

FINAL REPORT ON EARLY TERMINATION FEES FOR ELECTRICITY CONTRACTS FOR SMALL CUSTOMERS

16 December 2013

The Independent Pricing and Regulatory Tribunal (IPART) has today released its final report that limits the amounts that retailers can charge customers for breaking their electricity supply contracts early.

For the first time, from 1 March 2014, the early termination fees that some electricity retailers currently charge will be limited to a maximum of:

- ▼ **\$130** within 12 months of the date of first supply, and
- ▼ **\$45** thereafter (until the end of the contract)
- ▼ plus, the payback of any upfront benefits provided to the customer (this amount is not regulated by IPART).

This decision does not introduce new fees. Instead, it will provide added protection for customers by putting a cap on one component of early termination fees.

Retailers can set lower fees than these caps. This is already the case in NSW, where many retailers provide market offers with a zero early termination fee. Retailers will not be able to charge this fee to customers on hardship and payment assistance programs, and must make the fee clear before a customer enters into an electricity supply contract.

Retailers will also be able to add a reasonable amount to these caps in order to claim back any upfront benefits, such as rebates on the first bill, provided to the departing customer.

IPART Chairman, Dr Peter Boxall, said the early termination fee caps are unchanged from the draft decision.

“IPART considered submissions that the fee caps should be both higher and lower than these levels, but we are satisfied there are legitimate costs to retailers when consumers terminate their contract early including recovering costs involved in acquiring customers in the competitive market, administration and bad debts,” Dr Boxall said.

“Allowing retailers to recover the legitimate costs through the early termination fee means these costs will not need to be recovered through higher electricity prices for market customers in general” Dr Boxall said.

“We consider the recovery of reasonable costs associated with early termination, will contribute to product diversity by enabling retailers to continue to offer competitively priced fixed term contracts.”

IPART is required to update its decision every 2 years.

Customers should compare market offers

The Australian Energy Regulator operates a free electricity and gas on-line price comparison service, www.energymadeeasy.gov.au, that lets consumers compare offers from energy retailers in NSW.

IPART's final report and accompanying documents are available on IPART's website, www.ipart.nsw.gov.au.

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Background

Currently, early termination fees for electricity market contracts are unregulated in NSW. Energy retailers can decide whether or not to charge an early termination fee, and how much to charge. The fee must be a reasonable estimate of the costs to the retailer resulting from the early termination and it must not include costs based on lost supply or lost profit.

The NSW Government has recently decided to impose requirements on retailers in relation to early termination fees under the new National Energy Retail Rules (NSW). These rules will come into effect on 1 March 2014. The Premier of NSW asked IPART to conduct a review of the maximum amount of one component of early termination fees for small customers under market contracts for electricity, or the electricity component of dual fuel contracts.

Under the National Energy Retail Rules (NSW) early termination fees must not exceed the sum of:

- ▼ the base early termination fee cap(s) determined by IPART, and
- ▼ the payback of any upfront inducement costs of the retailer.

The amount for any payback of upfront inducement costs is determined by retailers and is uncapped. However, this amount must reflect the monetary costs to the retailer of the upfront benefit provided to the customer, calculated on a pro-rata basis.

IPART's role in regulating market contracts

IPART's role in regulating market contracts is limited to setting the maximum Early Termination Fee base (ETF), to which retailers may also add their own conditions to recover any upfront benefits they offer to customers entering into the contracts.

