



Queensland Association of Independent Legal Services Inc

25 March 2014

Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

By email only: retailrulechange@aemc.gov.au

Dear Sir/Madam,

Retailer price variations in market retail contracts

The Queensland Association of Independent Legal Services Inc (**QAILS**) supports the proposed change to rule 46 of the National Energy Retail Rules (the **NERR**) to ensure that under fixed term contracts (plans and benefit periods), energy retailers are prevented from unilaterally varying retail tariffs. QAILS endorses the views expressed in the *Unilateral Price Variation and Market Retail Contracts Rule Change Request for Australian Energy Market Commission* prepared by the Consumer Action Law Centre and Consumer Utilities Advocacy Centre (the **Rule Change Request**).

About QAILS and Community Legal Centres

Queensland Association of Independent Legal Services Inc (**QAILS**) is the peak body representing the 33 funded and unfunded community legal centres across Queensland. Community legal centres are independently operating not-for-profit, community-based organisations that provide free legal services to the public, focusing on the disadvantaged and people with special needs.

The Queensland Government has accepted the Interdepartmental Committee on Electricity Sector Reform's recommendation to implement the NECF with a target start date of early to mid-2014. This is subject to agreement with the Standing Council on Energy and Resources on Queensland-specific variations to support customers outside South East Queensland. QAILS welcomes the introduction of the National Energy Customer Framework (**NECF**), which will boost customer protection, for example, by requiring retailers to more actively identify, and offer assistance to those customers finding it difficult to pay their bill on time.

Partly because of the lack of financial counselling services in Queensland (the only state in Australia where the State Government does not fund a dedicated program for generalist financial counselling), community lawyers are often asked to provide advice and assistance to Queenslanders with money problems. Generally by the time a client accesses a community lawyer, the situation is very serious. 'Credit and debt owed by client' is the fourth largest civil law problem type where community lawyers provide support. Community legal centres provided advice and information 6,513 times in 2013 and opened 751 new cases in the 'credit and debt' area in 2013, and many of these people present with debts including debts to utility providers.

Supporting new rule 46A

QAILS supports the introduction of new rule 46A, as set out in the Rule Change Request.

The Australian Energy Market Commission's consultation paper, *National Energy Retail Amendment (Retailer price variations in market retail contracts) Rule 2014*, released on 13 February 2014 (the **Consultation Paper**) sets out four 'key issues for consultation'. Below, we set out a brief response to each of these issues, which together form a compelling case to adopt the new rule.

1. Allocation of costs and risks

Currently information is provided and contracts constructed in a manner that means risk is borne unfairly by consumers. The long term interests of consumers would more likely be met should energy be priced more transparently and risks allocated more appropriately, with consumers more clearly understanding contract terms.

QAILS suggests that prices should be fixed for the length of a contract so that Australians can shop around with confidence, so they can easily compare products, and so they have certainty about what they will pay for their electricity from one bill to the next.

2. Consumer participation and engagement

However, this is particularly difficult, as retailers can increase the price they charge for electricity at any time during a contract, so advertised prices can be misleading and shopping around can be a waste of time. As the Rule Request notes, the proposed rule will correct information asymmetry and achieve economic efficiency by more direct and transparent information exchanges between retailers and their customers. We endorse the statement in the Rule Change Request (at page 9):

Where a fixed term contract involves the retail tariffs remaining fixed during the period of that contract, it is a more 'complete' contract: it specifies conditions under a greater range of possible futures. The more complete a contract is, the more information it delivers to (all) the parties involved. Currently, retailers have more knowledge of expected future prices than customers do. A fixed price contract would reveal retailers' intentions to customers.

3. Competition between retailers

Australian consumers are ostensibly protected by competition in the energy market, which presumes that consumers give their business to the company with the best deals. For this competitive market to work, consumers must make an informed decision about what's best for them. For the reasons set out above, it is difficult for consumers to get this information given the likelihood of change. Competition will be more genuine by ensuring consumers are aware of retail tariffs for the life of a contract, at the time the consumer enters into the contract.

4. Consumer protection issues

As set out above, community legal centres assist many clients with credit and debt matters, including in relation to utility debts. In our view, consumers' interests are protected where they are aware of their financial obligations when they enter into a contract. Their interests are not served by the unilateral variation of consumer contracts by service providers, including upward variations in price.

Conclusion

For these reasons, QAILS supports the proposal to change NERR rule 46 to ensure that energy retailers are prevented from unilaterally varying retail tariffs under fixed term contracts.

QAILS would welcome the opportunity to discuss these issues with you in greater detail; please contact me on (07) 3392 0092 and director@qails.org.au.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'James Farrell', with a large, stylized flourish extending to the right.

James Farrell
QAILS Director