



Retail Energy Market Company

Self-Reported Breach by Alinta Sales Pty Ltd (“Alinta”)

Apparent breach of Appendix 6 of the Rules by Alinta on 20 June 2016

Overview:

On 20 June 2016, Alinta had a telephone conversation with a small use customer during which the customer gave their explicit informed consent (“EIC”) for Alinta to lodge a transfer request with REMCo to transfer the customer’s gas supply to Alinta. Alinta recorded the conversation, but failed to inform the customer that the conversation would be recorded, so the recording cannot be legally relied upon. As a result, Alinta appears to have breached the requirements for obtaining, recording, and maintaining a record of the customer’s EIC – this is an apparent breach of clauses (e) and (f) from Appendix 6 of the Retail Market Rule (the “Rules”). Appendix 6 of the Rules is as follows:

Appendix 6 – Requirements for explicit informed consent

Requirements for explicit informed consent

A customer’s consent will be explicit informed consent if the consent is given:

- (a) expressly; and
- (b) subject to clause 0, in writing; and
- (c) after the user has in plain language appropriate to that customer disclosed all matters materially relevant to the giving of the consent, including each specific purpose for which the consent will be used; and
- (d) by a person competent or authorised to give it on the customer’s behalf.

Small use customer’s consent may be given orally

A small use customer’s explicit informed consent may be given orally.

Records of explicit informed consent

A user must:

- (e) create a record of each explicit informed consent received.
- (f) maintain the record for a period of at least 2 years from the date of the explicit informed consent.
- (g) provide a copy of the record to REMCo within 10 business days after REMCo requests it.

A record under clause 0 must:

- (h) be in a form capable of examination by REMCo under rule 72(5) and of audit under rule 350;
- (i) include such information as enables REMCo or the auditor to verify the user’s compliance with rules 55A, 72(1), 72(4), 79(1), 79(4), 166A and 349 and this Appendix 6.

Cause:

This issue was caused due to Alinta's representative failing to notify a small use customer that the telephone conversation will be recorded.

Impact:

Alinta obtained and recorded the necessary EIC for the customer, but since the customer was not notified that the conversation was being recording, the recording cannot be relied upon.

Resolution:

Alinta has contacted the customer and notified them that previously their previous EIC was not valid and has re-obtained their EIC.

Alinta has reviewed its records and found no other incidences of a similar nature.

Alinta has re-trained the relevant staff.

Proposed Further Actions:

There are no further actions required.

Invitation for submissions:

Before determining whether any further action is required, REMCo invites written submissions from participants as to:

- the effect that this incident has on their operations(if any), and
- their view with regards to the determination, if any, REMCo should make under Rule 329 in respect of the apparent Rule breaches.

Submissions are requested by no later than 5pm (AEST) **Tuesday 30th August, 2016**. Submissions should be sent by e-mail to remco_administration@aemo.com.au.

Alternatively, submissions can be sent by post to REMCo at:

Chin Chan
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GPO Box 2008
Melbourne
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If you have any questions regarding this matter, please contact Carol Poon on (03) 9609 8509.

Chin Chan

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(Acting as Agent for the Retail Energy Market Company Limited)

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