

Electricity Industry Participation Code Amendment (Switch Saving Protection) 2014

Pursuant to section 38 of the Electricity Industry Act 2010, and having complied with section 39 of that Act, I make the following amendments to the Electricity Industry Participation Code 2010.

At Wellington on the 21st day of October 2014



Dr Thomas Brent Layton
Chairperson
Electricity Authority

Certified in order for signature:



Andrew Springett
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20 October 2014

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Contents

1	Title	1
2	Commencement	2
3	Code amended	2
4	New clauses 11.15AA to 11.15AD inserted	2
	11.15AA Trader may elect to have switch saving protection	2
	11.15AB Switch saving protection	2
	11.15AC Trader may communicate with customers for certain purposes	2
	11.15AD Cancellation of switch saving protection	3

Amendment

- Title**
This is the Electricity Industry Participation Code Amendment (Switch Saving Protection) 2014.

2 Commencement

This amendment comes into force on 12 January 2015.

3 Code amended

This amendment amends the Electricity Industry Participation Code 2010.

4 New clauses 11.AA to 11.AD inserted

After clause 11.15, insert:

"11.15AA Trader may elect to have switch saving protection

- "(1) A **trader** that buys **electricity** from the **clearing manager** may elect to have switch saving protection by giving written notice to the **Authority**.
- "(2) The **Authority** must **publicise** the name of each **trader** that has elected to have switch saving protection as soon as practicable after receiving the written notice from the **trader**.
- "(3) A **trader's** switch saving protection comes into effect on the day after the day on which the **Authority publicises** the **trader's** election.

"11.15AB Switch saving protection

- "(1) This clause applies if a **trader** (the "protected **trader**") has switch saving protection.
- "(2) If the protected **trader** enters into an arrangement with a **customer** of another **trader** (the "losing **trader**") to commence trading **electricity** with the **customer**, the losing **trader** must comply with subclause (4).
- "(3) If a **trader** enters into an arrangement with a **customer** of a protected **trader** to commence trading **electricity** with the **customer**, the protected **trader** must comply with subclause (4).
- "(4) A losing **trader** referred to in subclause (2) or a protected **trader** referred to in subclause (3) must not, by any means, initiate contact with the **customer** to attempt to persuade the **customer** to terminate the arrangement referred to in subclause (2) or subclause (3) (as the case may be) during the period specified in subclause (5), including by—
 - "(a) making a counter-offer to the **customer**; or
 - "(b) offering an enticement to the **customer**.
- "(5) The period starts on the day on which the **trader** receives notice of the switch request under clause 22(a) of Schedule 11.3, and ends on the **event date** for the switch.

"11.15AC Trader may communicate with customers for certain purposes

Clause 11.15AB(4) does not prohibit a **trader** from—

- "(a) contacting a **customer** to advise the **customer** of any termination fees that the **customer** is required to pay as a result of the **customer** ceasing to trade with the **trader**; or
- "(b) contacting a **customer** regarding administrative matters, including—
 - "(i) any fees the **customer** owes the **trader**;
 - "(ii) the **customer's** final meter reading;
 - "(iii) how the **trader** will return any keys it holds on the **customer's** behalf;
 - "(iv) the effect of the **customer** ceasing to buy **electricity** from the **trader** on other contracts between the **customer** and the **trader**, for example, for the supply of gas; or

- "(c) providing a factual response to a question asked by a **customer**; or
- "(d) making a counter-offer or offering an enticement to a **customer** who has invited the **trader** to attempt to persuade the **customer** to terminate the arrangement referred to in clause 11.15AB(2) or (3); or
- "(e) offering an enticement to a **customer** as part of a general marketing campaign.

"11.15AD Cancellation of switch saving protection

- "(1) A **trader** that has elected to have switch saving protection may cancel its switch saving protection by giving written notice to the **Authority**.
- "(2) However,—
 - "(a) a **trader** may not cancel its switch saving protection earlier than 12 months after the date on which the switch saving protection came into effect; and
 - "(b) a **trader** that has cancelled its switch saving protection may not elect to have switch saving protection earlier than 12 months after the date on which the **trader** cancelled its switch saving protection."

Explanatory Note

This note is not part of the amendment, but is intended to indicate its general effect.

This amendment to the Electricity Industry Participation Code 2010 (Code) comes into force on 12 January 2015.

The amendment allows a trader that buys electricity from the clearing manager to elect to be protected from another trader's efforts to retain a customer that has agreed to switch its electricity supply to the protected trader. However, the protected trader is also prohibited from trying to retain a customer that has agreed to switch away from the protected trader.

A trader is only prevented from initiating contact with the customer to retain them. A trader is not prevented from making a counter-offer or offering an enticement to a customer who has invited the trader to attempt to persuade the customer to terminate its arrangement with the trader to which it has switched.

The protection exists from when the registry notifies the switch until the switch is completed.

Date of notification in the *Gazette*: 23 October 2014