



16<sup>th</sup> March 2018

Ms Sarah Proudfoot  
General Manager, Retail Markets Branch  
Australian Energy Regulator  
GPO Box 520  
Melbourne VIC 3000  
Submitted by email to AERInquiry@aer.gov.au

Dear Ms Proudfoot

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

ERM Business Energy welcomes the opportunity to respond to the Australian Energy Regulator's (AER) consultation on the draft AER Retail Pricing Information Guidelines (the Guidelines).

#### **About ERM Business Energy**

ERM Power Retail Pty Ltd, which trades as ERM Business Energy, is a subsidiary of ERM Power Limited, an Australian energy company operating electricity sales, generation and energy solutions businesses. Since launching in 2007, ERM Business Energy has grown to become the second largest electricity provider to commercial businesses and industrials in Australia by load<sup>1</sup>, with operations in every state and the Australian Capital Territory. ERM Business Energy has increasing success in the small business market. [www.ermpower.com.au](http://www.ermpower.com.au)

#### **General Comments**

ERM Business Energy has welcomed the AER's comprehensive review of the Guidelines as we recognise the importance of providing simplicity, consistency and transparency in the presentation of retail offers to promote customer engagement and competition in the energy retail sector.

ERM Business Energy generally supports enhancing the Guidelines. We acknowledge that the AER has sensibly recognised the unworkability of the Comparison Pricing Table for small business customers, due to the difficulties in segmenting this group and the likelihood of misleading customers through generalisations about usage estimates. We urge the AER to consider other opportunities for retailer price comparisons of small businesses, through allowing greater transparency in the presentation of offers, with retail energy charges discernible from network and environment charges. In the case of network charges, which are regulated, there should be no difference between retailers. Therefore for presentation and comparison of prices, unbundling these charges would help demonstrate the true difference in prices between different retailers and tariff structures.

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<sup>1</sup> Based on ERM Power analysis of latest published financial information.

Whilst we are satisfied that the AER has considered many alternatives in seeking to enhance product and pricing presentation, we are concerned that some important principles may have been overlooked in the proposed amendments. These are:

- simplify offer searching; widening the definition of ‘generally available’ offers will make searching more difficult;
- maximising regulatory compliance in the guidelines by removing over complication and ambiguity; and
- allowing a sufficient timeframe for retailers to achieve compliance, given the proposed amendments are so wide ranging and immense.

Our detail comments follow below.

### **The concept of generally available offers.**

We note the AER has conjectured that retailers are narrowing the definition of ‘generally available’ to limit the scope to any offer that does not contain eligibility requirements, and that this undermines the objective of making plans available to customer that are eligible for them. To counter this, the AER has proposed Energy Made Easy contain all offers bar a small discreet list, specified as ‘restricted’. We believe that the obligations as worded will have the opposite effect to the AER’s objective, by making customer searches more complex and time consuming, leading to customer disappointment, frustration and ultimately an aversion to using Energy Made Easy.

Energy Made Easy should be as the name suggests, *easy* to use so that consumers can find an offer that can be compared. The greater the content of bespoke and limited offers, the less likely useful comparisons can be made and the less likely Energy Made Easy will be embraced as the leading search tool by consumers. The AER’s objective should be to simplify searches so that the clutter of unavailable or ineligible offers should not be visible to customers who are not relevant to such offers. Customers should not need to delve through countless offers, to determine eligibility by having to read through the information content. It is unacceptable to widen the concept of ‘generally available’ offers to account for all offers with the exception of a discreet list. This will purely make a customer’s task of finding the relevant offer very difficult.

For business customers, the use of bespoke offers is common for multi-site customers, or those that engage brokers. Such offers should not be cluttering Energy Made Easy. Further, it is extremely unlikely that business will be willing to inefficiently trawl through numerous offers that they are not eligible for. They are more likely to seek a point of comparison in a generic offer and then be encouraged to engage with the retailer for any other offers tailored to their needs (and the wording on Energy Made Easy should promote this).

### **Encouraging compliance through streamlining and removing ambiguity**

As mentioned above, we welcome the recognition that small business customers cannot readily be categorised to representative segments for comparison pricing. The Comparison Pricing Table would overgeneralise profiles, considering this is a group that has a vast array of tariff structures including demand components. For business customers, this would likely result in confusion or misleading customers.

We believe information provision and compliance can be streamlined for small businesses. By removing the requirement for the Comparison Pricing Table from the Basic Plan Information document

(BPID), the remaining content effectively leaves the content of the Contract Summary, albeit in a different format. We suggest that the requirements around information provision for small business customers can be provided through the Contract Summary alone rather than confusing customers with multiple documents of the same information.

We believe the compliance surrounding any regulatory guideline should be clear, unambiguous and importantly should not unnecessarily impede the efficient operation of retailers in their communication with customers. The proposed Guidelines places new obligations on retailers and their appointed agents to advise the customer about the BPID, should a customer query relate directly or indirectly to a retailer explaining plans in circumstances where the discussion relates to prices or discounts. We suggest this obligation under clause 87a is vague, the application of the requirement may be subjective and compliance will be difficult to monitor. We therefore suggest that the word 'indirectly' be removed from clause 87. Further, retailers will have complied with clause 48 of the Rules and presumably will have sent a customer the content of the BPID with contract information when attempting to retain a customer. We therefore suggest removal of the requirement 87b due to the customer already being in possession of the BPID information.

### **Implementation timeframes**

We request the AER allow all retailers sufficient time to implement changes which will impact systems, operational processes, training, as well as agreements with third party providers. There is no doubt that the amendments to the Guidelines are wide ranging and immense. Retailers will need reasonable time to sufficiently implement such a dramatic divergence from current practices to:

- establish changes to quoting systems to ensure that the tool meets the requirements of new documentation;
- set up new contracting mechanisms, ensuring any current automation of contract provision meets new document requirements;
- establish an effective and easy to use web-based links which replace the existing price fact sheet search engine on websites and delink and create a completely separate tool for the Victorian requirements which now are completely inconsistent;
- establish new customer correspondence templates (including template for letters), removing all context to Energy Price Fact Sheets (EPFS) and creating new content (letters such as contract expiry, welcome packs, price variation letters all have current content and links referring to EPFS and will require overhaul and system changes);
- establish new marketing collateral with references to energy price fact sheets and removal of all collateral that refers to previous documentation provision;
- negotiate and enter into new contract variations with third party providers / agents to manage new requirements and compliance risks stemming from the additional information provision;
- train of sales and operational staff;
- develop new scripting (including reviewing that of 3<sup>rd</sup> parties) for customer interaction;
- develop new compliance systems and self-monitoring; and
- allow for changes to systems and processes of retailers' agents.

Smaller retailers will need at the very least, six months after rules are finalised to accommodate the vast changes to systems and processes. These amendments, which are projected to be costly, will inevitably require projects to be established to ensure changes are thoroughly tested and implemented. It is envisaged that retailers will be faced with these Guideline changes and the performance indicator amendments concurrently, adding further to the resource constraints of system change management, particularly felt by smaller retailers. We urge the AER to ensure realistic timeframes are considered so as to not jeopardise retailers' compliance.

Please contact me if you would like to discuss this submission further.

Yours sincerely,

[signed]

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