



## **Making the Switch: Addressing the accuracy of customer transfers**

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# Introduction

## 1. The Public Interest Advocacy Centre

The Public Interest Advocacy Centre (PIAC) is an independent, non-profit law and policy organisation that works for a fair, just and democratic society, empowering citizens, consumers and communities by taking strategic action on public interest issues.

PIAC identifies public interest issues and, where possible and appropriate, works co-operatively with other organisations to advocate for individuals and groups affected. PIAC seeks to:

- expose and redress unjust or unsafe practices, deficient laws or policies;
- promote accountable, transparent and responsive government;
- encourage, influence and inform public debate on issues affecting legal and democratic rights;
- promote the development of law that reflects the public interest;
- develop and assist community organisations with a public interest focus to pursue the interests of the communities they represent;
- develop models to respond to unmet legal need; and
- maintain an effective and sustainable organisation.

Established in July 1982 as an initiative of the (then) Law Foundation of New South Wales, with support from the NSW Legal Aid Commission, PIAC was the first, and remains the only broadly based public interest legal centre in Australia. Financial support for PIAC comes primarily from the NSW Public Purpose Fund and the Commonwealth and State Community Legal Services Program. PIAC also receives funding from NSW Trade and Investment for its work on energy and water, and from Allens for its Indigenous Justice Program. PIAC also generates income from project and case grants, seminars, consultancy fees, donations and recovery of costs in legal actions.

### 1.1 Energy + Water Consumer's Advocacy Program

This Program was established at PIAC as the Utilities Consumer's Advocacy Program in 1998 with NSW Government funding. The aim of the program is to develop policy and advocate in the interests of low-income and other residential consumers in the NSW energy and water markets. PIAC receives policy input to the program from a community-based reference group whose members include:

- Council of Social Service of NSW (NCOSS);
- Combined Pensioners and Superannuants Association of NSW;
- Tenants Union of NSW;
- Ethnic Communities Council of NSW;
- Physical Disability Council of NSW;
- St Vincent de Paul Society of NSW; and
- The Salvation Army Eastern Australia Conference.

## 2. Improving the accuracy of customer transfers

PIAC thanks the Australian Energy Market Commission (AEMC) for the opportunity to respond to the consultation paper developed in response to the Transfer Accuracy Rule Change Request submitted by the Council of Australian Governments (COAG) Energy Council.

The proposed rule change arises out of the AEMC's 2012 Power of Choice Review and subsequent Review of Electricity Customer Switching in 2014.<sup>1</sup> One of the Review's findings was that the main cause of errors in the customer transfer process is inaccurate customer address information in the centralised Market Settlement and Transfers Solution (MSATS), and inconsistencies between the address data held by different market participants. Inconsistencies can occur when a customer switches retailers and the address given by a customer to a new retailer does not match either the National Metering Identifier (NMI) Standing Data in MSATS, or address data held by the retailer or metering data provider (MDP). The current rule change request refers to these transfers as 'erroneous transfers'. The review also found that there was confusion about retailers' responsibilities to resolve an erroneous transfer.

The proposed rule change has two aims. First, it seeks to address the cause of erroneous transfers and associated delays. In doing so, it aims to minimise the costs that retailers, consumers, and dispute resolution bodies incur as a result of erroneous transfers. Secondly, it seeks to clarify which retailer is responsible for resolving an erroneous transfer.

The rule change proposal seeks to address the above issues by:

- Introducing an address standard for address data used by retailers when customers switch retailers, with the aim of reducing transfer errors and delays; and
- Strengthening obligations on retailers to promptly resolve erroneous customer transfers (where a transfer is requested but the wrong customer is transferred).<sup>2</sup>

PIAC believes the rule change request is an important step towards resolving complications that arise out of the customer transfer process. Overall, PIAC supports the proposal and believes that it will minimise costs in terms of money and time both for consumers and retailers, and will increase efficiency and consumer confidence in the market. PIAC's comments on selected questions posed by the AEMC are detailed below.

### **Question 1. Address mismatch as a cause of delays and errors**

**(a) Is address mismatch a common cause of delays in the transfer process?**

**(b) Is address mismatch a common cause of erroneous transfers, where the wrong customer was transferred?**

As outlined in the AEMC's paper, AEMO data indicates that approximately 2.2% of total small customer transfers initiated in MSATS are erroneous transfers.<sup>3</sup> It is not clear how many of these are caused by address mismatches. Nevertheless, while this specific figure may be small, the evidence from ombudsman schemes suggests that it is a persistent issue.

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<sup>1</sup> Australian Energy Market Commission, *Improving the accuracy of customer transfers rule change*, 2016.

<sup>2</sup> Ibid 1.

<sup>3</sup> Ibid 13-14

For a residential customer, such errors can lead to stressful situations where avenues for redress are ambiguous. It is usually the customer who needs to identify the error and this may not happen until they receive a final bill from the original retailer, or a new bill or welcome pack from the new retailer.<sup>4</sup> This can lead to confusion for the customer who needs to rectify the error and determine whom to contact, and which retailer is responsible for fixing the error. This process and the delay currently inherent in it may lead to bill shock, particularly if the erroneous transfer to the new retailer places the customer in a more expensive contract, therefore potentially causing financial disadvantage. In light of the potential detrimental effects on customers, PIAC strongly supports seeking to resolve this problem.

### ***Recommendation 1***

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*PIAC agrees that address mismatch is one cause of erroneous transfers and delays and should be addressed.*

### **Question 2. Effectiveness of address standard**

- (a) Once implemented, how effective would an address standard, such as the ones outlined above, be in reducing the causes of delays and errors in the transfer process?**
- (b) Are there specific additional features or information items (such as the outgoing retailer's billing address for the customer) that should be included in order to improve the effectiveness of the address standard?**

The rule change request proposes an address standard to deal with the issue of address mismatch. The proposal is that the new retailer would validate a customer's address against the standard. This process would help to ensure that the correct address information is updated in the MSATS system. PIAC believes this approach is appropriate on the basis that it promotes consistency and provides an additional checking mechanism. We also believe that its effectiveness can be enhanced through additional requirements as proposed by AEMO.

AEMO has suggested that the introduction of an address standard should coincide with other measures that assist with the reduction of erroneous transfers and delays. This includes the sharing of customer information between the new retailer and the old retailer, such as the previous connection details. AEMO has suggested that the sharing of information occur either through Business-to-Business (B2B) procedures, or through amendments to MSATS.<sup>5</sup> An additional field in MSATS would be developed by AEMO whereby the new retailer can verify the address standard<sup>6</sup>, and B2B procedures would be reviewed to ensure a parallel approach to the one put forward in the rule change request.

PIAC is of the view that the implementation of the address standard should coincide with AEMO's suggestions to adopt either additional B2B and MSATS processes. The combination of measures would provide effective verification of the transfer and could assist in the reduction of mismatches between the address and NMI. This would increase consumer confidence in the market and enhance reliability. In addition, PIAC believes this approach would reduce the need for customers to communicate with both retailers if an error was to occur. This would reduce the financial and time burden of such communications on customers.

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<sup>4</sup> Ibid 11.

<sup>5</sup> Ibid 27.

<sup>6</sup> Ibid 27.

## ***Recommendation 2***

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*PIAC recommends the implementation of specific additional requirements, including B2B processes and amendments to MSATS proposed by AEMO, to enhance the effectiveness of the address standard.*

### **Question 3. Efficient implementation of address standard**

**(a) What method of implementation of an address standard would best balance the costs of implementation with the benefits (to both customers and retailers) of a reduction in transfer delays and errors?**

**(b) Would it be efficient to couple an incremental approach (such as applying the address standard to new connections) with specific requirements applying to retailers in relation to customer transfers, for example requiring the incoming retailer to validate the address of its new customer and record the results in a new field in MSATS?**

As outlined in the AEMC Paper, AEMO prefers to adopt an incremental approach when implementing the address standard. Its proposal is to apply the address standard to new connections only.<sup>7</sup> This approach aims to avoid the potentially prohibitive costs that would arise out of checking and updating all existing MSATS address data.

The AEMC has proposed an alternative approach, where the address standard would be applied when customers switch retailers. This approach assumes that more of the MSATS address data will be progressively checked over time as customers churn. PIAC is of the view that the AEMC's recommendation best balances the implementation costs with the benefits to stakeholders. When striving to improve market systems, PIAC believes that it is more beneficial to opt for a solution that delivers maximum benefit to all stakeholders at reasonable cost. A solution that is cost prohibitive for market participants would discourage change and waste an opportunity to deliver better outcomes for consumers. In this vein, implementing an address standard instantly, which would involve checking existing MSATS data all at once, could potentially involve significant upfront costs. We note the AEMC's advice that stakeholders have expressed concerns about the costs of this approach.<sup>8</sup> The AEMC's proposed alternative would allow the costs of updating MSATS to be spread over time. It is also broader in remit as it would capture already existing customers who are switching as opposed to new customers only, therefore reducing transfer delays and errors for a greater pool of customers. PIAC anticipates that retailers would benefit from decreased costs associated with customer complaints and correcting administrative errors. PIAC therefore believes that the AEMC's approach is most likely to deliver the benefits of a more efficient transfer process to a greater number of customers in a way that is not cost prohibitive.

## ***Recommendation 3***

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*PIAC agrees with the AEMC that the address standard should be incrementally adopted by applying it to instances where customers are switching retailers.*

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<sup>7</sup> Ibid 27.

<sup>8</sup> Ibid 27.

## **Question 5. Extension of address standard to gas market address data**

- (a) Are transfer errors and delays due to address mismatches a material issue in gas markets? Would an address standard be likely to reduce these issues in gas markets?**
- (b) Should the same address standard be implemented in both the electricity and gas markets?**
- (c) How, if at all, should the implementation of an address standard in the gas markets differ from the way it is implemented in the electricity market, given the lack of a centralised MSATS-type system in the gas markets?**

PIAC understands that the retail gas markets do not have a centralised system similar to the electricity market's MSATS system. The consultation paper does not mention how the gas retailers approach erroneous transfers, errors or delays within their administration systems. Therefore, it is difficult for PIAC to comment on whether an address standard would be beneficial and assist consumers with the transfer process. However, there is evidence, as outlined in the AEMC's paper, that transfer inaccuracies occur in both markets.

In general, PIAC would recommend that the AEMC adopt the principle that a standardised approach should be enforced across both gas and electricity markets. This would involve the AEMC evaluating the current state of gas market transfers in more detail, and on that basis determining the feasibility of adopting a standardised approach.

### ***Recommendation 4***

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*PIAC recommends that a standardised approach be implemented across both electricity and gas markets.*

## **Question 7. Ways to improve the resolution of erroneous transfers**

- (a) If a rule on the resolution of erroneous transfers is made, should it explicitly recognise that "resolving" an erroneous transfer relates to improving communication between the retailers involved and reducing the need for the customer to contact both retailers?**
- (b) Should the rule specify different roles for Retailer A and Retailer B in the resolution process?**
- (c) If different roles are specified for Retailer A and Retailer B, would obligations similar to the following ones be practicable (from the retailers' perspective) and effective in helping resolve the issue quickly and easily (from the customer's perspective)? If not, what obligations would be appropriate?**
- (d) Are there effective alternatives to including new specific requirements on retailers regarding this issue?**
- (e) Are either of the potential approaches noted in question (d) above likely to be particularly burdensome to implement, relative to their likely benefits?**

The other issue that the rule change proposal aims to address is confusion regarding retailers' responsibilities to resolve a situation where the wrong customer has been transferred. Currently, the *National Electricity Rules* (NER) and *National Energy Retail Rules* (NERR) are not prescriptive in assigning responsibility to resolve erroneous customer transfers.

The current retailer processes in place to resolve erroneous transfers can require multiple contacts between the customer and both retailers.<sup>9</sup> This process can be onerous for a customer. PIAC agrees that the rule change should explicitly recognise that the resolution of erroneous transfers relates to improving communication between customers and retailers, and reducing the need for customers to contact both retailers. The current communication burden on customers is the main cause of the inefficiency and confusion and explicit recognition is the best way to target the issue.

As explained in the AEMC paper, the current procedural and legal rules mean that, while it is likely that Retailer B<sup>10</sup> caused the erroneous transfer, Retailer A<sup>11</sup> necessarily has a key role in reversing the erroneous transfer. This is because only Retailer A can enter a request in MSATS for the customer to be transferred back to Retailer A. Retailer B, once it becomes the Financially Responsible Market Participant (FRMP) for the customer, cannot initiate the re-transfer process. Moreover, legally, the customer's original contract with Retailer A terminates upon the transfer to Retailer B. Assuming the customer wishes to transfer back to Retailer A, Retailer A will need to enter into a new contract with the customer, and obtain the customer's explicit informed consent to do so. Therefore, even though the customer is likely to contact Retailer B first (as the customer may first find out about the erroneous transfer when they receive a bill or other correspondence from Retailer B), it is not possible for Retailer B to resolve the erroneous transfer alone.

In terms of roles, PIAC believes that the rules should specify differing roles for the two retailers in the resolution process, consistent with the distinct legal requirements and procedural capabilities of each. First, PIAC agrees with the rule change proposal to amend the NERR to require the retailer that is contacted first by the customer regarding a transfer error to be held responsible for its resolution. That retailer would be required to resolve the complaint within the parameters under which it is able to operate.

In this vein, PIAC believes that the proposed roles, as put forward by the AEMC, are appropriate. That is, if Retailer B is contacted first, it would be required to promptly contact Retailer A to explain that an erroneous transfer has occurred. Retailer A would then be required to promptly contact the customer, request consent to a new contract, and initiate a transfer request in MSATS retrospective to the date of the erroneous transfer. Both retailers would be obliged to review their bills to the customer in light of section 41 of the *National Energy Retail Law* (NERL), and promptly issue revised bills, refunds or credits if necessary.

Specifically setting out these responsibilities, and acknowledging the necessary differences in roles, will provide clarity and reduce delays.

PIAC is of the view that the compliance burden involved in implementing a standardised process is likely to be less than the alternatives, such as increasing incentives for retailers to move more quickly once an error is identified.

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<sup>9</sup> Ibid 32.

<sup>10</sup> The retailer to which the customer was erroneously transferred.

<sup>11</sup> The original retailer.

In this instance, PIAC does not believe that providing customers with more information about their rights under section 41 of the NERL would sufficiently address the issue at hand. It is more appropriate to shift the communication and resolution burden to retailers and away from customers as would be required under the requirements proposed in Question 7(c) (discussed above).

PIAC does not view the above proposal as particularly onerous, and is of the view that the efficiency gains, including reduced delays, are likely to offset the costs of compliance.

### ***Recommendation 6***

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*PIAC agrees with the proposal that the retailer contacted by a consumer should be responsible for resolving the transfer error, in line with the specific role that it is able to play. Moreover, PIAC recommends that the retailers' roles should be clearly set out and that a standardised process be developed and applied.*

### **Question 8 Definition of erroneous transfer**

**How should "erroneous transfer" be defined so as to clearly and accurately capture the types of "errors" described in the rule change request, while excluding transfers undertaken with defective consent?**

PIAC supports the Energy and Water Ombudsman NSW's (EWON) definition of 'erroneous transfer', which is as follows:

EWON defines erroneous transfers in its complaint statistics as where:

Consistent with the conceptual understanding of erroneous transfers in the rule change request,

- A customer has requested the transfer of their NMI / DPI but the incorrect NMI / DPI is requested or won by the Provider. This customer is being billed on another customer's usage;
- A customer has not requested a transfer but their NMI / DPI has been won by another Provider. This customer may receive a final bill from their preferred Provider and possibly a phone call as to why they are transferring away; or a Dear Occupant or Dear Customer letter from the new Provider.<sup>12</sup>

PIAC believes that the definition provided by EWON captures the causes of error. It also excludes issues that should be out of scope, such as defective consent or transfers without consent. The EWON definition is the most comprehensive, at the same time as being the most targeted to the issues at hand.

### ***Recommendation 8***

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*PIAC recommends that the definition of 'erroneous transfer' be in line with EWON's definition on the basis that it most comprehensively captures the relevant issues.*

### **Question 9 Applying the new procedure to erroneous transfers of gas customers**

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<sup>12</sup> Ibid 15.

- (a) Is the resolution of erroneous transfers a material issue in the gas markets?
- (b) Should any new procedure on the resolution of erroneous transfers be implemented for both electricity and gas customers?
- (c) How, if at all, should the erroneous transfer resolution procedure for gas customers differ from the procedure for electricity customers?

As mentioned in response to question 5, the AEMC's consultation paper does not provide sufficient information on how the gas retail markets currently approach erroneous transfers. In this regard, PIAC finds it difficult to make comment on whether the application of all aspects of the rule change would be beneficial to consumers in the retail gas markets. However, as there is evidence from the Ombudsman that erroneous transfers are an issue in the gas markets similar to the electricity retail market, PIAC is of the view that the issue should be further investigated and resolution mechanisms strengthened as consistently as possible.

PIAC recommends the AEMC collect further information and statistics on the current procedures on erroneous transfers from AEMO and jurisdictional ombudsman schemes.

### ***Recommendation 8***

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*PIAC recommends that the AEMC conduct further research into current processes relating to erroneous transfers in the gas retail market, and the nature of the issues faced by customers.*

## **3. Conclusion**

PIAC believes that the rule change request is a positive step in preventing and resolving erroneous transfers and associated delays. While the rule change does not address all issues for transfer errors and delays, PIAC supports eliminating address mismatch as a cause of error to the greatest extent possible while acknowledging that there will always be room for human error. PIAC supports the adoption of the address standard as a way forward. As the proposal involves AEMO consulting in order to develop the standard, PIAC looks forward to participating in that consultation.