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Ms Sarah Proudfoot
General Manager—Retail Markets Branch
Australian Energy Regulator
GPO Box 520
Melbourne VIC 3001

By email: AERInquiry@aer.gov.au

22 May 2015

Dear Ms Proudfoot

AER Retail Pricing Information Guidelines

AGL Energy (**AGL**) welcomes the opportunity to make this submission on the AER's draft Retail Pricing Information Guidelines (**Guidelines**).

AGL is a significant retailer of energy with over 3.8 million electricity and gas customers nationally. Accordingly, AGL has a strong interest in ensuring that energy customers are able to understand product offerings and to engage confidently with the market. To do this, customers must be well informed and have the necessary resources to compare and choose a suitable energy product.

AGL has undertaken a number of initiatives recently to support and promote consumer choice and understanding. In late 2014, AGL launched its Affordability Initiative which committed to improving the way AGL works with customers, developing clearer and more transparent information on AGL products and services, and working with community groups, industry and regulators to improve the simplicity and comparability of information available to energy customers more broadly.

AGL recognises that the Guidelines play an important role in promoting the comparability of energy offers, and ensuring that customers can access clear and simple information on energy products from all retailers. AGL supports the AER's review and considers that overall, the draft Guidelines will improve the transparency and clarity of information available to energy customers.

Nevertheless, AGL considers that certain proposed amendments will be problematic and do not promote the Guideline objective of improving the comparability of offers. In particular, AGL has significant concerns with the draft requirement to present prices inclusive of guaranteed discounts on Energy Price Fact Sheets and wherever else pricing information is presented. AGL considers that this proposal will add a further layer of complexity and will detract from the comparability of offers.

Furthermore, AGL does not support the requirement to use no term other than Fixed Benefit Period when referring to this concept as defined in the National Energy Retail Rules. AGL considers that this terminology can be confusing for customers, and should not be mandated in all instances. Moreover, AGL considers this requirement to be inconsistent with the prohibition on using the term 'fixed' in scenarios where prices are not also fixed for a period of time.

Lastly, while AGL supports the AER's proposal to simplify and standardise the information presented on Energy Price Fact Sheets, AGL considers that further could be done to minimise the required content, so that only information which is necessary to promote customer choice and understanding is presented. AGL considers that Energy Price Fact



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Sheets will be a more effective and customer friendly tool if they can be simplified to the greatest extent possible.

Please find **attached** at Appendix A AGL's detailed comments on the draft Guidelines.

AGL looks forward to engaging further with the AER as part of this consultation process. In addition to its regulatory obligations and in line with its commitments, AGL will continue to look at ways in which it can better promote informed decision making by energy customers.

Please contact Kylie Finnin on (03) 8633 6380 if you wish to discuss any aspect of this submission further.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'R Bringham', is positioned below the closing text.

Rebecca Bringham
Manager, Retail Regulation

APPENDIX A

Guideline reference	AGL comment
<p>Clause 2.3— Language requirements</p>	<p>While AGL supports the move towards greater consistency in terminology on Energy Price Fact Sheets, AGL does not support the requirement to use no term other than 'fixed benefit period' when referring to this concept as defined in the National Energy Retail Rules (NERR).</p> <p>As the AER is aware, there has been significant concern amongst consumer groups and government departments regarding use of the word 'fixed' when describing the term of an energy contract, given potential misconceptions amongst consumers that prices will also be fixed for a period of time. This issue was discussed at length during the recent rule change proposal submitted jointly by the Consumer Action Law Centre and the Consumer Utilities Advocacy Centre in 2014, and is also evidenced by the recent initiative announced by the Victorian Minister to prohibit early termination fees during a fixed term contract following a price variation.</p> <p>In light of these concerns and as part of AGL's commitment to developing clearer information on AGL products, AGL now refers to the period during which a customer will receive a benefit under their energy plan as 'energy plan period'. This terminology has been applied across all AGL collateral including marketing information, Welcome Packs and customer correspondence. AGL considers this term to be a preferable alternative to 'fixed benefit period' as it avoids potential misconceptions associated with the word 'fixed'. Feedback from AGL's customer service agents also indicates that 'energy plan period' is a simpler phrase for customers to understand than the previously used 'fixed benefit period'.</p> <p>Further, AGL notes that there is some inconsistency between this requirement and the prohibition on using the term 'fixed' in all other scenarios; it is clear the AER considers the use of the term 'fixed' to be problematic and the two proposed requirements under the Guidelines appear contrary to one another. AGL considers that retailers should be able to adopt other terminology when referring to a fixed benefit period, especially where it will assist in avoiding similar confusion amongst customers regarding the ability to vary prices.</p>
<p>Clause 2.4.2.3— Guaranteed discounts</p>	<p>AGL strongly disagrees with the requirement to display energy rates inclusive of guaranteed discounts on Energy Price Fact Sheets and wherever else pricing information is presented.</p> <p>As part of AGL's shift towards greater transparency in its product offerings, AGL is seeking to achieve greater consistency in how it prices its market and standing offers. The inclusion of discounts, such as guaranteed discounts, are therefore a means by which AGL can differentiate its various market and standing offers, and incentivise customers to enter into a market retail contract.</p> <p>AGL considers that the proposed requirement to display rates inclusive of guaranteed discounts will be problematic, and is contrary to the purpose of the Guidelines to improve the comparability of offers. Firstly, the rates presented on Energy Price Fact Sheets and in other marketing material would no longer be consistent with the rates presented in other documentation, such as Welcome Packs and customer bills. This would inevitably create</p>

	<p>customer confusion and would make it difficult for customers to identify which rates are applicable under their current offer. This would also create problems where a customer is seeking to compare their current rates, as displayed on their bill, with the rates displayed on an Energy Price Fact Sheet. AGL notes that if retailers were required or expected to amend customer bills and other collateral to also reflect rates inclusive of guaranteed discounts, this would involve significant changes to AGL's systems at a cost that would likely exceed \$██████, as well as a further \$██████ per annum in ongoing business costs.</p> <p>Secondly, if an offer includes both a guaranteed discount and a percentage conditional discount, a customer would be unable to determine the amount of the conditional discount by simply applying the discount to the rates as presented on the Energy Price Fact Sheet. Rather, the customer would first need to remove the amount of the guaranteed discount to identify the base rates, and then apply the conditional and guaranteed discounts to determine the rates inclusive of all discounts. Again, this would create considerable confusion and make it more difficult for customers to accurately compare offers.</p> <p>AGL understands the AER's view is that guaranteed discounts can be confusing to customers where they are no longer applied to the regulated standing offer rate. Nevertheless, AGL considers that guaranteed discounts can still serve an important purpose in differentiating the range of products offered by a retailer. Furthermore, AGL considers that the risk identified by the AER can be better addressed by clearly communicating to customers what the discount is and how it will be applied. AGL notes that retailers are required to adequately disclose this information to customers in order to comply with obligations under the Australian Consumer Law (ACL). AGL considers that consumer law protections are a more appropriate mechanism for ensuring that customers are not misled, rather than implementing overly prescriptive information requirements via the Guidelines.</p>
<p>Clause 2.2—Price information requirements</p>	<p>With regards to the requirement to remove all zeros beyond two decimal places when displaying unit prices, AGL notes that it may be difficult to ensure that this rule is followed in all instances where it must be manually monitored and maintained. If feasible, AGL suggests that the Energy Made Easy tool truncate trailing zeros when presenting this information online and when generating Energy Price Fact Sheets. This would assist those retailers who use Energy Made Easy generated factsheets on their website and when marketing to customers.</p> <p>The Guidelines also require retailers to define certain terms on an Energy Price Fact Sheet, including 'kWh' and 'MJ'. AGL considers that this should also extend to defining KW and KVA where capacity charges are also included on an Energy Price Fact Sheet.</p>
<p>2.4.7— Prioritisation of information</p>	<p>AGL supports the prioritisation of information on Energy Price Fact Sheets, and considers that greater consistency across fact sheets will assist customers to understand and compare retail offers.</p> <p>Nevertheless, AGL considers that more could be done to refine and minimise the amount of information presented on an Energy Price Fact Sheet. AGL recognises the importance of providing customers with sufficient information to make an informed decision when</p>

	<p>selecting an energy offer. However, customers may be deterred or overwhelmed if presented with too much information when comparing offers.</p> <p>AGL suggests that certain information can be removed from an Energy Price Fact Sheet and included in a separate explanatory document. This could contain, for example, relevant definitions, a customer’s cooling off rights, information about different tariff or meter types and an explanation of various fees and charges. This would assist in minimising the amount of information on a fact sheet (by removing information that is common to all fact sheets across all retailers) whilst also promoting consumer understanding. AGL considers that a simplified Energy Price Fact Sheet would be a more accessible and customer friendly tool, and would be more likely to improve the comparability of offers.</p> <p>Furthermore, it is important to note that the objective of the Guidelines is to assist customers to consider and compare <i>prices</i>.¹ It is also important to note that disclosure obligations apply to retailers under the National Energy Retail Law, NERR and ACL when a customer enters into an energy contract. Therefore, AGL considers that Energy Price Fact Sheets should only contain key information about the price of an offer (acknowledging that this does indeed extend to items other than simply energy rates); items that are not essential to the customer in comparing the prices of offers should not be included on Energy Price Fact Sheets. For example, retailers are required to disclose the applicable cooling off period to a customer when the customer enters into an energy contract. This information is not necessary to the customer in comparing the prices of retailers’ energy plans, and its inclusion on an Energy Price Fact Sheet adds further content to an already content heavy document.</p>
<p>Clause 3.4—Mass media and social media</p>	<p>AGL does not support the requirement to refer to Energy Price Fact Sheets when promoting offers through social media.</p> <p>Rather, AGL considers that a better alternative would be to require retailers to display the statement on the first landing page which the customer is directed to via the social media promotion. AGL notes that retailers are limited in what they can present via social media—both by space or wording constraints, as well as the chosen social media platform style requirements. Accordingly, it would be difficult to publish a promotion or advertisement that is sufficiently descriptive and discloses all necessary information to satisfy consumer law obligations, whilst also complying with the Guideline requirements.</p> <p>AGL considers that displaying the statement on the first page which the customer is directed to via the social media page would be equally effective in ensuring that the customer is adequately informed and aware of the existence of a fact sheet. Further, it is likely that the statement or link would be more relevant to a reader at this stage in the process (ie, when the customer is diverted to the offer or promotion page) as the customer is likely to be seeking further information regarding the details of the offer.</p>

¹ NERL s 61(2).

<p>Timing of offer submission</p>	<p>AGL does not support the proposal to bring forward the requirement to submit pricing information to Energy Made Easy in advance of an offer becoming available.</p> <p>While AGL typically endeavours to submit pricing information to Energy Made Easy in advance of an offer becoming available, in certain scenarios this may not be achievable. This is especially the case for annual price variations, as retailers are typically required to resubmit the majority of their offers to Energy Made Easy to reflect updated prices (in the case of AGL, this could equate to hundreds of offers). Furthermore, a number of factors give rise to additional timing constraints when undertaking price variations, such as network pricing determinations and requirements relating to the publication and notification of standing offer prices. In light of this, AGL considers that some flexibility is necessary to ensure that retailers are able to comply with their obligations under the Guidelines in all circumstances. AGL considers the current two business day requirement is sufficient to ensure that Energy Made Easy remains up to date.</p>
<p>Displaying unit prices with respect to GST</p>	<p>AGL does not have a preferred position with regards to displaying unit prices either GST inclusive and/or GST exclusive, provided there is adequate disclosure and consistency across Energy Price Fact Sheets. As noted in the AER's Notice of Draft Instrument, GST inclusive prices are relevant to residential customers, as this represents the cost to the customer. However, GST exclusive prices are displayed on a customer's bill and therefore their inclusion on an Energy Price Fact Sheet would enable a customer to more readily check and compare unit prices. As noted above in the context of guaranteed discounts, AGL considers it is critical that the rates contained in a customer's bill matches the rates disclosed on the customer's Energy Price Fact Sheet.</p> <p>AGL also notes that certain fees on an Energy Price Fact Sheet are not subject to GST. Accordingly, AGL suggests that a footnote be included on an Energy Price Fact Sheet to disclose this to customers.</p>