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Submitted by email to [AERInquiry@aer.gov.au](mailto:AERInquiry@aer.gov.au)

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### **Review of Draft AER Retail Pricing Information Guidelines**

The Australian Energy Council (AEC) welcomes the opportunity to make a submission to the Australian Energy Regulator's (AER) consultation on the draft *AER Retail Pricing Information Guidelines* (the Guidelines).

The AEC is the industry body representing 21 electricity and downstream natural gas businesses operating in the competitive wholesale and retail energy markets. These businesses collectively generate the overwhelming majority of electricity in Australia and sell gas and electricity to over 10 million homes and businesses.

The changes to the Guidelines are broadly in line with commitments made by some of our members to the Prime Minister's office, and they are also largely consistent with the discussions held in the AER's reference group addressing price fact sheets and price comparisons. As a member of this reference group, we have been pleased to be consulted over the past few months, and we welcome the maintenance and further evolution of this group as the AER considers future issues.

There are no doubt challenges inherent in what is to be achieved. The problem that the industry and regulators have grappled with from the start is how to simplify a complex market for consumers without leaving out important information. The fact of retail energy supply involving different meter and tariff types, across different network regions, and across very different small consumer use scenarios, makes information simplification to what is often seen as the 'required' level for consumers appear impossible at times.

It is important that the AER try and balance transparency with dynamism in the market. Some of the proposed changes, which require many 'below the line' products to be made generally available, could make it more onerous for retailers to offer customers solutions that are tailored to their needs. This is particularly the case for SME customers, which are more differentiated than residential customers.

#### **Generally available offers compared to restricted offers**

We note that the AER has extended the definition of generally available offers. Clauses 48 and 69 of the Guidelines are clear that all offers are considered 'generally available' other than in limited circumstances under clause 70. This represents a fundamental change to generally available offers as we currently know them; introducing the concept that even those offers with eligibility criteria – such as membership of a specific club – are considered 'generally available' and are therefore to be published on Energy Made Easy and on retailers' websites.

There are several points to note on this matter.

First, there is a need for definitional clarity on the difference between club membership (generally available offers) and 'family and friends' offers as well as offers 'targeted to a specific small group' (restricted offers). The concept of an offer that is only available to a particular group of people is the same, and these clauses do not assist in understanding the AER's intent. For example, would an offer made available to people who work

in particular organisation (not a club) be considered 'generally available' or not? Alternatively, could these people be considered 'friends' of the retailer and so on a restricted offer? This group includes staff offers.

Second, how do we consider tailored offers, such as multi-site offers? These might cover a range of residential properties, smaller SMEs, or a combination of the two, such as for farming properties with both business and residential purposes. These would seem to logically fall into the 'restricted category', but the category does not currently allow this.

Some other examples that the Guidelines do not seem to contemplate being a restricted offer include:

- residential embedded networks, if a retailer makes offers to these sites;
- hardship offers, where retailers may have special tariffs and plans available only to hardship customers; and
- pilot programs, where a small number of willing participants are offered a trial product. This should be restricted rather than generally available.

It is also important to note that the Guidelines at clause 70(b) permit 'small' customer classes to be restricted, with the example provided of customers in receipt of a concession. However, concessions card holders in any one jurisdiction is a large number.

We also note that with the increase in the number of generally available offers (because of the broader definition), retailers and the AER will need appropriate systems and increased resources. We expect that this will require extending the time for submitting to, and removing plans from, Energy Made Easy.

### **Accounting for unconventional offers**

In recent years we have seen retail plans on the market that do not adhere to the traditional c/kWh model. Fixed daily or monthly rates, and subscription models with changing prices depending on consumer engagement are available. These plans do not readily lend themselves to the vision of offers as set out in the Guidelines. Not only would such a plan not make sense under clause 32 (which sets out the need for a unit price expressed in c/kWh, but there may be a challenge in representing these offers under the comparison rate. The Guideline needs to change to account for these offers, at least under clause 32.

### **Language changes**

We note that the AER has proposed new language requirements, where clauses 59-62 set out the language and prohibit the use of other terms in advertising and marketing.

The move to standardised terms is positive, and we support this in concept. However, we need to be clear about the following matters:

- Whether the proposed terms are, in fact, the most logical and intuitive from the perspective of consumers. It is not clear how these terms have been tested with consumers. We believe the terms should be tested with a range of customer types across NEM jurisdictions.
- The timeframes for necessary changes to AER and retailer collateral. Our members will respond on their own requirements.
- How consumers might need to be advised of changes in language and what these changes mean compared to what they were used to.
- How these terms might also be expected to flow through to other material, such as bills and notices. It makes sense that terms should be the same across all customer communications, but retailer bill changes can require systems changes with long lead times.

We welcome AER views on these issues, and would like to discuss the matters so we can move forward with shared expectations. We strongly recommend that the new language requirements are rolled out in future iterations of the Guidelines (not within the current proposed changes) so that the proper testing and customer communications can occur.

### **Basic Plan Information Document**

The Basic Plan Information Document (BPID) is a new document. Ideally, and as discussed at the reference group, this would replace the Price Fact Sheet (now known as the Contract Summary). However, given the complexity of the task and time constraints, we support there being two documents for now. This also makes sense given our view that SME customers and those on time-of-use and demand charges need information and will not receive a BPID, as discussed below.

However, it would seem unnecessary for a BPID and Contract Summary to be provided to customers in their welcome packs. This is because not only do these documents overlap to some degree, but they also overlap with the information provided under clause 64 of the Rules, which includes ‘all applicable prices, charges and benefits to the customer (to the extent both are not otherwise part of prices), early termination payments and penalties, security deposits, service levels, concessions or rebates, billing and payment arrangements and how any of these matters may be changed (including, where relevant, when changes to prices will be notified by the retailer to the customer)’. Receiving all of this duplicative information does not appear to be a good customer experience.

Looking at the BPID itself, we are pleased to see that it retains price information. This is something that customers want, and price is often the defining feature of an offer. While the Comparison Pricing Table is possibly the most useful part of the BPID, we cannot see how it would exist in isolation of the actual price components of the offer.

#### *Estimation periods*

We are disappointed to see that the Comparison Pricing Table provides estimates for electricity and gas bill periods rather than an annual estimate. Not only does this contradict the reference group work, but it runs the risk of undermining the value of having a comparison in the first place.

We understand that the idea of an offer comparison that a customer can use against an actual bill is appealing, and why customers might prefer this in concept. However, and as the AER is aware, a comparison of any one bill and a bill estimate on the Comparison Pricing Table is likely to be problematic. This is because customer bills will vary across seasons, and the seasonal variations will also be very different across regions.

If the method of calculating the Comparison Pricing Table estimate is to divide an annual amount by four/six (depending on electricity or gas), then the amount that a customer sees on their bill will always be higher or lower than the comparison price. It is likely that consumers being asked what they prefer on a comparison chart would not know this. However, we *do* know this, and it is difficult to see how it is not inherently misleading to produce an estimate on the BPID that customers will assume is relevant to the bill they have at the time.

Even if this issue was manageable, we also note that there is a policy drive to shift electricity customers to monthly billing where appropriate metering exists. When combined with the concept of rolling out of smart meters across jurisdictions, this will make quarterly bills – and so quarterly estimates – increasingly irrelevant.

In our previous submission to the AER’s pricing information consultation we noted that annual estimates eliminate the seasonality option. The drawback of an annual amount is that it is a larger number than ideal. However, it is still the best option in terms of fitness for purpose, which is for a customer to know what they will be paying, all other things being equal. We continue to advocate strongly for annual estimate amounts.

Finally, it is important to note that the AER is currently consulting on the requirement for retailers to write to customers at the end of their benefit period.<sup>1</sup> Retailers are being asked to provide a historical figure and a projected cost. Given benefits are generally 12 months, it is likely that at least the projected cost will be an

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<sup>1</sup> AER (2018), *Benefit Change Notice Guidelines: Issues Paper*, February.

annual figure. Customers will be better placed with an annual reference price for comparison purposes with this notice.

### Coverage

The AER has advised that the Comparison Pricing Table will not be displayed on the BPID for SME customer plans or for residential customer plans with demand charges. This makes sense given that (a) SMEs are clearly not the target market for household diagrams about use; and that (b) demand charges make estimates in a simple Comparison Pricing Table largely impossible without significant supplementary information and caveats about the assumptions made. We believe that the demand charge problem extends to time-of-use tariffs.<sup>2</sup>

We suggest that the Guidelines need to be modified on these issues so that:

- SMEs do not receive a BPID at all, given that the Contract Summary has the same information as what is left on the BPID once the Comparison Pricing Table is taken out. There does not seem to be a point providing the same information in two different forms. This will alienate and confuse customers.
- Residential customers on demand charges do not need to receive a BPID at all, for the same reasons as small businesses.
- Residential customers on time-of-use tariffs also do not receive a BPID, because the problems with creating a Comparison Pricing Table that is not misleading for customers on these tariffs are the same as the problems of creating a Comparison Pricing Table for customers on demand tariffs. Both require some form of scenario analysis based on different profiles, and additional caveats that are unlikely to meet the policy need for simple information for customers. The likelihood of unintended consequences is high.

The answer for all of these types of customers is a responsive and easy-to-use version of Energy Made Easy that allows for data uploads and has the capability to work out the best plan from there.

### Implementation

The AER has not proposed an implementation timeframe for the changes to the Guidelines. We understand that implementation as soon as possible (and at least by mid-year) is desired. Given this, it will be important for the AER to discuss implementation matters and timeframes with members as soon as possible.

It is unlikely that retailers can implement the proposals in the draft Guidelines before July. Although the AER has commented that the new documents will be generated by Energy Made Easy, implementation will have much wider impacts for retailers than this. Systems supporting contracting document creation, quoting tools, automated customer notifications and website search engines which currently use Energy Price Fact Sheets will need system development. Operationally, new procedures will need to be established with training, scripts and compliance systems. Third party providers may need additional time to manage amendments for multiple retailers.

Given the amendments will have such an extensive impact, we urge the AER to provide retailers with adequate time for implementation and to ensure compliance is not compromised.

Any questions about our submission should be addressed to me at [fiona.simon@energycouncil.com.au](mailto:fiona.simon@energycouncil.com.au), or on 0474 028 740.

Yours sincerely,

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<sup>2</sup> A view supported by IPART, see IPART (2017) *Review of the performance and competitiveness of the retail electricity market in NSW from 1 July 2016 to 30 June 2017*, Final Report, Energy, November, p. 71.