

National Energy Retail Law (Queensland) Regulation 2014

Explanatory notes for SL 2014 No. 339

made under the

National Energy Retail Law (Queensland) Act 2014

General Outline

Short title

National Energy Retail Law (Queensland) Regulation 2014

Authorising law

Sections 11, 12, 17 and 29 of the *National Energy Retail Law (Queensland) Act 2014*, sections 19D, 23B, 60A, 60E, 64C, 64S, 78A and 78C of the *National Energy Retail Law (Queensland)* and sections 11, 12, and 62 of the National Energy Retail Law contained in a Schedule to the *National Energy Retail Law (South Australia) Act 2011* (SA).

Policy objectives and the reasons for them

The objectives of this regulation are to:

1. support the application, as a law of Queensland, of the National Energy Retail Law contained in a Schedule to the *National Energy Retail Law (South Australia) Act 2011*;
2. support the implementation of the national energy retail scheme contained in the National Energy Retail Law, as applied in Queensland;
3. support modifications made to the National Energy Retail Law, as applied in Queensland
4. modify the application of the National Energy Retail Rules:
 - a) to ensure that regional electricity customers can continue to access supply on a fair and reasonable basis; and
 - b) to support advancement of the Queensland Government's electricity industry reform priorities by providing additional customer protection to small customers; and
5. support the modifications made to the National Energy Retail Rules by prescribing a regulator for the modified provisions.

Achievement of policy objectives

This regulation will achieve its policy objective of supporting the application, as a law of Queensland, of the National Energy Retail Law by making local instruments under that law:

- nominating local area retailers of electricity and gas;
- nominating Ergon Energy Corporation Limited as distributor for its small isolated electricity networks in regional Queensland and nominating Envestra Limited as distributor for its Wide Bay gas network in regional Queensland; and
- declaring that the price comparator service maintained by the Australian Energy Regulator will apply for Queensland.

This regulation will achieve its policy objective of supporting implementation of the national energy retail scheme by prescribing conditions that will apply to retail exemptions for gas to be held by Maranoa Regional Council and Western Downs Regional Council.

This regulation will achieve its policy objective of supporting modifications made to the National Energy Retail Law, including by:

- prescribing a regulator for modifications concerning price monitoring and associated electricity reforms; and
- prescribing Ergon Energy Queensland Pty Ltd as an ‘assigned retailer’ for provisions ensuring that obligations to offer legislated standard retail contracts at regulated prices to small and large customers in regional Queensland continue to apply.

This regulation will achieve its policy objective of modifying the application of the National Energy Retail Rules to:

- ensure that regional electricity customers can continue to access supply on a fair and reasonable basis, by:
 - creating new rules obliging electricity on-suppliers in regional Queensland to charge large consumers no more than the relevant regulated price; and
 - creating new standard connection and retail contracts applying for premises using card-operated meters in regional and remote Queensland;
- supporting advancement of the Queensland Government’s electricity industry reform priorities, by creating new rules obliging electricity retailers to:
 - inform all customers of the available options to pay bills including in advance
 - charge for electricity meter tests after testing, and only if the meter is not faulty
 - provide customers with advance notice of increases in market contract prices
 - provide customers with advance notice of expiry of fixed term benefits
 - offer at least one market contract with no exit fee whenever they offer a market contract with an exit fee
 - cap market contract exit fees at a maximum of \$20.

This regulation will achieve its policy objective of supporting modifications to the National Energy Retail Rules by prescribing a regulator for each modified or new rule.

Consistency with policy objectives of authorising law

The regulation is consistent with the policy objectives of the *National Energy Retail Law (Queensland) Act 2014* and, in respect of regulations made as local instruments, with the policy objectives of the National Energy Retail Law contained in a Schedule to the *National Energy Retail Law (South Australia) Act 2011 (SA)*.

The authorising law, the *National Energy Retail Law (Queensland) Act 2014*, provides for a Ministerial review of the operation of the National Energy Retail Law in Queensland no later than 1 January 2018. The review must focus on the impact of the National Energy Retail Law, including the modifications prescribed by regulation under section 12 of the authorising law.

Inconsistency with policy objectives of other legislation

The regulation is not inconsistent with any policy objectives of any other legislation.

Alternative ways of achieving policy objectives

In respect of policy objective 1, provisions of the National Energy Retail Law contained in a Schedule to the *National Energy Retail Law (South Australia) Act 2011 (SA)* make it clear that things such as nominating a local area retailer may only be done by a local instrument: that is, a regulation.

In respect of policy objective 2, this could have been achieved by provisions in the primary legislation. However, the primary legislation instead provided that the relevant conditions should be set out in a regulation, in recognition of the fact that it is more convenient and efficient to prescribe conditions of such length and complexity in subordinate legislation.

In respect of policy objective 3, this could have been achieved by provisions in the primary legislation. However, it was anticipated that negotiations over which body is to be regulator might continue up to and beyond enactment of the primary legislation and that, post-enactment, flexibility be retained for example, should electricity entity name changes be required as part of ongoing electricity sector reform. For these reasons it was considered more convenient and efficient to enable subordinate legislation to provide for these matters.

In respect of policy objective 4, this could have been achieved by provisions in the primary legislation. However, it is more convenient and efficient to make changes in a statutory instrument (the National Energy Retail Rules) by means of subordinate legislation than by primary legislation, particularly as certain customer protections may need to be revisited depending on the outcome of market reviews contemplated in the primary legislation.

In respect of policy objective 5, it was considered appropriate that subordinate legislation should assign a regulator for provisions of a statutory instrument (the National Energy Retail Rules) modified in achieving policy objective 4, especially as those modifications will also be made by subordinate legislation.

Benefits and costs of implementation

The benefits of implementation are that it will support adoption of the national energy retail scheme, including Queensland-specific modifications, and support price monitoring and other Queensland Government electricity reforms, including new transitional customer protections associated with price monitoring.

Adoption of the national retail scheme will mean that most retailer-related regulatory functions and many distributor-related regulatory functions will transfer from the Queensland Competition Authority (QCA) and the Department of Energy and Water Supply (DEWS) to the Australian Energy Regulator (AER). A much smaller number of existing or modified regulatory functions will remain with QCA and DEWS. QCA and DEWS will also be responsible for regulating certain new Queensland-specific consumer protections associated with price monitoring and support for regional Queensland consumers (for example, QCA is prescribed as the regulator for new rules 152A and 152B, which will apply only in respect of regional Queensland).

No additional costs to the Government are anticipated with the proposal. The net effect of transferring existing regulatory functions and assuming new regulatory responsibilities is expected to be at least cost-neutral in terms of the Queensland Government's relevant regulatory costs.

Consistency with fundamental legislative principles

The regulation has been drafted having regard to the Fundamental Legislative Principles (FLPs) outlined in the *Legislative Standards Act 1992* and there are no matters that are inconsistent with the FLPs.

Consultation

DEWS consulted on the regulation with the Queensland Department of the Premier and Cabinet and Queensland Treasury and Trade. Neither raised objections to the proposed regulation. DEWS also consulted with the Commonwealth Department of Industry, the Australian Government Solicitor's Office and the AER.

DEWS undertook broad energy industry and consumer stakeholder consultation on the basis of a consultation draft of the regulation. This resulted in minor changes in the regulation to correct drafting errors or oversights or clarify the policy intent of certain provisions.