

Compliance Check

National Energy Retail Law: Obligation to make offer to small customer

Issued: January 2020

2020–01

Residential customers and business customers who consume energy at business premises below the upper consumption threshold are considered small customers under the National Energy Retail Law (Retail Law). Every small customer has a designated retailer. Small customers are entitled to receive offers for retail energy services from the designated retailer, at the retailer's standing offer prices, and under its standard retail contract.

Electricity and gas are essential services. The Retail Law and National Energy Retail Rules (Retail Rules) ensure that every customer has access to these services.

Who is the designated retailer?¹

Every small customer has a designated retailer.

Where there is no existing connection, the designated retailer is the local area retailer for the relevant geographical area, premises or customer. Local area retailers in each State and Territory are nominated under the National Energy Retail Regulations for that State or Territory.

- For alterations to existing connections the designated retailer is the financially responsible retailer for the premises:
- For electricity, this is the financially responsible market participant responsible for the premises under the National Electricity Rules.

- For gas, this is the retailer who is responsible for settling the account for gas withdrawn from the delivery point for the premises under the relevant Retail Market Procedures made under the National Gas Rules.

For a particular customer or premises, a retailer may be the designated retailer for electricity, for gas or for both.

Which customers are protected?²

A residential customer is a customer who purchases energy principally for personal, household or domestic use at premises.

A small business customer is a customer other than a residential customer, who consumes energy at business premises below the following consumption thresholds:

- For electricity - 100MWh pa except in SA (160MWh), Tasmania (0.15GL or 150MWh)
- For gas – 1 TJ p

¹ National Energy Retail Law, s. 2

² National Energy Retail Law, ss. 2, 5.

Obligation to offer - general principles

All retailers must have and must publish on their websites a standard retail contract and standing offer prices.³

A retailer **must** make an offer to provide customer retail services to small customers where it is the designated retailer, at the retailer's standing offer prices, and under its standard retail contract.⁴

The designated retailer must advise the customer of the availability of the retailer's standing offer.⁵

In making a proper request to the designated retailer, the customer must:⁶

- Provide their name and acceptable identification
- Provide contact details for billing purposes
- Ensure that there is safe and unhindered access to the meter at their premises.

Is there money owing on the account?

The designated retailer may include in charges under the standard retail contract any outstanding amounts owed by the customer to that retailer from an unpaid account (but not an unpaid amount for premises for which the customer has an ongoing contract).⁷

The designated retailer is not entitled to refuse to sell energy to a customer on the ground that the customer owes the retailer an outstanding amount.⁸

There are some circumstances in which the designated retailer may require a customer to pay a security deposit. For example, the designated retailer may require a security deposit if the customer owes money to the retailer in relation to the sale and supply of energy.⁹

However, a security deposit cannot be required from a residential customer:

- If the customer is identified by the retailer as a hardship customer in relation to any premises, or if the customer advises the retailer that they were identified as a hardship customer by another retailer.¹⁰
- Unless the retailer has offered the customer the option of a payment plan and the customer has either declined the offer or failed to pay an instalment having accepted the offer.¹¹

Payment or partial payment of a security deposit cannot be made a precondition to the formation of a standard retail contract.¹² A retailer must not refuse to sell energy on the grounds of non-payment or partial payment of a security deposit but a retailer may.¹³

If premises are currently energised, arrange to de-energise or disconnect the premises

If premises have been de-energised, refuse to arrange re-energisation of the premises.

Responsibility for compliance

Retailers are responsible for their own compliance. Section 273 of the Retail Law requires a regulated entity to establish policies, systems and procedures to enable it to efficiently and effectively monitor its compliance with the requirements of the Retail Law, the National Regulations and the Retail Rules.

We assess instances of potential non-compliance in accordance with our Compliance and Enforcement Policy (available on the AER website).

³ National Energy Retail Law, ss. 23, 25

⁴ National Energy Retail Law, s. 22

⁵ National Energy Retail Rules, r. 16(2)(b)

⁶ National Energy Retail Rules, rr. 18(3), 19(3)

⁷ National Energy Retail Rules, r. 18(5)

⁸ National Energy Retail Rules, r. 18(6)

⁹ National Energy Retail Rules, r. 40

¹⁰ National Energy Retail Rules, r. 40(3)

¹¹ National Energy Retail Rules, r. 40(4)

¹² National Energy Retail Rules, r. 40(7)

¹³ National Energy Retail Rules, rr. 40(6), 41(2)

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