Australian Energy Regulator
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21 May 2018

Draft AER Benefit Change Notice Guidelines (Ref 63359)

The Australian Energy Council (the Energy Council) welcomes the opportunity to make a submission to the Australian Energy Regulator's (AER) *draft Benefit Change Notice Guidelines* (April 2018) (draft Guidelines).

The Energy Council supports measures to improve customer understanding of their energy contracts and engagement with the energy market. The AEMC's recent rule change *Notification of End of Fixed Benefit Period*, which required the AER to develop the Benefit Change Notice Guidelines, forms part of these measures.

We are concerned that the detailed and prescriptive nature of the information requirements in the draft Guidelines may lead to poor customer outcomes. As noted in the *Notice of Draft Instrument*:

> *'Keeping information as simple and short as possible is key to ensuring customers have both maximal understanding of its content and maximal likelihood of taking action' [4.2.2].*

The challenge will always be to balance the need to provide helpful information with the need to minimize the information communicated. Currently, the draft Guidelines err on the side of requiring too much information.

To enable retailers to develop short, sharp and effective communications with customers regardless of the delivery method, we recommend that the AER minimize the information requirements and reduce the prescription regarding layout which is currently contained in the draft Guidelines.

Our specific comments are as follows.

(a) Risk of providing misleading information

There is a considerable risk that the 'do nothing' amount, as currently conceived and calculated in the draft Guidelines, will be misleading for consumers. The 'do nothing' amount is calculated with reference to historical consumption data (or estimated consumption data, where sufficient historical information is not available) and current tariff data. However, past energy usage is not always a good indicator of future energy usage – particularly if there is any change in household circumstances (for example, if there are changes to household composition, work status, or even time at which householders go to school or work). In addition to usage, other variables that will impact how much a customer pays for their energy bill going forward include:

- whether the customer meets the conditions applying to any conditional discounts;
- in the case of a customer with solar PV, their generation and corresponding feed-in tariffs payable;
- a change to the customer's eligibility for one or more concessions; and
- the underlying tariff applying to the customer, including whether the customer pays a time of use tariff.

Expressing an annualized dollar figure as an estimate for what the customer will pay creates a high risk of customer confusion and may lead to poor customer outcomes.

(b) Surplus information required

Some of the information required in the draft guideline to help customers use Energy Made Easy is surplus to requirements. This includes:

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- whether the offer is for home or small business
- postcode
- whether the comparison is for electricity /gas or both.

This information is readily available to the customer and is not the kind of information which is confusing to customers.

Further:

- the obligation to provide 'instructions for the customer' on how to submit and complete an Energy Made Easy search is unclear and not necessary [4.2(55)]. The necessary information requirement is set out in 4.5(79). Consistent with the aim of minimizing information provided to customers, paragraph (55) should be deleted.; and
- the obligation to provide time-of-use information (including standard, off-peak, shoulder etc) should clearly be limited to where that information is readily available in the retailer's systems, noting that accumulation meters are still in use for many NECF customers. [4.2, table 1.]

(c) Layout requirements

The draft Guidelines are also heavily prescriptive as to the layout of the information to be provided.

We are encouraged by the AER's desire to establish a firm evidence base when developing guidelines in order to deliver customer outcomes. The AER-commissioned behavioural economics research is ongoing, and we would encourage the AER to further progress this work prior to prescribing any layout requirements.

As a regulator, the AER will necessarily develop and test approaches that can apply to small customers generally (or residential and SME customers as separate categories). The AER does not have the insights into particular types of customers which retailers have at their disposal, based on the retailers' individual business model or the particular requests of the customer. The risk therefore arises that any option tested by the AER (while it may be better than other generally-applicable options) delivers a 'lowest common denominator' solution. This approach reduces a retailer's ability to provide customers with information in the way the customer finds most useful. It will particularly stifle retailers' efforts designing effective on-line communication, for example through apps which use short-and-sharp information with graphics and links. These innovations are important to effectively engage with customers.

There is a substantial risk that regulating notice layout will create communication that appears highly regulatory in nature, which is less likely to prompt customer engagement. We note also that some of the layout requirements may result in strange and unintended outcomes. For example, the requirement that Energy Made Easy's URL and web address must be before the retailer's website or telephone number would be difficult in a letter format if the logo of the energy company as used in written communications (top left-hand of zone A in the template) routinely includes the company's URL. In this example, the Benefit Change Notice Template would be inconsistent with the Guideline's other requirements.

The benefit change notices form one of several customer information and engagement processes currently being considered and implemented in the energy sector. It is imperative that these processes are considered together, with a view to ensuring their complementarity and avoiding duplication.

We would be happy to discuss the above concerns with the AER as work continues on the final form of the Benefit Change Notice Guidelines, if that would assist.

Yours sincerely

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