

23 Marcus Clarke Street  
Canberra ACT 2601  
GPO Box 3131  
Canberra ACT 2601  
tel: (02) 6243 1111  
www.aer.gov.au

19 December 2024

Dear Retailer

The purpose of this letter is to set out the AER's expectations for compliance with the Derogation made by the Queensland Government on 19 September 2024 under the [National Energy Retail Law \(Queensland\) Amendment Regulation \(No. 2\) 2024](#) (the **Derogation**) which obligates retailers operating in Queensland to:

- include additional elements in tariff variation notices under rule 46(4A) of the National Energy Retail Rules (**Retail Rules**), and
- provide a flat tariff standing offer under section 22(1a) of the National Energy Retail Law (**Retail Law**).

The obligations under the Derogation came into effect on 20 September 2024.

### Industry non-compliance

A number of individual retailers and the Australian Energy Council (on behalf of retailers more broadly) contacted the AER to raise concerns regarding non-compliance with aspects of the Derogation given the significant systems changes required to meet the new obligations and the limited notice that was provided before the Derogation came into effect. Some retailers have noted that it may take several months to update their systems to comply with the Derogation.

### AER expectations

We acknowledge the concerns raised and the limited notice provided to retailers ahead of the introduction of the Derogation. However, we expect retailers to prioritise implementation activities to achieve compliance with the Derogation obligations as soon as possible.

Where a retailer find itself non-complaint with the Derogation obligations, the retailer should report this to the AER.

- For rule 46 of the Retail Rules,<sup>1</sup> on a half yearly basis in accordance with the AER's [Compliance Procedures and Guidelines \(Version 6\)](#).<sup>2</sup>
- While section 22(1a) of the Retail Law<sup>3</sup> is not a reportable breach under the Compliance Procedures and Guidelines, we request that retailers report any

---

<sup>1</sup> Rule 46(4A) is classified as a tier 3 civil penalty provision.

<sup>2</sup> This version remains in effect until 31 March 2025. From 1 April 2025, [Version 7](#) will apply.

<sup>3</sup> Section 22(1a) of the Retail Law is not a civil penalty provision, however a failure to include a flat tariff structure in the standing offer may result in a breach of sections 22(1) or (3) of the Retail Law, which are both classified as tier 1 civil penalty provisions.

non-compliance with this obligation in the same manner as rule 46 of the Retail Rules.

The AER will assess non-compliance with the Derogation in accordance with our [Compliance and Enforcement Policy](#). The circumstances surrounding the Derogation's introduction and the steps taken by the retailer to achieve compliance will be key factors in our determination of the appropriate compliance or enforcement response.

The AER continues to focus on monitoring retailer compliance with tariff notification obligations outside of the Derogation, in accordance with our [2024-25 Compliance and Enforcement Priorities](#) and as outlined in our April 2024 [letter to industry](#).

### **Next steps**

As set out above, retailers should:

- prioritise implementation activities to comply with the Derogation obligations, and
- self-report any non-compliance with the obligations under the Derogation to the AER, with the next half yearly reports due by 28 February 2025.

Yours sincerely,

Rebecca Holland  
A/General Manager  
Compliance and Enforcement branch