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Mr Paul Harrigan
Executive Director
Australian Energy Regulator
GPO Box 3131
Canberra ACT 2601

Submitted electronically: consumers@aer.gov.au

Dear Mr Harrigan,

Re: Retail Guidelines Review

Red Energy and Lumo Energy (Red and Lumo) welcome the opportunity to make this submission to the Australian Energy Regulator's (the AER's) draft combined Guidelines as part of its *Retail Guidelines* Review.

We support the AER's commitment to streamlining, clarifying, and simplifying requirements across the four retail Guidelines—including the *Retail Pricing Information*, *Benefit Change Notice*, *Better Bills*, and *Hardship Policy*—to deliver better outcomes for consumers. We also support aligning deemed better offer thresholds with Victoria's framework, excluding non-financial benefits from the better offer definition, and introducing clearer, more consumer friendly standardised hardship statements.

On the other hand, some of the AER's proposals are operationally complex and will generate additional compliance costs, without necessarily delivering commensurate consumer benefits. Specifically, we have some concerns about the following:

- comparing deemed better offers across different tariff types of all generally available plans;
- introducing versioning tags (such as month and year) for plans that share the same name;
- uncertainty associated with undefined overarching objectives and how retailers might capture them in systems and processes;
- obligation to issue benefit notices when price or consumption changes affect discount values; and
- including better offer information across multiple bill notifications.

A related point is the proposed implementation schedule. The AER's reforms coincide with several major regulatory initiatives, including the *Australian Energy Market Commission's (AEMC's) Real Time Data for Consumers and Better Life Support Protections* and the *Essential Services Commission's (ESC's) Better Protections for Life Support Customers*.

Delivering all these changes concurrently would place significant pressure on retailers and create unnecessary implementation risk. We acknowledge the potential merits of expanding the scope of the best offer obligation given the increased penetration of smart meters across the NEM. However, this initiative in particular requires significant changes to customer communications, systems and processes so we request a more reasonable implementation timeframe, namely, 12 months from the release of the final Guideline.

As a general rule, we recommend the AER provide retailers with 12 months from the release of the final Guideline, except where there is an existing requirement for an obligation to commence on a specific date. The treatment of non-financial benefits under the *National Energy Retail Amendment (Assisting hardship customers) Rule 2025* is an example of the latter. Reasonable timeframes are necessary to ensure retailers can deliver the consumer outcomes that the AER wants to achieve and to minimise compliance risks.

Definitions, Overarching Objectives and Design Principles

We acknowledge the potential merits of a regulatory framework that provides retailers with some flexibility in how they communicate with their customers. This is increasingly important for more complex retail products where it becomes challenging to present their potential benefits and risks through a simple comparison.

However, there is an inherent subjectivity in concepts such as 'honest', 'fair', 'easy to understand', and 'plain language'. We would welcome further guidance from the AER about its expectations for compliance as we seek to operationalise the revised Guideline. Moreover, a shift in this direction may lead to inconsistent implementation and misalignment with the AER's, retailers' and consumers' expectations about what are acceptable market outcomes.

Layering broad requirements on top of existing prescriptions can create a hybrid framework that simply increases uncertainty and complexity rather than necessarily achieving the AER's objective of simplicity. For example, it is unclear how extensively these principles apply to areas like phone scripting, hardship policies, and digital journeys.

Therefore, we recommend the AER include worked examples of acceptable practices in the final Guideline, particularly in this early stage of a move to a more outcomes-based approach to regulation. The AER should also clarify the scope of these principles, that they apply solely to communications specified in the combined Guidelines, for example. We also advocate for a transitional approach to reviewing the relevant communications that protects retailers from penalties if they act in good faith to support consumer outcomes.

Regarding accessibility, we understand the intent to meet diverse consumer needs but suggest this is an area where the AER can rely on principles and retailers' incentive to ensure their customers understand the communications they receive. Mandating that

communications are continuously available in multiple languages (about 14 languages as per usual standards) to support Culturally and Linguistically Diverse consumers would create a significant operational burden and could instead be handled on an as-needed basis through interpreter services.

Finally, we welcome the introduction of a definition for 'flexible plans', which accurately communicates innovative offerings. However, updating these on the Energy Made Easy (EME) website requires changes to data standards. It is critical that changing regulatory obligations align with what can actually be supported by the EME platform. The AER must ensure these updates occur simultaneously.

Comparative Information

The draft Guideline proposes numerous new requirements and amendments to existing requirements that seek to promote consumer engagement. While this is a worthy objective, we also note the challenges in conveying complex information or a large volume of information through specific mechanisms. This reflects the limits on some consumers to absorb a large volume of complex information through a single notice or letter. Examples where the primary message can be lost are bills and in Benefit Change Notices. In our experience, the effectiveness of a message or notification can be diluted when it is combined with other information. As a general rule, we recommend the AER carefully to consider the primary objective of a notification obligation and avoid seeking to achieve too many other objectives by mandating additional information.

The draft Guideline proposes that retailers calculate a deemed better offer through a comparison across products with different structures. This is because all consumers with a smart meter in NSW, South Australia and Southeast Queensland will be able to choose between three distinct structures: the Solar Sharer Offer, a flat standing offer (as required by jurisdictional governments following the Accelerating Smart Meter Deployment) and a retail product mapped to their designated network tariff.

Irrespective of the merits of this policy decision, this is a significant change from current practice and implementation within three months of the release of the final Guideline is not feasible. As noted, we anticipate that most retailers would need a minimum of 12 months to effectively implement this expansion.

A further issue is the value to a consumer of such a calculation and whether it assists them to choose between offers with different structures where the potential benefits depend on how they respond to different price signals. As the AER is aware, retailers use previous consumption to calculate the deemed better offer, while future consumption is determined by a range of factors such as weather, occupancy, employment, appliance use, etc. A single, backward looking calculation is not sufficient to support an informed choice so there is a question of whether the benefits outweigh the costly and lengthy system changes that

retailers must make to support this change. This is one area where the AER may consider a less prescriptive approach.

We also anticipate some operational challenges with the proposal to attach unique version tags, such as specific month and date markers, to every retail product. Due to the frequent updates typical of competitive acquisition offers, tracking multiple active iterations of identically named plans may strain some billing architectures, potentially exceed character limits in existing systems and complicate campaign management. Furthermore, the AER's previous determination under section 37 of the *Better Bills Guideline* has already resolved consumer confusion regarding shared plan names. We do not yet see a strong case for a further change. Our existing notification system successfully prompts customers when more advantageous iterations become available, providing strong transparency without the need for potentially redundant version tags.

Additionally, the proposed requirement to maintain a deemed better offer for at least 15 days after notifying a consumer may create some administrative difficulties for some retailers and limit their ability to introduce new competitive offers in line with market conditions.

This is achievable for price changes. There is no issue for retailers to keep an offer open to consumers for at least 15 days. However, extending this to all better offer messaging is problematic given the frequency with which we issue bills, i.e. daily. This would limit retailers' flexibility to introduce new products in response to shifts in market conditions. An alternative approach would be to grant retailers the operational flexibility to manage product lifespans while relying on their desire to avoid a poor customer experience. This is also consistent with the Victorian framework (where the Essential Services Commission considered but then rejected a similar requirement).

We recommend the AER limit the eligibility criteria for a deemed better offer to short and significant conditions, excluding technical scenarios such as proprietary technologies, specialised meter configurations or asset ownership conditions. Retailers must not be forced to provide condensed notifications when a brief statement cannot accurately convey the conditions without misleading the consumer. Ultimately, customers should not receive a better offer notification if they cannot realistically qualify for the product or understand the specific requirements needed to achieve the projected savings.

As a final point, we support increasing the deemed better offer threshold to \$50 to align with the *Victorian Energy Retail Code of Practice*. We also agree with omitting non-financial incentives from the definition of deemed better offer as they can often take a form that is not easily valued, either by a retailer or consumer.

Benefit Change Notices

Red and Lumo support the draft decision to feature deemed better offer information on the Benefit Change Notice rather than a 'do nothing' amount. As highlighted in our previous response to the Consultation Paper, the 'do nothing' figure provides little incremental benefit to consumers and aligning these requirements means consumers receive a consistent and standardised single estimate across all price related communications.

Conversely, we have reservations about the requirement to issue a Benefit Change Notice when price variations impact the value of a percentage discount. We do not share the AER's position that changes in the underlying energy price should be viewed as altering the fundamental financial value of a benefit or that consumers cannot differentiate between a price change and a change to another aspect of their contract that also has a financial implication.

A further concern is the apparent disconnect between retailers' price change notification obligation and the AER's proposed changes to notifications. The effect of the draft Guideline appears to be to create a regulatory overlap where a single adjustment could be classified as both a price and a benefit change. Since the *National Energy Retail Rules (NERR)* mandate different notification windows for these events, we seek clarification on whether the AER expects retailers to distribute two separate communications for the same event.

Additionally, this requirement presents significant operational challenges. The AER's final Default Market Offer determination occurs in late May and this leaves retailers with a very restricted window to finalise rates, perform system validation, and deploy new offers by 1 July. Such a tight schedule cannot easily accommodate the 20 to 40 business day notification period for benefit changes, which differs from the shorter five day requirement for price updates. We therefore suggest the final Guideline specify that a benefit change notice is only necessary when the specific financial terms of a benefit are directly reduced.

Furthermore, the AER should revisit its proposal for retailers to include a summary of plan details on Benefit Change Notices. This could include a substantial volume of information, depending on the AER's requirements, and would likely distract many consumers from the core message of the Notice. Moreover, this information is already available through other mechanisms. This level of prescription appears to contradict the AER's stated goal of moving away from highly regulated notice formats.

We also request further guidance on the specific data retailers must provide for the Energy Made Easy platform to facilitate comparisons, particularly as existing Zone A billing standards will be superseded by the new Guidelines.

Customer Bills and Bill Notifications

The AER will be aware of the forthcoming commencement of rule changes under the AEMC's *rule change for Improving the ability to switch to a better offer*. Within this context, and noting the AEMC's analysis of options and impact assessment, we do not see an obvious need to expand on this obligation at this stage. Rather, the AER can continue to monitor how this obligation operates in practice and propose an expansion if it falls short of the policy objective.

Given the substantial amount of information already included on energy bills, it is critical to have precise details on which communications require modification and what those changes entail. Without clear boundaries, retailers face the complex and unnecessary task of reviewing all accompanying communication templates, including generic account messages and direct debit notices.

Several other proposals within the draft Guidelines also require further consideration:

- **Concession notifications on final bills:** Mandating a notification on the final bill of the non-transferability of concessions is largely redundant, as the incoming retailer is already required to verify concession eligibility immediately. Given the dense nature of existing bills, adding this message offers little minimal value to customers while increasing administrative costs.
- **Email address placement:** we do not support the inclusion of a retailer's email address on the front page of the bill. This information is already provided on another page and is a secondary contact mechanism for many retailers.
- **Estimated portion display:** The benefit of displaying the estimation portion on a bill (as a percentage or number of days) is uncertain and likely to introduce significant operational burdens to billing systems.

Implementation Timeframe

The draft Guidelines propose a commencement date of late December 2026 for all new and revised obligations. As noted, this compressed timeframe poses a severe challenge for retailers as the changes require significant updates to billing systems, consumer communications, mail house workflows, and legal frameworks, alongside staff training and extensive testing.

This is most pronounced for the expanded deemed better offer obligation. This demands substantial billing system reconfiguration. Aligning all plan information and communications with the new overarching principles requires comprehensive reviews of billing notifications, templates, standardised messaging, and call center scripting.

Accordingly, Red and Lumo recommend extending the implementation timeline for the combined obligations to at-least 1 September 2027 (unless prevented by existing and concurrent rules in place).

Other issues

We would appreciate additional clarification on the following matters:

- **Definition of 'benefit change':** it would be useful to carry over clauses 26 and 27 of the current *Benefit Change Notice Guidelines* into the final Guidelines. These clauses provide clear examples of what constitutes and what is excluded from a benefit change.
- **Definition of 'excluded change':** An 'excluded change' should retain a benefit change occurring within or at the first 40 days of a customer's market retail contract commencement. This prevents a customer from receiving a benefit change notice at or near the start of their contract, aligning with *rule 48A (2) (b) of the NERR*. Additionally, this definition should retain a benefit change that requires a retailer to notify a customer under *rule 46 (3) of the NERR*, which mandates notification of any variation to the tariffs and charges affecting them.

About Red and Lumo

We are 100% Australian owned subsidiaries of Snowy Hydro Limited. Collectively, we retail electricity and gas in New South Wales, Queensland, South Australia, Victoria and the Australian Capital Territory to over 1.6 million customers.

Red and Lumo thank the AER for the opportunity to comment on the draft Guidelines. Should you wish to discuss or have any further enquiries regarding this submission, please call Thakshila Gunaratna, Regulatory Manager, on [REDACTED].

Yours sincerely

A solid black rectangular box used to redact the signature of Geoff Hargreaves.

Geoff Hargreaves
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