



# Victoria Government Gazette

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## Electricity Industry Act 2000 ADVANCED METERING INFRASTRUCTURE (AMI TARIFFS) AMENDMENT ORDER 2017

Order in Council

The Governor in Council under section 46D of the **Electricity Industry Act 2000** ('the Act') makes the following Order:

**1. Purpose**

The purpose of this Order is to amend the AMI Tariffs Order to make further provision for the structure, taking effect and choice of AMI tariffs during the period ending 31 December 2020 and for other matters.

**2. Definitions**

In this Order:

**AMI Tariffs Order** means the Advanced Metering Infrastructure (AMI Tariffs) Order made on 18 June 2013 under section 46D of the Act and published in the Victoria Government Gazette S216 on 19 June 2013 as amended by the Order in Council made on 22 December 2015 published in the Victoria Government Gazette S430 on 23 December 2015 and as amended by the Order in Council made on 12 April 2016 published in the Victoria Government Gazette G15 on 14 April 2016.

**3. Commencement**

This Order commences on the day it is published in the Government Gazette.

**4. Amendments**

The AMI Tariffs Order is amended in accordance with the Schedule.

Dated 12 September 2017

Responsible Minister

HON. LILIANA D'AMBROSIO MP

Minister for Energy, Environment and Climate Change

ANDREW ROBINSON  
Clerk of the Executive Council

### Schedule

**1. Amendment to clause 2 – definitions**

**Amend** clause 2 of the AMI Tariffs Order as follows:

- (a) **Insert** in their appropriate alphabetical order the following definitions:

**'medium customer** means a customer:

- (a) who is not a small customer; and  
(b) whose aggregate consumption of electricity taken from a supply point is not, or in the case of a new supply point is not likely to be, more than 160 MWh per annum;

**'zero demand usage charge or demand charging parameter** means the demand based price applied to that charge or parameter is set as zero;'

- (b) **Delete** from the definition of **electricity contract** 'small'; and  
(c) In the definition of **price comparator website**, for 'Economic Development, Jobs, Transport and Resources' **substitute** 'Environment, Land, Water and Planning'.

**SPECIAL**

**2. Amendment to clause 5**

**Insert** in clause 5(1) after ‘retailers’, ‘medium customers’.

**3. New clause 8B inserted**

**Insert** after clause 8A of the AMI Tariffs Order:

**‘8B Medium customers may opt out of cost reflective flexible AMI retail tariff***Opt out*

- (1) A medium customer who, as from 1 January 2018, is being or would be, sold or supplied and sold, electricity at a tariff that is a cost reflective flexible AMI retail tariff may, by written or oral notice to a retailer, require that retailer to:
  - (a) cease that sale, or supply and sale, at that tariff; and
  - (b) commence instead sale, or supply and sale, at a tariff that:
    - (i) does not have a demand usage charge or demand charging parameter; or
    - (ii) has a zero demand usage charge or demand charging parameter.

Note: Pursuant to clause 8B(1)(b)(ii) a medium customer can opt out to a cost reflective flexible AMI retail tariff which has no charge levied pursuant to its demand usage charge or demand parameter.
- (2) The medium customer is not required in the notice to specify which relevant AMI retail tariff is to apply.
- (3) Despite clause 8B(2), a medium customer may specify which AMI retail tariff it would like to have applied.
- (4) Subject to clause 8B(5), a retailer must:
  - (a) comply with the notice; and
  - (b) apply the relevant AMI retail tariff to electricity sold, or supplied and sold, to the medium customer commencing from not later than 2 business days after receipt by the retailer of the notice.
- (5) The relevant AMI retail tariff that the retailer must apply may be either of the AMI retail tariffs specified in clauses 8B(1)(b)(i) or 8B(1)(b)(ii).

*Limitation on charges – retailers*

- (6) A retailer must not impose on a medium customer any fee or charge as a result of that customer giving the notice or otherwise exercising the rights conferred on that customer pursuant to this clause.
- (7) To avoid doubt, clause 8B(6) does not permit a retailer to charge, as a result of a medium customer:
  - (a) giving the notice; or
  - (b) otherwise exercising the rights conferred on that customer pursuant to this clause,any amount that would or might otherwise be permitted to be charged pursuant to clause 49A(6A) of the Energy Retail Code.

*Record keeping*

- (8) A retailer must keep, and retain for a period of 12 months:
  - (a) copies of all notices in writing; and
  - (b) detailed records of all oral notices, that it receives.

*Miscellaneous*

- (9) This clause has effect:
- (a) despite anything to the contrary in:
    - (i) the electricity contract; or
    - (ii) any other agreement or contract, between the medium customer and the retailer; and
  - (b) notwithstanding that a new or varied electricity contract between the medium customer and retailer is or may be required to be entered into.
- (10) In this clause:  
*notice* means notice pursuant to clause 8B(1);  
*relevant AMI retail tariff* – see clause 8B(5).’.

**4. New clause 9B inserted**

**Insert** after clause 9A of the AMI Tariffs Order:

**‘9B. Distributor’s distribution tariffs for medium customers must include at least one AMI distribution tariff with a zero demand usage charge or demand charging parameter**

- (1) This clause 9B:
- (a) applies to any tariff structure statement submitted, or to be submitted, in respect of the initial regulatory control period;
  - (b) does not apply to any tariff structure statement submitted, or to be submitted, in respect of any other regulatory control period;
  - (c) applies to all pricing proposals for the regulatory years 2018, 2019 and 2020; and
  - (d) does not apply to pricing proposals for any other regulatory year.
- (2) The tariffs for each tariff class included by a distributor in a tariff structure statement and a pricing proposal, where the customers of that class may include medium customers, must include at least one AMI distribution tariff with a zero demand usage charge or demand charging parameter.
- (3) In this clause:  
*initial regulatory control period* has the same meaning as it has in clause 11.75.1 of the National Electricity Rules;  
*regulatory control period* has the same meaning as it has in the National Electricity Rules;  
*regulatory year* has the same meaning as it has in the National Electricity Rules.’.

**5. New clause 10B inserted**

**Insert** after clause 10A of the AMI Tariffs Order:

**‘10B Medium customer giving notice pursuant to clause 8B – direction a retailer may give***Direction*

- (1) If a retailer receives from a medium customer notice pursuant to clause 8B, the retailer may, by notice in writing, direct a distributor to assign to that medium customer a specified AMI distribution tariff.
- (2) The AMI distribution tariff that a retailer may specify in the notice may be an AMI distribution tariff that:
- (a) does not have a demand usage charge or demand charging parameter; or
  - (b) has a zero demand usage charge or demand charging parameter.

- (3) The AMI distribution tariff that the retailer specifies must be a tariff that is an open tariff.

*Distributor may request a copy or details of the notice pursuant to clause 8B*

- (4) A distributor may request from the retailer a copy or details of the notice pursuant to clause 8B given by the medium customer.
- (5) The retailer must provide to the distributor the copy or the details of the notice pursuant to clause 8B within 7 business days of the distributor's request.

*Distributor's obligations when the notice is given*

- (6) A distributor must assign an AMI distribution tariff in accordance with the notice except where:
- (a) the distributor has requested pursuant to clause 10B(4), but retailer has not provided in accordance with clause 10B(5), a copy or details of the notice pursuant to clause 8B given by the medium customer;
  - (b) the distributor has available for assignment to the medium customer, only an AMI distribution tariff with a zero demand usage charge or demand parameter, in which case the distributor may, despite any specification to the contrary in the notice, assign that tariff;
  - (c) the retailer neglects or fails to specify, or sufficiently specify, in the notice the AMI distribution tariff to be assigned;
  - (d) the retailer neglects or fails to provide sufficient details in the notice to enable the distributor to identify:
    - (i) the medium customer; or
    - (ii) the metering installation of that customer; or
  - (e) otherwise the distributor reasonably determines that the AMI distribution tariff specified in the notice cannot be assigned to the medium customer.
- (7) An AMI distribution tariff assigned in accordance with the notice must be applied to the electricity distributed and supplied to the medium customer commencing from not later than 2 business days after receipt by the distributor of the notice except where:
- (a) the retailer specifies in the notice that it is a retailer to whom the medium customer has transferred from another retailer, in which case the AMI distribution tariff must be applied to the electricity distributed and supplied to that customer under that tariff commencing from the later of:
    - (i) the date of transfer of the customer; or

Note: The *Market Settlement and Transfer Procedures* published by AEMO pursuant to clause 7.2.8 of the National Electricity Rules make provision for the date of transfer, see *MSATS Procedures: CATS Procedure Principles and Obligations*.

- (ii) 10 business days prior to receipt by the distributor of the notice;
- (b) the retailer in the notice specifies another date for the assignment to take effect, being a date later than the 2 business days; or
- (c) the distributor has made a request pursuant to clause 10B(4) in which case time will commence to run for the purposes of this clause 10B(7) as from receipt (in accordance with clause 10B(5)) of the copy or details of the notice pursuant to clause 8B.

*Distributor's obligations when no direction given or direction inadequate*

- (8) Where a retailer has not given a direction in the notice or the direction is inadequate, the distributor must assign to the medium customer an AMI distribution tariff with a zero demand charge or demand charging parameter.

- (9) For the purposes of clause 10B(8), a direction is inadequate if any of the exceptions in clauses 10B(6)(c) – (e) apply.

*Limitation on charges – distributors*

- (10) A distributor may not impose on a retailer any fee or charge as a result of that retailer:
- (a) giving the notice; or
  - (b) otherwise exercising the rights conferred on the retailer pursuant to this clause.
- (11) Clause 10B(10) does not prevent a distributor from charging the retailer any other fee or charge that would be payable by the retailer independently of that retailer:
- (a) giving the notice; or
  - (b) otherwise exercising the rights conferred on that retailer pursuant to this clause.

*Miscellaneous*

- (12) This clause has effect despite anything to the contrary:
- (a) in any agreement or contract between the retailer and a distributor;
  - (b) in any agreement or contract between the distributor and the medium customer; and
  - (c) in the distribution determination that applies, or the tariff structure statement that relates to the electricity network services provided by a distributor.
- (13) This clause does not:
- (a) derogate from or limit any restriction or requirement imposed on a retailer pursuant to clause 8B; or
  - (b) limit any right given to a medium customer by that clause.
- (14) In this clause:  
*assign* includes re-assign;  
*notice* means a notice pursuant to clause 10B(1).’

**6. Direction to Commission – amendment of instruments**

**Insert** after clause 14 of the AMI Tariffs Order:

**‘15. Further direction to Commission - amendment of instruments**

The Commission must, as soon as practicable after the commencement of the Advanced Metering Infrastructure (AMI Tariffs) Amendment Order 2017, amend the Energy Retail Code and any other instrument made by the Commission so that they are consistent with the amendments made by that Order.’

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