

Ref: TP/MM

22 January 2010

Mr Gary Henry
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Dear Mr Henry,

Electricity Industry Code Amendments: Prior Notice of Price Changes

Ergon Energy Queensland Pty Ltd (Ergon Energy) welcomes the opportunity to provide comment to the Queensland Competition Authority (QCA) on the inclusion of new minimum terms and conditions as outlined in the *Draft Decision: Proposed amendments to the Electricity Industry Code requiring prior notice for price changes* (Draft Decision). Ergon Energy is a non-competing electricity retailer providing customer retail services to approximately 600,000 customers across regional Queensland.

Ergon Energy supports the proposal to prevent retrospective price changes for small electricity customers and corresponding amendments to the Queensland Electricity Industry Code (Code) to the extent that these amendments apply to customers on negotiated retail contracts. Ergon Energy is concerned however that aspects of the proposed changes to the Code may inadvertently apply to customers on the standard retail contract and believes that amendments are required to clarify that the obligation to provide prior notice is not intended to apply to these customers.

It is understood that the Code amendments provide for the following:

- Clause 4.1.1 of the draft Code applies two new clauses (4.12.6 and 4.12.7) to retail contracts with “all small customers”. Neither clause is intended to apply to large customers.
- Clause 4.12.6 requires that retailers notify small customers on a “negotiated retail contract” of changes to tariff rates or charges ten days prior to the change occurring. This clause is not intended to apply to customers on the standard retail contract, i.e. negotiated retail contracts are defined as contracts for the provision of customer retail services on terms that are different to the terms of the retailer’s standard retail contract.¹

¹ *Electricity Act 1994* (Qld), section 55A.

- Clause 4.12.7 specifies how notification of “tariff changes” must be given by retailers to “customers”:
 - Unlike clause 4.12.6 which expressly applies to small customers on a negotiated retail contract, clause 4.12.7 applies to small customers generally, raising the presumption that the notification obligations extend to customers on the standard retail contract; and
 - Unlike clause 4.12.6 which expressly refers to “price changes”, clause 4.12.7 refers to “tariff changes”, raising the presumption that the notification requirements apply to a sub-set of the price changes referred to in clause 4.12.7.

Importantly, clause 4.12.7 is not expressly limited in its application to circumstances of a retrospective price change under clause 4.12.6.

Ergon Energy is concerned that, despite comments in the QCA’s Draft Decision which appear to support limiting the notification requirements to negotiated retail contracts,² this position is not clear from the amendments proposed. It is suggested therefore that the Code changes should be amended to more accurately reflect the QCA’s intent, given the potential for ambiguity regarding their application and the apparent inconsistency that is created with the notification requirements of the standard retail contract³. In particular:

- Sub-clause 4.1.1 (iv) should be amended to read –

*in respect of clauses 4.12.6 and 4.12.7, **negotiated** retail contracts with all small customers made before or after the date this code takes effect.*

- Clause 4.12.7 should be amended to read –

*Retailers must notify customers **on negotiated retail contracts** of the tariff changes by:*

Ergon Energy does not support any proposal to extend the notification requirement of clause 4.12.7 to prospective price changes under the standard retail contract, should this in fact be the QCA’s intent, as this would place a significant cost impost on retailers. For example:

- Ergon Energy estimates that a requirement to provide “individual written communication” of price changes under sub-clause (a) by direct mail to all customers could impose annual costs, for its customer base, of up to \$1 million. This communication option is therefore unlikely to be an acceptable option for a retailer with a significant customer base.

² Draft Decision, at page 3.

³ Clause 8.3 of the standard retail contract sets out the retailer’s obligation to advise the customer of price variations in the first bill that includes the variations.

- The requirement for prior notification via a bill message under sub-clause (b)(i) would require an extension to the period of advance notice of price changes that is currently provided by the QCA. In view of its three month billing cycle and the lead time required for systems changes, Ergon Energy believes that notification may be required up to four months in advance of the effective date for the change.
- Publication in the Courier Mail would be necessary to satisfy the requirement for notification by a “newspaper article” circulating throughout Queensland under sub-clause (b)(ii) (assuming that the gazettal notice does not constitute a “newspaper article” for this purpose). The listing of all changes to the tariff schedule would require significant space at significant cost. Ergon Energy also queries the net benefit of newspaper publication and associated costs given that retailers will also be required to publish the new rates on their website and via bill messages.
- It is not clear what level of detail regarding “how the price change has affected the customer” would be necessary for inclusion on the customer’s next bill under sub-clause (b)(iv). A requirement to tailor messages to suit each customer’s characteristics or tariff profile would impose significant system, process and resource costs.

The intended application of the notification requirements under clause 4.12.7 should be clarified by the QCA as a matter of urgency.

Ergon Energy believes that the following general amendments would also assist in clarifying the proposed Code changes:

- Amendment of the reference to “charge” in the opening paragraph of clause 4.12.6 to “tariff charge”, to appropriately distinguish a change in charges associated with a tariff (e.g. a standing charge) from charges more generally under the customer’s contract (e.g. products).
- Clarification as to whether “type of tariff” as part of the definition of “price change” under clause 4.12.6 is intended to capture instances where the customer has requested a tariff change. In this instance the retailer would be required to provide the customer with written notice of requested change and would not be able to change the type of tariff earlier than ten business days from the customer’s request. The Code changes should clearly be limited to circumstances where there is a retailer-initiated price change.
- Amendment of the reference to “tariff change” in the opening sentence of clause 4.12.7 to “price change”, as the current wording creates ambiguity as to the intended application of the clause, i.e. whether it is intended to apply to a change in tariff rate, charge or type as contemplated under clause 4.12.6 or to a change in tariff only.

- Clarification as to whether clause 4.12.7 is intended to only apply in circumstances of a price increase or to tariff changes generally. Sub-clause 4.12.7(a) appears to assume that any tariff change will necessarily result in a price increase for customers, i.e. the reference to "...and details of how the increase". This will not necessarily be the case, for example, if a retailer restructures its portfolio of tariffs such that some tariffs increase and some tariffs decrease in price.
- Correction of the minor typographical error in sub-clause 4.1.1(iv), where "cod" should read "code".

If you require additional information or wish to discuss any aspect of this submission, please contact Ms Mary Martin on (07) 4727 5754.

Yours sincerely



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