



AMBER SUBMISSION ON THE DRAFT AER RETAIL GUIDELINES

Amber Electric Pty Ltd (Amber) welcomes the opportunity to comment on the Australian Energy Regulator's (AER) draft Retail Guidelines (the Guidelines). Amber's model differs from most of the retail market; we pass wholesale energy prices through to customers, charge a flat subscription rather than a margin on energy supplied, and give customers the tools and information to shift their usage to cheaper, cleaner periods while maximising the value of exports.

Amber supports the goal of bringing these four guidelines together into one clear document, along with the underlying objectives of the AER's review, including to:

- 1) ensure the guidelines remain effective in an evolving energy market;
- 2) clarify, simplify and streamline regulatory obligations; and
- 3) ensure the benefits of any changes exceed the costs.

Most of the draft requirements work well across the energy retail market. However, a number of provisions are unsuitable for a wholesale spot-price linked model like Amber's, and are likely to produce an approach to compliance that undermines both the core objectives of the AER's review and the interests of consumers.

Our submission sets out three substantive areas below, where we believe a tailored approach is required for Amber and other spot-price linked offers. These are:

1. the requirement to submit data and display a BPID for generally available plans;
2. the requirement to include a better offer message on a bill; and
3. the requirement to state charging windows on a bill;

In addition, we outline in items 4-5 below areas where we would welcome further clarity from the AER on how the Guidelines are intended to apply in practice, including in the specific circumstances of a spot-price linked model like Amber's.

1. **THE REQUIREMENT TO SUBMIT DATA AND DISPLAY A BPID FOR GENERALLY AVAILABLE PLANS (Retail Pricing Information Guidelines)**
 - 1.1. ***Presenting spot-price linked offers through Energy Made Easy (EME) (clauses 29, 30, 33, 41, 42, 43)***

Clause 29 requires retailers to submit to EME information and data in relation to their market offer prices that are generally available to small customers, and clause 41 requires plan information documents to address all tariff variations within a distribution zone. Clause 30 sets two timing requirements for retailers using EME. Retailers have 2 business days to publish a new plan on both Energy Made Easy and their own website, and 2 business days to remove a plan from both once it's withdrawn. Clause 37 requires retailers to



have a plan information document for each energy plan submitted to EME, including restricted plans.

Amber offers a spot-price linked market offer, where prices under that offer change every 5 or 30 minutes (depending on the customer's meter). Prices are influenced by a range of factors, including seasonality and demand. For spot-price linked offers, Amber is unable to produce a BPID which reflects either the 5-minute wholesale spot-price, or separately each underlying network tariff variation. There are two reasons for this:

- 1) EME does not currently support this level of data ingestion functionality; and
- 2) The usage rate during each network tariff time period (c/kWh) is generally unknown to Amber at the time of submitting data to EME, because this would mean knowing the wholesale spot-price for that specific tariff usage window in advance (e.g., to calculate the "rolled up" wholesale pass-through rate including network tariff). While Amber does offer a wholesale energy price cap, pricing this as a rolled-up c/kWh rate is only possible for customers on a flat-rate (e.g., Anytime) network tariff, and not for time-of-use or demand tariff structures.

Amber intends to continue to submit data to EME and publish BPIDs for customers on flat-rate network tariffs based on its wholesale energy price cap, and to separately publish BPIDs for its wholesale price plans based on estimates. However, we request that clauses 29, 30, 33, 41, 42, and 43 be explicitly qualified for spot-price linked offers where pricing data is unavailable, in a similar way to the existing exclusion for spot-price linked offers under rule 46(4B) of the National Energy Retail Rules (NERR).

We believe such a qualification would ensure the guidelines remain effective in an evolving energy market, and we believe Amber already delivers an effective level of price transparency through its current approach to BPID publication and through other channels, including Amber's price estimates provided prior to sign-up, live in-app pricing and price forecasts.

Without such a qualification, retailers offering spot-price linked models may be required to submit technically compliant pricing information that is incomplete, inaccurate and potentially misleading for customers, undermining the very objectives this guideline review sets out to achieve. In our view, a static BPID figure in this context would come at a material cost to retailers, while delivering a pricing outcome that would almost certainly be inaccurate.

We propose the following additional wording be added as a new clause after clause 44 as new subclause 44A, for the AER's consideration:



44A. *Despite clauses 29, 30, 33, 41, 42 and 43, a retailer is not required to submit information or data to Energy Made Easy, or produce a plan information document, with respect to a plan that includes a tariff or charge that continually varies in relation to the prevailing spot price of energy, to the extent that information or data is not reasonably available to the retailer.*

2. THE REQUIREMENT TO INCLUDE A BETTER OFFER MESSAGE ON A BILL (Benefit Change Notice Guidelines and Billing Guideline)

2.1. Better offer messages and the ‘annual total cost’ methodology for flexible plans (clauses 16-22)

The better offer message requires calculation of a customer's annual total cost, defined as the minimum amount payable based on the customer's annual usage history and the tariff, charges and discount rates current at the date the communication is to be issued. For a flat-rate plan, that is a single, stable number. For Amber's flexible plan, the unit rate is the wholesale price, which moves as frequently as every 5 minutes and can move sharply during extreme weather or supply events. There is no single tariff “current at the date the [bill] communication will be issued” that is reliably known and available to plug into that formula, only a snapshot of what the wholesale price happens to be at each of the 5-minute windows.

It appears ‘current’ is intended to mean the rate on the future date the bill will be issued. In the context of a wholesale pass-through model, that rate is unknown at the point that Amber would need to calculate it, because we do not know what wholesale prices will be on the date that the bill is actually issued. An alternative option would be to use the average wholesale rate on the day the bill is prepared as a proxy for that future rate. However, average rates can fluctuate materially day-to-day and seasonally, so extrapolating a single day's rate into an artificial 12-month cost figure is inherently inaccurate and risks presenting customers with a distorted deemed better offer message.

We understand clause 16 requires an assessment of a customer's current plan against other generally available plans offered by that same retailer, and since Amber currently offers a single flexible plan structure, a positive deemed better offer message rarely arises in practice. We do, however, still need a defensible way to calculate the annual total cost for that comparison, and clause 22's list of exemptions does not address flexible or wholesale spot-price linked pricing at all. Any methodology we choose, whether a trailing average, a forward estimate or something else, is a reasonable approximation rather than a precise figure, and presenting it with the same confidence as a fixed-rate comparison risks being more misleading than helpful to customers.



Where the resulting deemed better offer message may be inaccurate, Amber considers that the resource cost impact to retailers offering dynamic rate offers in calculating the deemed better offer is disproportionate to any consumer benefit it delivers in the circumstances, and is inconsistent with the AER's stated objectives of the review; namely, to ensure the guidelines remain effective in an evolving energy market, and to ensure the benefits of the Guidelines outweigh the costs of implementation.

Amber already gives customers live access to their real-time price and price forecasts through the app, and actively encourages shifting usage into cheaper windows. Through the app, Amber also displays 'Your Week with Amber' and '3-month lookback' pricing which assists customers to understand the pricing benefits of its model compared to other available offers. Amber also proactively contacts customers where a better underlying network tariff may be available and suitable. If the customer chooses to transfer to another network tariff, unlike other retailers, we pass these benefits on in full at cost, consistent with our wholesale pass-through model. We believe that is a more current and useful signal than an artificial figure recalculated once every 100 days.

We recommend the exemptions in clause 22 are expanded to include wholesale spot-price linked offers and propose the following additional wording be added to clause 22 as a new subclause e):

22. *A retailer is not required to provide a better offer message on a bill where:*

e) *the customer's plan is, or includes, a tariff or charge that continually varies in relation to the prevailing spot price of energy.*

3. THE REQUIREMENT TO STATE CHARGING WINDOWS ON A BILL (Billing Guideline)

3.1. 'Charging windows' and interval-level pricing disclosure (clause 62(b)(v), and the definition of 'charging window')

Clause 62(b)(v) requires the 'understand your bill' section to include charges, rates, tariffs and energy payments in dollar figures, including "the details of charging windows if required". A charging window is defined as a "specific, pre-determined time period when different rates apply to a customer's energy consumption," which describes a standard time-of-use tariff well, but does not work for wholesale spot-price linked models. In relation to charging windows information required under section 62(b)(v), Amber does not define time-of-use (e.g., fixed "peak" or "off-peak") periods because wholesale usage prices vary on a 5-minute basis. This would require the inclusion of 8,640 usage line items on our bill for each 30-day period, which is plainly nonsensical, detracts



from customer comprehension and undermines the Bill Objective. Instead, Amber supports customers to understand and respond to pricing signals through more effective tools, including real-time and forecast pricing, notifications and device automation actively utilised by customers via the 'Amber app' (our software application). Amber has previously provided this feedback as part of this Guidelines review, however it appears that this issue has not been taken into account in the draft Guidelines.

We propose the following additional wording be added to the definition of "charging window" in Part 2, for the AER's consideration:

Insert the following words at the end of the "Charging window" definition, after "energy consumption or demand":

"but does not include charging windows on a plan that is, or includes, a tariff or charge that continually varies in relation to the prevailing spot price of energy."

4. THE 100-DAY BILLING REQUIREMENT (Billing Guideline)

4.1. The 100-day billing requirement, and what happens when meter data is unavailable (clause 54)

Clause 54 requires a bill to be issued at least every 100 days unless a longer billing cycle has been agreed in accordance with rule 24(2) of the Retail Rules. We understand the intent behind this requirement is to ensure consumers receive regular, predictable charges, timely better offer notifications, and to reduce "bill shock." There will, however, be periods where a retailer is unable to bill a customer due to customer access issues, or delayed or unavailable data from a metering provider, distributor or AEMO. In this scenario, in our view the retailer should not be penalised for failing to issue a bill within the 100-day period, where it is genuinely unable to produce an accurate bill due to meter data unavailability.

As drafted, to avoid breaching the NERR the retailer is incentivised to issue a bill that is incorrect or misleading, leading to potential undercharging or overcharging of the customer.

In our view, it is in the interests of consumers for a retailer to withhold issuing a bill where meter data is unavailable. A bill that has to be corrected after the fact erodes trust and creates unnecessary confusion for the customer.

We therefore recommend the following changes are made to the proposed clause 54:



Insert the words "*provided that meter data is reasonably available*" after "*at least every 100 days*":

54. Retailers must issue a bill to a small customer at least every 100 days, *provided that meter data is reasonably available*, unless a longer billing cycle has been agreed in accordance with rule 24(2) of the Retail Rules.

Insert the following new clause after clause 54:

54A. *Where meter data is unavailable, the retailer must communicate with the customer in line with their regular billing cycle to inform them of the reason for the delay and the expected timeframe for resolution, and must issue any catch-up bills in a manner consistent with the undercharging obligations under the NERR.*

5. CLARIFICATION SOUGHT:

5.1. Concession non-transfer statement on final bills (clause 59(n)(ii)) (Billing Guideline)

Clause 59(n)(ii) requires a final bill to include a notice that concessions do not automatically transfer between retailers. In practice, this is likely to create confusion. Two scenarios we regularly see:

- 1) Customers who never had a concession, for whom the statement is irrelevant and potentially confusing; and
- 2) Customers moving between two properties that are both served by the retailer, where no transfer between retailers is actually occurring.

It would be helpful to understand the gap this statement intends to close.

Retailers are already required to proactively ask customers about concession eligibility at the point of sale, so a customer signing up with a new retailer at a new address should already be prompted to reapply at that point. A blanket statement added to every final bill, regardless of whether the customer ever held a concession, risks confusing the customers it is intended to help.

We suggest an exclusion from this requirement for site moves (when the customer is not moving retailers) rather than being required in every 'final bill'.

CONCLUSION

Amber supports the AER's underlying objectives of each of the four guidelines and its goal of combining the guidelines into a single, clear document. Each of the changes we have proposed is with the intention of providing clearer information and outcomes for consumers.

In those specific areas where we are seeking carve-outs, Amber invests heavily in alternative ways to deliver on the purpose and intent behind those provisions to achieve positive consumer outcomes, including real-time pricing, forecasts, plain-language education



at sign-up, and proactive tariff assessments and switching support for customers, including those in hardship. Our comments above are aimed at making sure the Guidelines work as well for a wholesale spot-price linked, technology-led retailer as they do for a traditional retailer. We welcome the opportunity to discuss any of the above with the AER team ahead of the final guidelines being settled.