



EnergyAustralia

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Ms Sarah Proudfoot
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Dear Ms Proudfoot

Draft AER Retail Pricing Information Guidelines (Version 6.0)

EnergyAustralia welcomes the opportunity to make this submission to the AER's review of the Retail Pricing Information Guidelines (RPIG).

EnergyAustralia is one of Australia's largest energy companies with around 2.6 million electricity and gas accounts in NSW, Victoria, Queensland, South Australia, and the Australian Capital Territory. We also own, operate and contract a multi-billion dollar energy generation portfolio across Australia, including coal, gas, battery storage, demand response, wind and solar assets, with control of over 4,500MW of generation in the National Electricity Market (NEM).

EnergyAustralia considers that the RPIG version 5 has gone some way to creating a 'clear and consistent way of presenting important information to customers, giving them confidence in the accuracy and comparability of this information' and 'addresses the complexity of energy market information being a barrier to customer engagement'.¹

The AER is now proposing to amend the RPIG to reflect the introduction of the Default Market Offer and the Competition and Consumer (Industry Code-Electricity Retail) Regulations 2019 (Electricity Code). We support the AER considering the interaction between the RPIG and the Electricity Code and making any technical amendments to the RPIG to the extent they are required to clarify obvious inconsistencies between the two instruments. However, given retailers must separately comply with the requirements imposed by the Electricity Code, there is no benefit from amending the RPIG to attempt to incorporate them (indeed, there is significant risk of detriment in attempting to do so).

Amendments to the RPIG should be required only to address any gaps in information that prevents the AER and retailers from publishing prices on EnergyMadeEasy and in Basic Plan Information Documents in a manner that complies with the reference price requirements in the Electricity Code.

¹<https://www.aer.gov.au/system/files/Notice%20of%20Final%20Instrument%20-%20Retail%20Pricing%20Information%20Guidelines%20-%20Version%205%20-%20April%202018.pdf> p. 4

In our view, amendments to the RPIG, if any, would be limited to requiring retailers to provide the relevant information in the EnergyMadeEasy secure area as per the Offer Fields and Validation Criteria technical document. We would welcome the opportunity to work with the AER to determine the information needed to achieve this.

However, the AER's proposed amendments to the RPIG go far beyond this and cannot conceivably be considered "consequential amendments". Part B of the proposed RPIG is an attempt to duplicate obligations contained in the Electricity Code based on the AER's interpretation of the ACCC's non-binding Guide to the Electricity Code. We do not support this unnecessary and duplicative approach. By striving to complete the RPIG consultation swiftly, the AER has not given itself sufficient time to properly consider the implications of its approach and risks transforming the RPIG into a needlessly convoluted and ambiguous instrument.

One pertinent example is that the AER appears not to appreciate that the Electricity Code and the RPIG do not apply to the same customer audiences. The RPIG applies to all small customers.² The Electricity Code applies to a subset of small customers in distribution regions which the Electricity Code applies, not to all customers in those regions. For example, customers with solar, who reside in embedded networks, or have demand tariffs or prepaid meters are some of the categories of small customer excluded from the scope of the Electricity Code.³ Further clauses that need clarification are included in the Appendix.

We do not believe that having duplicative requirements under the National Energy Retail Law (NERL) and the Electricity Code provides any greater benefit to customers. Instead, the duplicative changes create an overly complicated and unwieldy version of the RPIG, resulting in unnecessary regulatory burden with different requirements applying to different subsets of customers.

We do not agree with the AER's view that these matters have been considered in previous consultations. Consultation on the development of the Electricity Code was itself a rushed process and it did not contemplate the interaction with the RPIG. We strongly encourage the AER to reconsider its timeframes and potentially undertake further customer testing to ensure that any further changes to the RPIG educate customers and empower them to engage in the retail energy market.

Language requirements

We do not support the changes to the language requirements in section 4.7 of Part B. These are not simply consequential amendments. None of the changes are necessary and they will have far-reaching negative consequences for how retailers can advertise, publish or offer their plans, given the broad scope of the Electricity Code. Nor do the proposed language requirements address any inconsistencies; rather, they appear to add a level of complexity which does not align with the intention of the Electricity Code itself, or the ACCC's interpretation of the Electricity Code contained in its Guide.

We consider that this sets a poor precedent when there are discrepancies between instruments and guidelines from different regulators on the same matters. Additionally, no evidence has been provided that suggests customers will find this language 'clear, simple and widely understood' (clause 162). Indeed, we consider that competing requirements between the Electricity Code and the RPIG will have the opposite effect for customers.

² [NERL, s 61\(2\)](#).

³ *s 6 of the Electricity Code*

Unconditional percentage

The AER has proposed that the term 'unconditional percentage' be used when a retailer specifies a discount as a percentage of the reference price, rather than the term guaranteed discount. The AER's reasoning for this is that the ACCC Guide notes:

'use of the word 'guaranteed' when referring to the unconditional percentage could lead consumers to incorrectly interpret this as the guaranteed discount consumers would receive under this offer. Depending on actual usage, a consumer's bill may differ from that of a representative customer. The word 'guaranteed' should therefore not be used when referring to the unconditional percentage'⁴

However, neither the Electricity Code nor the ACCC explicitly require the term 'unconditional percentage' to be used for advertising and/or marketing purposes. In fact, the ACCC has provided an example advertisement (as below), with its view of how a retailer could refer to the percentage difference between the reference price and the unconditional price of its offer.⁵



However, the proposed changes suggest retailers will need to advertise in a manner that explicitly states "unconditional percentage" when referring to the difference to the reference price. For example:

"11 unconditional percentage points less than the reference price"

Whether or not this is the AER's intention, such language is the antithesis of clear, simple and customer-friendly language and would be unworkable.

Lowest possible price

We do not agree with the need to prohibit terms 'annual price' or 'annual bill' as this goes beyond the intent of the Electricity Code. Under the Electricity Code, retailers are required to include the 'lowest possible price' when advertising, publishing or offering prices to small customers (as defined by the Electricity Code). However, the Electricity Code does not require that this terminology be used. It is necessary within the Electricity Code to distinguish between the unconditional price and the lowest possible price to account for conditional discounts that a retailer may offer. However, beyond that, the terminology itself is not, and should not be, mandatory because it reflects a specific numerical value.

As demonstrated by the ACCC example above, the ACCC is unlikely to object to terms such as 'lowest annual price' when referring to the lowest possible price. However, the amendments would see this term, or equivalent terms, prohibited for reasons unknown. The AER has also

⁴ https://www.accc.gov.au/system/files/1578_Guide%20to%20the%20Electricity%20Retail%20Code_FA.pdf p.21

⁵ https://www.accc.gov.au/system/files/1578_Guide%20to%20the%20Electricity%20Retail%20Code_FA.pdf p.14

neglected to consider that retailers who do not offer conditional discounts will have a lowest possible price that equates to the unconditional price.

We also consider the term 'lowest possible price' creates a risk of misleading customers because it could suggest to a customer that, regardless of their circumstances, that price is the lowest they could pay. However, what it really means is the amount a 'representative customer' on a flat tariff would be charged for the supply of electricity assuming they meet all conditions and consume at benchmark usage in the relevant distribution area.

The simplest way for a customer to navigate through these difficult concepts is to allow retailers the flexibility to describe the estimated cost impact to the customer in language that complies with the intent of the Electricity Code.

Reference price

The AER proposes to prohibit the use of any term other than 'reference price'. This includes 'DMO', 'default market offer' and 'reference bill'. While we support using the term 'reference price' we are confused by the apparent need to place a blanket ban all other descriptors of the reference price. This is a particularly bizarre prohibition when the reference price and the default market offer, or DMO, are one and the same.

Notice requirements

EnergyAustralia does not agree with the inclusion of section 6 of part B. The National Energy Retail Rules set out the obligations with respect to price change notices. We consider that this is the appropriate regulatory instrument for such changes, not the RPIG. Further, the language used in section 6 ('informing') goes well beyond the 'advertise, publish or offer' scope of the Electricity Code.

Summary

In summary, while we support the intent of the AER to review the RPIG to consider any inconsistencies with the Electricity Code, we do not support the changes that AER has proposed. Rather than addressing inconsistencies, the AER has created new obligations for retailers which do not provide any additional value for customers and will further exacerbate regulatory confusion.

We encourage the AER to undertake thorough consultation, including customer testing before amending the RPIG in any manner. In this way, the AER can be ensured that the RPIG will continue to be a robust Guideline to assist customers to make more informed and efficient decisions in the retail energy market.

If you would like to discuss this submission, please contact me at +61 3 8628 1596 or Carmel.Forbes@energyaustralia.com.au.

Yours sincerely

Carmel Forbes

Industry Regulation Lead

Clause	Clarifications required
Clause 124(e)	Is inconsistent with the Electricity Code. Customer's with demand charges are excluded from the requirements under the Electricity Code.
Clause 124(f)	To ensure consistency throughout the RPIG we also request the AER to similarly amend clause 38(c).
Clause 125	We assume that it is referring to clause 124(a)-(f) not clause 123. We consider that it is unnecessary and should be removed as this is sufficiently covered by the Electricity Code and clause 107.
Clause 128	The term 'unconditional annual price' appears to be new term proposed by the AER. It is not used in the Electricity Code. We encourage the AER to use consistent, defined, terminology, such as 'unconditional price'.
Clause 128(a)	<p>Clause 128(a) is impractical and goes beyond the scope of the Electricity Code. Retailers have a number of fees which may not always apply to every customer, for example, credit card processing fees. Customers are advised of this fee, however it will only apply if a customer chooses to use their credit card. A customer may choose to pay one bill in a year with their credit card but may opt for other payment methods for remaining bills. A retailer has no insight as to what payment method a customer may use at a given time and to have to include this fee as part of the 'unconditional annual price' could be considered misleading.</p> <p>We consider that rather than creating more complexity that the AER can achieve the same intent by including a requirement under clause 124 that retailers must provide the unconditional price as per <i>s 12(4) of the Electricity Code</i>. Unconditional price is defined in the Electricity Code as the total amount a representative customer would be charged for the supply of electricity in the financial year at the offered prices, disregarding any conditional discounts.⁶</p>
Clause 132	We consider that the inclusion of the term 'conspicuously' in clause 132 is unnecessary. The use of the term 'conspicuously' in the Electricity Code is for when retailers are advertising conditional discounts, such as on billboards or visual marketing. Clause 132 is about retailers providing price information into a template in EnergyMadeEasy which customers do not see.

⁶ *s 12(4) of the Electricity Code*