



Victoria Government Gazette

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Electricity Industry Act 2000

ADVANCED METERING INFRASTRUCTURE (RETAIL AND NETWORK TARIFFS) ORDER

Order in Council

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

1. Purpose

The purpose of this Order is to:

- (1) revoke the previous AMI Tariffs Order; and
- (2) provide for:
 - (a) a small customer and a medium customer to opt out of a demand retail tariff;
 - (b) a distributor to provide a choice of AMI network tariff;
 - (c) the assignment of network tariffs to a small customer where the distributor is or becomes aware that electricity taken at the small customer's supply point is for use by a dedicated charger; and
 - (d) for other matters.

2. Definitions

In this Order:

advanced metering infrastructure has the same meaning as in section 46B of the Act.

AMI network tariff means an AMI tariff within the meaning of paragraph (b) of the definition of 'AMI tariff' in section 46B of the Act;

AMI retail tariff means an AMI tariff within the meaning of paragraph (a) of the definition of 'AMI tariff' in section 46B of the Act;

bill change alert has the same meaning as in the Energy Retail Code;

business day means a day other than a Saturday or Sunday, or a public holiday appointed under the **Public Holidays Act 1993** (Vic);

charging parameter has the same meaning as in the National Electricity Rules;

customer means a person other than another retailer, who buys or proposes to buy electricity from a retailer;

dedicated charger means a dedicated charger for an electric powered passenger car with a specified capacity or charging rate of 3.6kW or greater;

demand based price means a price expressed in dollars per kilowatt per time period or dollars per kilovolt ampere per time period;

demand network tariff means an AMI network tariff that includes a tariff charging parameter based on actual or agreed demand of a customer in a specific time period;

demand retail tariff means an AMI retail tariff that includes a tariff charging parameter based on an actual or agreed demand of a customer in a specific time period;

distribution determination has the same meaning as in the National Electricity (Victoria) Law;

distribution system has the same meaning as in the National Electricity (Victoria) Law;

distributor has the same meaning as 'distribution company' in the Act;

domestic customer means a customer who purchases electricity principally for personal, household or domestic use at a supply point;

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electric powered passenger car has the same meaning as in the *Road Safety (Vehicles) Interim Regulations 2020* (Vic);

electricity contract means a contract for the sale, or supply and sale of electricity by a retailer to a customer;

Energy Retail Code means the document of that name published by the Essential Services Commission as amended from time to time;

explicit informed consent has the same meaning as in the Energy Retail Code;

flat block tariff means a tariff where the charging parameters vary based solely on the total consumption of electricity at a supply point crossing particular thresholds over a specified time period, but do not otherwise vary based on the time of the day or the actual or agreed demand of a customer;

flat rate network tariff means an AMI network tariff where the charging parameters do not vary during the day, including a flat block tariff, but excluding any demand network tariff;

flat rate retail tariff means an AMI retail tariff where the charging parameters do not vary during the day, including a flat block tariff, but excluding any demand retail tariff;

market retail contract has the same meaning as in the Energy Retail Code;

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;

metering installation has the same meaning as it has in the National Electricity Rules;

National Electricity Rules has the same meaning as it has in the National Electricity (Victoria) Law;

previous AMI Tariffs Order means the Order in Council made on 18 June 2013 under section 46D of the Act and published in the Government Gazette S216 on 19 June 2013 as amended and in force immediately before the commencement of clause 4 of this Order.

retailer has the same meaning as in the Act;

small business customer means a customer who is not a domestic customer and 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 40 MWh per annum;

small customer means a domestic customer or small business customer;

supply point means in relation to a supply of electricity to a person, the point at which that supply of electricity last leaves the distribution system owned or operated by a distributor before being supplied to the person, whether or not the electricity passes through facilities owned or operated by any other person after leaving that point before being so supplied;

tariff class has the same meaning as in the National Electricity Rules;

tariff structure statement has the same meaning as in the National Electricity Rules;

TOU network tariff means an AMI network tariff that includes a charging parameter based on the customer's usage at specified peak, off peak and/or shoulder times during a day, but excluding any demand network tariff;

TOU retail tariff means an AMI retail tariff that includes a charging parameter based on the customer's usage at specified peak, off peak and/or shoulder times during a day, but excluding any demand retail tariff;

Victorian Default Offer has the same meaning as in the Order in Council made by the Lieutenant Governor under section 13 of the Act on 22 May 2019 and published in Government Gazette No S208 on 30 May 2019, as amended from time to time.

3. Commencement

- (1) This Order, other than clauses 4 to 13 comes into operation on the date on which it is published in the Government Gazette.
- (2) Clauses 4 to 13 come into operation on 1 July 2021.

4. Revocation of previous AMI Tariffs Order

The previous AMI Tariffs Order is revoked.

5. Relevant entity

- (1) Each distributor and each retailer is a relevant entity.
- (2) Where a person becomes:
 - (a) a distributor; or
 - (b) a retailer,

the Essential Services Commission must give notice to that person that it is a relevant entity and that person becomes a relevant entity from the date specified in that notice which date may be prior to the date of the notice.

6. Order does not derogate from other requirements

- (1) If there is any conflict between the Energy Retail Code and this Order, then this Order prevails to the extent of that inconsistency.
- (2) Subject to clause 6(1), this Order does not derogate from any requirement imposed on a distributor or retailer as a condition of its licence, including any requirement to comply with a code or guideline issued by the Essential Services Commission.

7. Retailer obligation to inform TOU network tariff customer of opt out

- (1) Where a small customer:
 - (a) is reassigned to a TOU network tariff on or after 1 July 2021; or
 - (b) is assigned to a TOU network tariff on or after 1 July 2021; and
 - (c) has that reassignment or assignment reflected in their retail tariff,

a retailer must inform that small customer in plain English as soon as practicable, and by no later than the customer's first bill after that reassignment or assignment, that the small customer may opt out to a flat rate network tariff (other than when at least part of the electricity is to be used by a dedicated charger) or a demand network tariff.

- (2) The information in clause 7(1) may be given orally or in writing, and as part of any other notice or information the retailer is required to provide to the small customer.

8. Small customer may opt out of demand retail tariff

- (1) A small customer whose electricity contract includes a demand retail tariff may request the small customer's retailer to cease supplying and selling electricity to the small customer at a demand retail tariff by providing written or oral notice to the retailer.
- (2) If a small customer provides a retailer with a notice in accordance with clause 8(1), subject to clause 8(4), within two business days after receipt of the notice, the retailer must supply and sell electricity to the small customer:
 - (a) at the AMI retail tariff that last applied before that retailer commenced supply and sale at a demand retail tariff to that small customer (**previous AMI retail tariff**); or
 - (b) if the previous AMI retail tariff has been replaced by, or varied to, another AMI retail tariff that is not demand tariff, to that previous AMI retail tariff as it has been replaced or varied (**replacement AMI retail tariff**); or
 - (c) if neither clause 8(2)(a) or clause 8(2)(b) is applicable, or the retailer is not obliged to comply with these clauses in accordance with clause 8(4), in accordance with the Victorian Default Offer.

- (3) The applicable AMI retail tariff referred to in clause 8(2)(a) or clause 8(2)(b) may be either an open or a closed AMI retail tariff.
- (4) A retailer is not obliged to comply with clause 8(2)(a) or clause 8(2)(b) if:
 - (a) this is not permitted by the configuration of the metering installation at the small customer's supply point, in which case the retailer must give written notice of that fact to the small customer; or
 - (b) the small customer does not give its explicit informed consent in accordance with any requirement of the Energy Retail Code in order for the retailer to effect the change in the AMI retail tariff; or
 - (c) to do so results in the small customer entering into a new market retail contract, and the small customer exercises the small customer's right of withdrawal in accordance with clause 47 of the Energy Retail Code.
- (5) Subject to clause 8(6), a retailer must not impose any fee or charge on a small customer as a result of that customer giving a notice in accordance with clause 8(1).
- (6) Clause 8(5) does not prevent a retailer from charging the small customer:
 - (a) a fee determined in accordance with clause 49A(6A)(i) of the Energy Retail Code; and
 - (b) any other fee or charge that would be payable by the small customer independently of that customer:
 - (i) giving notice in accordance with clause 8(1); or
 - (ii) otherwise exercising the rights conferred on him or her pursuant to this clause.
- (7) To avoid doubt, clause 8(6) does not permit a retailer to charge, as a result of a small customer:
 - (a) giving notice pursuant to clause 8(1); or
 - (b) otherwise exercising the rights conferred on him or her pursuant to this clause, the \$20 that would or might otherwise be permitted to be charged pursuant to clause 49A(6A)(ii) of the Energy Retail Code.
- (8) This clause has effect:
 - (a) despite anything to the contrary in:
 - (i) the electricity contract; or
 - (ii) any other agreement or contract, between the small customer and the retailer; and
 - (b) notwithstanding that a new or varied electricity contract between the small customer and retailer is or may be required to be entered into.

9. Medium customer may opt out of demand retail tariff

- (1) A medium customer whose electricity contract includes a demand retail tariff may request the medium customer's retailer to cease supplying and selling electricity to the medium customer at a demand retail tariff by providing written or oral notice to the retailer.
- (2) If a medium customer provides a retailer with a notice in accordance with clause 9(1), within two business days after receipt of the notice, the retailer must supply and sell electricity to the medium customer at an AMI retail tariff that is not a demand retail tariff.
- (3) A retailer must not impose any fee or charge on a medium customer as a result of that customer giving a notice in accordance with clause 9(1).
- (4) 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 from a medium customer in accordance with clause 9(1).
- (5) 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. Distributor must provide a choice of AMI network tariff**

The tariffs for each tariff class included by a distributor in a tariff structure statement, where the customers of that tariff class may include a domestic customer with advanced metering infrastructure, must include at least:

 - (a) one flat rate network tariff; and
 - (b) one TOU network tariff.
- 11. Distributor must provide at least one AMI network tariff that is not a demand network tariff**

The tariffs for each tariff class included by a distributor in a tariff structure statement, where the customers of that class may include a medium customer, must include at least one AMI network tariff that is not a demand network tariff.
- 12. Assignment of network tariffs for a dedicated charger**
 - (1) A distributor must not assign a flat rate network tariff to a small customer if the distributor is aware (including by an electric powered passenger car register or other formal means of identification that becomes available) that at least part of the electricity taken at the small customer's supply point is for use by a dedicated charger.
 - (2) If a distributor becomes aware that electricity taken at a supply point for a small customer that has been assigned a flat rate network tariff is for use by a dedicated charger, the distributor must reassign that customer to a TOU network tariff.
- 13. Retailer direction for an opt out small customer or medium customer**
 - (1) If a retailer receives:
 - (a) a notice from a small customer in accordance with clause 8; or
 - (b) a medium customer notice in accordance with clause 9,the retailer may direct a distributor to assign to that small customer or medium customer to an open tariff that is not a demand network tariff.
 - (2) A distributor may request the retailer to provide a copy, or details, of the notice given in accordance with clause 8(1) or clause 9(1), as applicable.
 - (3) The retailer must provide the distributor with a copy, or details, of the requested notice within seven business days of the distributor's request.
 - (4) Subject to clause 13(5), within two business days of receipt of a notice provided in accordance with clause 13(1), a distributor must assign an AMI network tariff in accordance with the notice, except where:
 - (a) the notice directs the distributor to assign a small customer to a flat rate network tariff and the distributor is aware (including by an electric powered passenger car register or other formal means of identification that becomes available) that electricity taken at the supply point for that small customer is for use by a dedicated charger, in which case the distributor must assign the customer a TOU network tariff;

- (b) the retailer has not complied with clause 13(3);
 - (c) the distributor only has a demand network tariff available to the customer, in which case the distributor may, despite any specification to the contrary in the notice, assign that demand AMI network tariff;
 - (d) the retailer neglects or fails to specify, or sufficiently specify, in the notice the AMI network tariff to be assigned; or
 - (e) the retailer neglects or fails to provide sufficient details in the notice to enable the distributor to identify:
 - (i) the customer; or
 - (ii) the metering installation of that customer.
- (5) A distributor is not required to assign an AMI network tariff in accordance with clause 13(4) within two business days where:
- (a) the retailer specifies in the notice that it is a retailer to whom the customer has transferred from another retailer, in which case the AMI network tariff must assigned to the customer 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 7.16.2 of the National Electricity Rules make provision for the date of transfer, see MSATS Procedures: CATS Procedure Principles and Obligations.
 - (ii) 10 business days after receipt by the distributor of the notice;
 - (b) the retailer specifies in the notice a date on which the assignment is to take effect, and that date is later than the two business days after receipt of the retailer's notice; or
 - (c) the distributor has made a request in accordance with clause 13(2), in which case the AMI network tariff must be assigned to the customer from receipt of copy or details of the customer's notice from the retailer.
- (6) Where a retailer fails to specify, or sufficiently specify, in the notice the AMI network tariff to be assigned, the distributor must, subject to clause 13(4)(c), assign the customer to a TOU network tariff.
- (7) A distributor must not impose any fee or charge on a retailer as a result of that retailer:
- (a) giving a notice in accordance with clause 13(1); or
 - (b) otherwise exercising any right conferred on the retailer in accordance with this clause.
- (8) Clause 13(6) 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.
- (9) 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 customer; and
 - (c) in the distribution determination, or tariff structure statement, that applies to the distributor.

- (10) This clause does not:
- (a) derogate from or limit any restriction or requirement imposed on a retailer pursuant to clauses 8 or 9; or
 - (b) limit any right given to a customer by those clauses.
- (11) In this clause **assign** includes reassign.

Dated 16 June 2021

Responsible Minister

LILY D'AMBROSIO MP

Minister for Energy, Environment and Climate Change

SAMUAL WALLACE
Acting Clerk of the Executive Council

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