



26 July 2019

Ms Sarah Proudfoot
General Manager – Consumer and Markets Branch
Australian Energy Regulator
GPO Box 520
Melbourne Victoria

Submitted via email: RPIGconsultation@aer.gov.au

Dear Ms Proudfoot

Review of Draft AER Retail Pricing Information Guidelines (Version 6.0)

Alinta Energy welcomes the opportunity to make a submission on the Australian Energy Regulator's Draft *AER Retail Pricing Information Guidelines* ('**RPIG**').

Alinta Energy is an active investor in energy markets across Australia with an owned and contracted generation portfolio of nearly 3,000MW, including 1,700MW of gas-fired generation facilities and 1,070MW of thermal generation facilities, and in excess of 1.2 million electricity and gas customers, including more than 620,000 in east coast markets. As such, we are well placed to provide comments on the revised Draft Guideline.

The AER's intent to ensure the RPIG remains current in the face of ongoing regulatory reform creates a significant challenge for the AER. Whilst we support the AER's attempt to achieve this, as the market continues to be in an ongoing state of regulatory reform keeping the RPIG relevant and up to date will continue to be a challenge until such time as we see the settling of regulatory reform across the market.

The most recent reform, the Default Market Offer ('**DMO**'), included the release of a *Guide to the Electricity Retail Code* ('**Code**') by the ACCC. The ACCC Guide itself is non-binding, rather it provides direction on compliance with obligations under the DMO, the updating of the RPIG such that it aligns with the Guide introduces new obligations, that is it has the effect of turning a non-binding Guide into a regulatory instrument.

Alinta Energy's concern is that such an approach circumvents the appropriate pre-caudal processes for rule changes. As the appropriate way to make changes to existing obligations is through the rule change initiation and consultation process.

This is most evident with respect to the regulation of price change notices through the addition of the proposed new obligations in Clause 6 of the Draft RPIG. Such an approach to introducing new or amending existing obligations risks undermining the National Energy Retail Rules ('NERR'). Notifications to customers of price variations are clearly covered in Clause 46 of the NERR.

Further if Clause 6 of the Draft RPIG 'Notice Requirements' is to remain in the Guideline it needs to be redrafted such that it is consistent with the drafting of the *Competition and Consumer (Industry Code- Electricity Retail) Regulations 2019*. Clause 6.1 192(d) of the Guideline is inconsistent with the provisions of the Code.

Alinta Energy have recently finalised the reforms associated with the advanced notification requirements effective 1 February 2019. Alinta Energy notes that Clause 6 of the Draft RPIG would require retailers again to update their advanced notification requirements to be functional by 1 October 2019. The complexity associated with developing bespoke calculations relating to the lowest possible price and reference price calculations for non-current offers that customers remain on, would be extremely challenging for Alinta Energy to deliver by 1 October 2019, as we suspect would also be the case for other retailers.

Consistency Across Regulatory Instruments

Ideally there should be no overlapping regulatory instruments that result in a duplication of obligations or inconsistencies in advice / direction on how to achieve compliance with obligations. In the case of the RPIG there is overlap and inconsistency with the ACCC Guide.

An example of this is the Draft RPIG clearly proposes that the use of the term such as 'annual price' or 'annual bill' used to describe the lowest possible price is a prohibited term. However, the ACCC Guide clearly uses these 'prohibited' terms in prescribing the content and form of the disclaimers¹ retailers should use in their market offer advertising.

¹ ACCC Guide to the Electricity Retail Code Example 8 page 17, "This offer is based on a customer who consumes 3900kWh a year on a flat rate tariff in the Ausgrid network area. The lowest annual price when you pay on time every quarter is \$1000. Your bill will differ based on your actual usage"

This is also true for the representation of GST on standing offers. While the RPIG states GST is required in the presentation of financial incentives, fees and charges it remains silent on prices. The NERR is flexible in that it allows retailers to quote standing offer prices as either inclusive or exclusive of GST. The ACCC Guide states retailers are to use GST inclusive pricing.

It is these inconsistencies that creates an administrative burden. A consistent approach is required to not only ensure efficiency for retailers but simplicity in price comparisons for consumers.

In summary Alinta Energy would urge the AER to ensure that any amendments to the RPIG do not introduce new obligations or create further compliance ambiguity. The appropriate avenue for developing new obligations is through proposing rule changes to the NERR. The rule change process ensures all stakeholders can assess the proposed changes including whether a proposed change meets the National Energy Retail Objective.

The clear role of the AER is that of compliance monitoring and rule enforcer whereas the role of the AEMC is that of rule maker.

Should you wish to discuss any aspect of our submission I may be contacted on (02) 9372 2600 or via email: shaun.ruddy@alintaenergy.com.au

Yours sincerely



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