

- use their best endeavours to meet the required notification requirements set out in the NERL and NERR, including derogations made in the Queensland Regulations;
- self-report any potential contraventions to the AER via the existing self-reporting framework.

Please contact [REDACTED] if you wish to discuss any of the matters raised in this letter.

Yours sincerely

[REDACTED]

Matt Garbutt
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