

8 December 2016



Ed Chan
Director
Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

Submission lodged online

Dear Mr Chan

AEMC Draft Rule Determination on the National Energy Retail Amendment (Improving the accuracy of customer transfers) Rule

The Public Interest Advocacy Centre (PIAC) welcomes the opportunity to comment on the Australian Energy Market Commission's (AEMC) Draft Rule Determination on the *National Energy Retail Amendment (Improving the accuracy of customer transfers) Rule*.

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. We deliver the Energy + Water Consumers' Advocacy Program (EWCAP), which represents the interests of low income and other residential consumers of electricity, gas and water in New South Wales. 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.

Rectifying transfers without consent

PIAC notes that the Draft Rule provides specific procedures¹ for new and original retailers to follow when a customer indicates they have been transferred without explicit informed consent. The Draft Rule also specifies timeframes in each of the steps that retailers are required to take to resolve the issue.

PIAC considers that these changes will improve consumer confidence in the transfer process and ensure that customers are supplied by their retailer of choice. As PIAC understands it, the lack of clarity in current industry practice has resulted in blame-shifting and buck-passing between new and original retailers, and customers are placed in the unreasonable position of having to coordinate between both retailers to resolve the issue. PIAC therefore strongly supports the Draft Rule as it will bring greater clarity to each retailers' responsibility to resolve transfers without consent, particularly in relation to business-to-business procedures between new and original retailers. PIAC also considers that the proposed timeframes are reasonable and will assist in efficiently resolving transfers without consent.

¹ See AEMC Draft Rule Determination: *National Energy Retail Amendment (Improving the accuracy of customer transfers) Rule*, 27 October 2016, pp. 24-25.

Where it is demonstrated that customers have not provided their explicit informed consent to a transfer, the Draft Rule voids the new contract and requires the original retailer to take back the customer on the original contract. In the AEMC's view, the effect of this is that:

the customer's contract with the original retailer is taken never to have terminated, and to have continued in effect...[and]...the small customer should be in the same position it would have been in had the erroneous transfer not occurred.²

PIAC strongly supports this change as it is consistent with community expectations of remedies available for the improper or unauthorised action of a third party.

PIAC would like to see the Draft Rule extended to require that customers be restored to the rebate, hardship and existing payment plan arrangements they may have had prior to the transfer. In PIAC's view, the restoration of the customer to the 'same position' does not only amount to restoring their original contractual position, it should also restore all the arrangements between customers and their retailer as exercised under their contract and the *National Energy Customer Framework*.

For vulnerable consumers, having to renegotiate hardship arrangements and payment plans can be a stressful experience and there is no guarantee that they may be able to negotiate the same arrangement. For example, customers would be worse off if they previously had a 2:1 incentive payment arrangement³ with their retailer and could only negotiate a 1:1 incentive arrangement⁴ upon being restored to their original position.

Customers would also be worse off if they had been receiving the Medical Energy or Life Support rebates prior to the transfer and have to reapply upon being restored to their original retailer. The application forms for these rebates require a doctor's signature. For customers with serious medical conditions, the extra trip to their doctors can be a significant inconvenience. For customers who are receiving other rebates such as the Low Income Household and Gas rebates, the need to reapply through their retailer over the phone can also be a nuisance. PIAC understands that retailers should already have details of customers' concession or health care card details in their systems and, therefore, it would not be difficult for the original retailer to automatically restore customers' eligibility for rebates.

Prohibition on disconnection

The Draft Rule prohibits a retailer from de-energising a customer who has transferred within twelve months unless explicit informed consent can be demonstrated. In principle, PIAC welcomes this consumer protection as it appropriately safeguards customers against the potential adverse consequences of being transferred without consent. Customers often ignore letters from a new retailer because they consider that they are still with their original retailer, which may result in unpaid bills and disconnection. PIAC agrees with the AEMC that customers in this situation should not be disconnected because the contract with the new retailer is void.

However, PIAC queries whether this prohibition provides adequate consideration to customers who are transferred in error unknowingly (Customer A). This can occur when Customer A's National Meter Identifier is taken in error by a retailer who is supposed to transfer another customer requesting the transfer (Customer B). PIAC understands that when Customer B contacts the retailer after realising that they have not been transferred, current industry practice is to transfer Customer B to the correct retailer but not necessarily transfer Customer A back to

² Ibid, p. 16.

³ The retailer makes two equivalent payments to the customer's account for every payment that the customer makes.

⁴ The retailer makes one equivalent payment to the customer's account for every payment the customer makes.

their previous retailer. This potentially leaves Customer A stranded with a retailer they had not contracted with, particularly if they do not initiate contact with the retailer to rectify the situation. PIAC's view is that while a blanket ban on disconnection would benefit Customer A, the Draft Rule should also require that Customer A be automatically returned to their original retailer.

Address standard

PIAC notes the AEMC's considered view that implementing an address standard is not likely to reduce transfer delays and errors, and is costly to implement. The Australian Energy Market Operator has instead indicated that it will consider a data cleanse of the addresses in the electricity market database against Australia Post's Postal Address File.⁵ PIAC supports this initiative in lieu of the options considered in the previous consultation. We further recommend that the AEMC monitor the effectiveness of this exercise. If it reduces transfer delays and errors, we suggest that the same data cleanse be applied to the gas market database.

Once again, PIAC thanks the AEMC for the opportunity to provide comment on the Draft Rule Determination on the *National Energy Retail Amendment (Improving the accuracy of customer transfers) Rule*. If you would like to discuss PIAC's submission further, please contact us.

Yours sincerely



Deirdre Moor
Manager Policy & Programs
Public Interest Advocacy Centre

Direct phone: +61 2 8898 6507
E-mail: dmoor@piac.asn.au



Jane Leung
Senior Policy Officer
Public Interest Advocacy Centre

Direct phone: +61 2 8898 6518
Email: jleung@piac.asn.au

⁵ Above n1, p. 32.