



Ms Sarah Proudfoot
General Manager—Retail Markets Branch
Australian Energy Regulator
(By Email)

Dear Sarah,

RE: CONSULTATION DRAFT OF THE AER RETAIL PRICING INFORMATION GUIDELINES

Thank you for the opportunity to review and provide comment on the AER's consultation draft of the Retail Pricing Guideline. I apologise for the late response, and we hope that the AER is able to incorporate our views on the changes proposed in the next iteration of the guideline.

In general we welcome the review, and the clarity that the draft guideline offers on a number of aspects of Price Fact Sheets, however we are very concerned about the level of prescription of the content and layout that the Draft guideline proposes, and we firmly believe that this will significantly increase our time and costs to produce Price Fact Sheets. M2 Energy notes that the AER has reversed its position on some terminology use (e.g. "consumption" changes to "usage"). M2 Energy considers that this provides a salient example of M2 Energy's concern that the draft guideline is overly prescriptive concerning the content and particularly the layout of pricing information, and will deliver a poor regulatory outcome.

Please find attached a table of the proposed changes to the guideline and M2 Energy's responses and comments regarding those changes.

If you require further information, please do not hesitate to contact me

Yours faithfully,



Andrew Mair
Regulatory Operation Manager.

Draft AER Information Guideline

M2 Energy Response.

AER Information Guideline proposed change	M2 Energy Response
<p>1.4 - Impact on business. Our initial estimate is that the additional regulatory burden for a retailer will be less than \$10,000-\$20,000 in the first year, and negligible thereafter</p> <p>We welcome retailers' views on the likely cost to their business from these changes and whether the potential business costs are greater than we have estimated. Where retailers submit that these costs are greater, retailers should provide costings for their calculations.</p>	<p>This response is confidential</p>
<p>4.1 Clarifying the Guidelines and retailers' obligations</p>	
<p>Section 2.2 now requires retailers to use the word 'usage' instead of 'consumption' when describing the unit price for energy. We understand that the term 'usage' is common industry terminology.</p>	<p>M2 has always advocated for the term Usage to be used in Price Fact Sheets, and is delighted that the AER has conceded that this is a more appropriate term than "consumption". However, we do not believe that this is a term that needs to be "required" at all.</p>
<p>A new section, Section 2.3 titled "Language requirements" has been inserted which specifies the language requirements for Energy Price Fact Sheets. This section identifies terms that must not be used by retailers.</p>	<p>M2 agrees that these terms can be confusing, and agrees listing the proscribed terms is an appropriate.</p>
<p>We have amended Section 2.4.2 to clarify</p>	<p>M2 has concerns about the impacts of this amendment,</p>

M2 Energy Pty Ltd ABN 15 123 155 840

Legal & Compliance

Level 10, 452 Flinders Street Melbourne VIC 3000

P +61 3 9674 6555 | F +61 3 9923 3333 | www.m2.com.au

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retailers' obligations around representations of discounting.	which are detailed in our response to 4.2.
We have also amended Section 2.4.3 to clarify the additional information that must be included on an Energy Price Fact Sheet. In particular, retailers are required to include on Energy Price Fact Sheets the Energy Made Easy logo and the following statement: 'Energy Made Easy is an independent Australian Government website that allows you to compare all generally available energy offers in your area.'	While M2 does not object to the inclusion of the Energy Made Easy Logo, M2 is very concerned that in conjunction with the other changes proposed, that this amendment is taking up the limited space on Price Fact Sheets. We believe that customers who have obtained a price fact sheet, will likely have already used the Energy Made Easy website, or accessed Price Fact Sheets generally. Therefore we do not believe that the logo is necessary. We do not have any concerns about the statement.
Section 2.4.4 has been amended to clarify that if add-on options on Energy Price Fact Sheets will affect the key elements of the offer, for example the daily supply charge, then a retailer must produce a separate Energy Price Fact Sheet	M2 energy understands the regulator's concerns here, and does agree that that where a key portion of an offer is amended, that an additional Price Fact Sheet should be created. However M2 considers that the AER should specify exactly what the "key" elements of the offer are.
We have inserted a new section, Section 2.4.8, titled 'Prioritisation of information' which requires retailers to set out energy information in a particular order on Energy Price Fact Sheets to improve consistency and comparability for customers.	M2 agrees with the proposed amendment.
We have amended section 3.1 to strengthen the current distinction between generally available offers and non-generally available offers.	M2 welcomes the clarification that this change provides.
We have amended Section 3.2 to clarify the requirements for retailers to publish an Energy Price Fact Sheet. The Guidelines now require Energy Price Fact Sheets to be placed in a reasonably prominent position on a retailers' website, and require the term 'Energy Price Fact Sheet' to be used to describe fact sheets on	M2 considers that further clarification of "reasonably prominent" would be desirable. For example does the Energy price fact sheet link need to be Visible on opening of the energy section of the website. M2 Energy considers that Retailers should be not be restricted to the use of "Energy Price Fact Sheet" for describing location of the price fact sheet, or as a title for

<p>retailers' websites as well as on the actual fact sheets. The link to Energy Price Fact Sheets must also clearly appear and be available to consumers before they are able to sign up for an offer.</p>	<p>the price fact sheet. Retailers should be free to use Gas, Electricity, and Energy or not to prefix the Price Fact Sheet at all. The minimum requirement should be use of the term "Price Fact Sheet" singular or plural.</p>
<p>We have amended Section 3.4 so that advertisements on social media, in addition to mass media, must include a statement about the availability of Energy Price Fact Sheets. This ensures retailer marketing through developing applications and platforms complies with minimum requirements in terms of internet marketing. Research conducted on behalf of the AER suggests that consumers see internet searches as the most useful source of information when switching energy plans, which reinforces the need to extend the current obligation in section 3.4 to social media.</p>	<p>M2 Energy does not consider that there is a demonstrated requirement for all advertising to include a proscribed statement about the availability of Energy Price Fact Sheets.</p> <p>M2 does not agree with the AER's proposed amendments to Section 3.4. While we agree that searches and social media are a common method for accessing information about offers, we consider that the requirement to place the two allowed statements is not practicable on small banner ads that are used for web browsing, and we request that banner advertising is expressly excluded from this requirement.</p> <p>We also consider that the AER should not proscribe the text for advising the availability of price fact sheets. We believe that the guideline should just specify that retailers are required to advise of the availability and location of Price Fact sheets. This would allow retailers much more flexibility in how this information is conveyed. If the AER determines that it must proscribe the notification, then we would recommend a number of additional proscribed variations, including allowing retailers to use embedded links to the websites in the text.</p> <ul style="list-style-type: none"> • Price Fact Sheets at <website> • Energy Price Fact Sheets at <website> • Electricity Price Fact Sheets available at <website>. • Price Fact Sheets here

	<ul style="list-style-type: none"> • Energy Price Fact Sheet (link to PFS)
<p>We have amended Section 4.2 to require retailers to remove obsolete offers from publication on Energy Made Easy within two days of the offer ceasing to be available to customers. This clarifies existing expectations by articulating the requirement as a time limited obligation. Section 4.3 requires retailers to regularly review the offer information they upload on Energy Made Easy to ensure all offers listed are up to date.</p>	<p>M2 welcomes the clarification that this change provides.</p>
<p>4.2 Representations of 'unconditional discounts'</p>	
<p>We have inserted Section 2.4.2.2 to detail how retailers present what we are now terming 'guaranteed' discounts. This section states that retailers must not make representations using the term 'unconditional' and where they make representations of guaranteed discounts to small customers they must state the tariff to which the discount is being applied. This obligation covers representations made on Energy Price Fact Sheets and the marketing and advertising of offers more broadly. Under this section retailers are required to display rates that include any unconditional discounts, rather than rates exclusive of unconditional discounts, which is the current practice.</p>	<p>M2 understands the AER's reasoning for this proposed change, however, this requirement in conjunction with the requirement of a maximum of 3 columns will impact the number of tariff rates retailers are required to manage. Increasing the allowed columns to include the "discounted" ex GST rate would alleviate this issue somewhat.</p> <p>M2 also believes that the billing display rates should be included in any price fact sheet. If this is not a requirement, then a note on the PFS that billing rates will differ should be included and the billing rates and the discounted rates should be included in the contract summary to avoid confusion.</p> <p>M2 is concerned that left justification of prices reduces the readability of offers. It is common practice to right justify numbers.</p>

4.3 Standardising the layout of Energy Price Fact Sheets	
<p>We have amended Section 2 of the Guidelines to require retailers, that choose to produce their own Energy Price Fact Sheets, to make these Energy Price Fact Sheets consistent with the format, language and information requirements outlined in section 2 of the Guidelines</p>	<p>No comment</p>
<p>We have also engaged a consultant to provide expert advice in relation to language simplification and layout of Energy Price Fact Sheets. In response to this advice, we have amended the Guidelines to require retailers to use a minimum font size of 12 in Energy Price Fact Sheets.</p>	<p>M2 Energy opposes this change. Font size 12 is a large font. Font size 10 is a more common sense approach if the AER deems it necessary to regulate the font size retailer's use in addition to the other areas that are being sought to be regulated in this guideline.</p> <p>M2 energy contends that the combination of Font size 12, a maximum 2 A4 sides and maximum 3 columns for tables, as well as the other content and logo requirements being proposed in this guideline will make it impossible for retailers to manage Price Fact Sheets with more than one meter combination per distribution business.</p> <p>The proposed combination of changes will mean that retailers will be managing an additional 3 or more Price fact sheets per distribution business, and M2 Energy is concerned that it appears that a stealth approach to achieve the goal removing multiple meter configurations is being attempted.</p> <p>M2 energy considers that is optimal for consumers to be able to get one price fact sheet per offer (regardless of meter configuration) per retailer.</p> <p>The requirement to offer multiple metering</p>

	<p>configurations will be particularly important when consumers with "smart" meter installations will be able to choose the configuration of their meter to match the price option that best suits them. This is already a factor in price information sheets in Victoria.</p> <p>Alternatively the AER could remove the 2 A4 side maximum for Price Fact Sheets.</p>
<p>We have also clarified the requirements around the use of tables. Retailers must not use more than three columns in tables on Energy Price Fact Sheets. Tables must be centred and have visible row and column borders.</p>	<p>M2 Energy Considers that the regulation of columns in the guideline is a clear case of "over-regulation" tabular provision of information is a way to use the limited space available in an efficient manner.</p> <p>If the AER is concerned about the display of multiple columns of rates, then the AER should clarify what rates are required. There is no requirement for the AER to specify the number of columns a retailer may use.</p> <p>M2 Energy also notes that 3 columns does not allow for a column for the unit rate, or perhaps the GST rate.</p>
<p>Retailers may use shading, but shading must meet the accessibility standard for colour contrast. Attachment A of the revised Guidelines provides further clarification on which information must be provided in table format by coding those sections with a dotted green border.</p>	<p>M2 Energy does not believe that the AER should be regulating the shading of Price Fact Sheets. The regulation of information display order in a tabular format is more than sufficient.</p>
<p>4.4 Accessibility and prominence of Energy Price Fact Sheets</p>	
<p>We have amended the Guidelines to make Energy Price Fact Sheets easier for consumers to find and use. This will assist in a greater number of consumers being able to access Energy Price Fact Sheets more frequently.</p>	<p>While M2 Agrees that more clarification about where and how Price Fact Sheets are located will assist consumers to find Price Fact Sheets, M2 does not consider that the combined impact of the changes that are proposed will make the Price Fact sheets easier to</p>

	<p>use. M2 considers that the changes proposed will make the information provided potentially harder to read, and that it will be very difficult to have all the information on one price fact sheet. M2 firmly believes that the customer will be best served if they can see all available metering configurations on one price fact sheet for one offer type. This will be of particular importance as Interval Meters are progressively installed, and customers will have the choice of multiple metering configurations.</p>
<p>Specifically, we have amended the former Section 3.1, which is now Section 3.2 in the revised draft Guidelines to provide that 'easily accessible' means Energy Price Fact Sheets must be placed in a reasonably prominent position on the website and be clearly identified as Energy Price Fact Sheets in the document itself and other pages or section titles linking to these documents on the retailers' websites.</p>	No comment
<p>The Guidelines stipulate that customers must be able to access the Energy Price Fact Sheet before beginning an online sign up process.</p>	No comment
<p>The Guidelines also prevent retailers from requiring customers to enter their name, personal information including address or date of birth, or household indicators in order to access Energy Price Fact Sheets.</p>	No comment
<p>To promote ease of access for consumers, we have removed this option for retailers; instead requiring a downloadable Energy Price Fact Sheet for all offers.</p>	No comment
<p>4.5 Prioritising offer information on Energy Price Fact Sheets</p>	

<p>We have inserted a new Section 2.4.7, 'Prioritisation of Information' in the Guidelines that requires retailers to place certain categories of information upfront, and prioritise this information by placing it above other information on Energy Price Fact Sheets. 'First priority' information includes the retailer's name, key offer information, pricing information, guaranteed discounts and conditional discounts, and should be listed first on an Energy Price Fact Sheet. Guaranteed discounts must be displayed directly below pricing information. This is to be followed by 'second priority' information, which includes fees and contract terms such as contract length and how price changes will be communicated to customers. This is to be followed by 'third priority' information which contains Energy Made Easy information and the various add-on options available to consumers, subject to the Section 2.4.4 requirements contained in the draft Guidelines and discussed in Section 4.6 of this Notice.</p>	<p>M2 Energy considers this a sensible approach to ensuring consistency of information displayed.</p>
<p>4.6 Offer variations and Energy Price Fact Sheets</p>	
<p>We have amended Section 2.4.4 of the Guidelines to provide that if add-on options on Energy Price Fact Sheets will affect the standard elements of the offer, retailers must produce a separate Energy Price Fact Sheet.</p>	<p>M2 Energy considers that this amendment should be clarified further</p>
<p>Some language requirements are listed in the current Section 2 of the Guidelines, which outlines the requirements to produce Energy Price Fact Sheets. Section 2.2 now states that</p>	<p>No Comment.</p>

retailers must present the unit price charge using the word 'usage' and provide sufficient details about how the charge applies. The fixed or standing charge must be described as 'daily supply charge'.	
The fixed or standing charge must be described as 'daily supply charge'. Under Section 2.2 all prices on an Energy Price Fact Sheet must also be expressed with both the GST inclusive and exclusive rates. There is a further requirement for retailers to define 'daily supply charge', 'kWh' and 'MJ' as stipulated in the Guidelines.	M2 considers that stipulating the units, and daily supply charge terminology as potentially limiting the utility of the guideline. For example, no consideration appears to have been given to the development of demand based charges, or other charges that may be of a fixed nature.
Under Section 2.3.1 the terms for key fees are set out and any fees relating to the disconnection or reconnection of small customers must be titled by retailers as 'disconnection fees' and 'reconnection fees'.	M2 Energy considers that providing this level of consistency is sensible, however we also consider that customers also refer to these fees as "Move In" and "Move Out" fees, and retailers should also be able to include those terms in the title- For example Disconnection Fee (move out).
Additional information retailers must provide is outlined in the current Section 2.3.3. The only language requirement on this list is the reference to Energy Made Easy which must read 'For information to help you compare the retail offers available to you, please visit www.energymadeeasy.gov.au '.	No Comment
We have amended the Guidelines to require the use of consistent terms that are more widely understood by consumers. In particular, we have limited the use of specific terms in Energy Price Fact Sheets that have been identified as confusing to consumers	No Comment
A new Section 2.3, 'Language requirements' has been inserted into the Guidelines which	No Comment

<p>specifies language requirements for Energy Price Fact Sheets and the marketing and advertising of offers more broadly. This section requires retailers to use simple and accessible language. It also identifies specific terms which cannot be used by retailers. These problematic terms include 'evergreen', 'evergreen with fixed benefit period', 'fixed' or 'fixed term' except where the price is also fixed and 'termination fee'. We identify alternatives to these terms in the section. These terms include 'no contract term', '[number] month contract', 'contract term' or 'contract length'. As discussed above we require retailers to use the term 'guaranteed discount' rather than 'unconditional discount' where relevant.</p>	
<p>5.1 Timing of offer submission to Energy Made Easy</p>	
<p>Subject to the release of the ACCC's Guidelines, we are inviting stakeholders' views on a proposal to bring forward the requirement to submit pricing information to Energy Made Easy in advance of the offer becoming available (for example at least two business days). This would offer consumers more current information about the offers that retailers have in the market, and provide retailers with the benefit of quicker visibility of new offers.</p>	<p>M2 Energy does not believe that the timing requirements for offers need to be amended. With the proposed changes to the EME Retailer interface, and the other guideline changes that have been proposed, M2 Energy does not consider this change to be required.</p> <p>M2 also considers that there is always scope for consumers to access information from Energy Made Easy which subsequently is out of date. Many consumers look at pricing over several days or weeks, over which the pricing may change.</p>

5.2 Displaying unit prices with respect to GST

In the case of residential customers, the GST inclusive price is the price that the customer will pay. Arguably, therefore, the GST exclusive price does not need to be displayed. On the other hand, some retailers display only the GST exclusive prices on their bills, and the inclusion of these figures on the Energy Price Fact Sheet may be necessary to enable an easy comparison between the offer a customer is currently on and new offers they are considering signing up to. We are also aware that small business customers may prefer to see GST exclusive figures. If changes are made to the current approach, this may necessitate a different approach to residential and small business offers.

We welcome stakeholder comments on whether any changes should be made to the Guidelines to address this issue.

M2 Energy considers that the GST prices could be removed by retailers where those prices billed exclusive of GST (with the GST being calculated as a separate line item). M2 Energy believes that the AER could specify that the "Billed" rates are displayed. This would certainly remove some confusion.

However, this change would need to be undertaken **after** review of the GST price disclosures requirements of the ACCC/ATO.

