



Notice of draft amended instrument

## **AER Retail Pricing Information Guideline**

November 2011

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### **Amendment record**

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# Shortened forms and definitions

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<b>ACCC</b>	Australian Competition and Consumer Commission
<b>ACCC-AER Information Policy</b>	The collection, use and disclosure of information, available from the AER's website.
<b>AER</b>	Australian Energy Regulator
<b>Business day(s)</b>	A day that is not a Saturday or Sunday; or observed as a public holiday on the same day in each of the participating jurisdictions (except the Commonwealth).
<b>Contract offer</b>	A standing offer or market offer that a retailer offers to a small customer.
<b>Customer</b>	A person to whom energy is sold for premises by a retailer; or who proposes to purchase energy for premises from a retailer.
<b>Energy Price Fact Sheet</b>	A statement prepared by a retailer that contains information on its standing offer contracts and market offer contracts in the form specified by this Guideline.
<b>Market offer</b>	An offer that is provided to a small customer, for or in connection with the sale and supply of energy, under a market retail contract. A market retail contract is a customer retail contract as referred to in the National Energy Retail Law.
<b>MCE</b>	Ministerial Council on Energy
<b>Retailer</b>	A person who is the holder of a retailer authorisation.
<b>Retail Law</b>	National Energy Retail Law
<b>Retail Rules</b>	National Energy Retail Rules
<b>Retail Regulations</b>	National Energy Retail Regulations
<b>SCO</b>	Standing Committee of Officials
<b>Small customer</b>	A customer who is a residential customer; or who is a business customer who consumes energy at business premises below the upper consumption threshold. Small electricity customers are customers consuming less than 100 megawatt hours per annum. Small gas customers are customers consuming less than 1 terajoule per annum.
<b>Standing offer</b>	An offer that is provided to a small customer, for or in connection with the sale and supply of energy, under a standard retail contract. A standard retail contract is a customer retail contract that is as defined in the National Energy Retail Law.

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## Retail consultation procedure

This notice and the attached draft amended AER Retail Pricing Information Guideline (the draft amended Guideline), have been published in accordance with the retail consultation procedure set out in r. 173 of the National Energy Retail Rules (Retail Rules).

The AER invites comments on this notice and draft amended Guideline. Responses to this consultation will inform the AER in its approach to the development of the final amended Guideline.

Written submissions on this notice and the draft amended Guideline are invited by **2 December 2011**.

Submissions can be sent electronically to: [AERInquiry@ aer.gov.au](mailto:AERInquiry@ aer.gov.au) with the title “Draft amended AER Retail Pricing Information Guideline – attn Dianne McGrath” or by mail to:

Sarah Proudfoot  
General Manager, Retail Markets  
Australian Energy Regulator  
GPO Box 520  
Melbourne VIC 3001

*Submissions provided by email do not need to be provided separately by mail.*

### PLEASE NOTE:

The AER prefers that all submissions be publicly available to facilitate an informed and transparent consultative process. Submissions will therefore be treated as public documents unless otherwise requested, and will be placed on the AER’s website ([www.aer.gov.au](http://www.aer.gov.au)). Parties wishing to submit confidential information are asked to:

- clearly identify the information that is subject of the confidentiality claim
- provide a non-confidential version of the submission for publication, in addition to the confidential one.

The AER does not generally accept blanket claims for confidentiality over the entirety of the information provided. Such claims should not be made unless all information is truly regarded as confidential. The identified information should genuinely be of a confidential nature and not otherwise publicly available.

In addition to this, parties must identify the specific documents or relevant parts of those documents which contain confidential information. The AER does not accept documents or parts of documents which are redacted or ‘blacked out’.

For further information regarding the AER’s use and disclosure of information provided to it, please refer to the *ACCC–AER information policy: the collection, use and disclosure of information*, which is available on the AER website.

# 1 Overview

Under the National Energy Retail Law (Retail Law), the Australian Energy Regulator (AER) may develop and amend Retail Pricing Information Guidelines.<sup>1</sup>

After an extensive consultation process commencing in March 2010, the final AER Retail Pricing Information Guideline (the Guideline) was published on 12 September 2011.<sup>2</sup> The aim of the Guideline is to provide guidance to retailers on the presentation of their standing offer prices and market offer prices. This will assist small customers in considering and comparing standing offer prices and market offer prices offered by retailers.

To meet the aim of the Guideline, the AER has prescribed requirements on retailers to create and publish Energy Price Fact Sheets as a medium in which information on contract offers is presented to small customers. The Guideline mandates that retailers use a fact sheet to provide prices and other product information when they present, market or advertise pricing information to small customers. The Guideline also mandates that certain information must be provided in the fact sheet and contains a number of requirements around the way in which that information is presented.

By specifying the manner and form in which information is presented by retailers, the AER aims to create a 'standard' form of presenting information to consumers, giving them confidence in the accuracy and comparability of this information.

The AER notes that the Guideline and resulting fact sheets form only one component of the broader range of tools that will be available to assist consumers to compare energy offers and make informed purchasing decisions. Another such tool is a price comparator website currently being developed by the AER as required under the Retail Law.<sup>3,4</sup> The purpose of the price comparator website is to assist small customers to compare the standing offer prices and market offer prices available to them.<sup>5</sup> The AER anticipates that the price comparator will be operational by 1 July 2012, when the Retail Law commences.

The Guideline has been amended to reflect requirements upon retailers to provide data and information to the AER for the price comparator website.

## 1.1 Purpose of the amendment to the Guideline

The Retail Law provides that a retailer must submit to the AER information and data relating to the purposes of a price comparator in the manner and form (including by the date or dates) required by the AER Retail Pricing Information Guideline.<sup>6</sup> The

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<sup>1</sup> s 61(1), National Energy Retail Law.

<sup>2</sup> The AER Retail Pricing Information Guideline and Notice of Final Instrument can be accessed at <http://www.aer.gov.au/content/index.phtml?itemId=734869>.

<sup>3</sup> s 62(2), National Energy Retail Law.

<sup>4</sup> The AER is also consulting on the general approach to the price comparator website. The draft Statement of Approach can be accessed at: <http://www.aer.gov.au/content/index.phtml/itemId/748266>.

<sup>5</sup> s 62(3), National Energy Retail Law.

<sup>6</sup> s 63(b), National Energy Retail Law.

AER is aware that this will require retailers to provide a substantial volume of information to the AER on their standing offers and market offers.

To assist retailers in fulfilling their requirements under the Retail Law to provide information and data for the purposes of the price comparator website, the AER has amended the Guideline by inserting relevant content and an additional section specifying information provision requirements (see section 4 of the draft amended Guideline). The aim of the price comparator amendments is to specify for the purposes of the price comparator website, the:

- types of contract offers (standing offers and market offers) on which information is to be provided by retailers;
- manner and form of the information and data required from retailers, including the required details of the required standing offers and market offers available in each jurisdiction opting in to the price comparator website;
- mechanism by which retailers must provide information and data to the AER;
- timing in which retailers must provide information and data to the AER; and
- requirements for retailers to manage the information and data provided to the AER.

The Retail Law includes a provision that the price comparator may, in addition to containing information about the prices of the standing offers and market offers, include other information that the AER considers will achieve the purpose of a price comparator.<sup>7</sup> The price comparator amendments of the Guideline are therefore not restricted to the provision of information on the prices of standing offers and market offers alone. The amendments include requirements in relation to other aspects of contract offers and retailer information for the purpose of the price comparator.

While the price comparator amendments refer heavily on other sections in the Guideline, its focus is markedly different. The original Guideline specifies the manner and form in which details of contract offers are to be presented by retailers on Energy Price Fact Sheets. In contrast, the price comparator amendments specify the information on contract offers required to be provided by retailers to the AER for the price comparator website, how the required information is to be provided by retailers and how that information will be managed.

It is also proposed that the Guideline be amended to reflect that, given the additional functionality provided by the embedded online template within a retailer secure area of the price comparator website, retailers will not be required to separately email the AER copies of their Energy Price Fact Sheets. The basis for this is outlined in more detail at section 2 of this notice and section 4 of the draft amended Guideline.

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<sup>7</sup> s 62(5), National Energy Retail Law.

## **1.2 Development of amendments to the Guideline**

To inform the development of the draft amended Guideline, the AER has conducted targeted consultations with stakeholders including energy retailers and jurisdictional regulators. The views expressed in these informal consultations have been considered in the development of the draft amended Guideline.

As advised in the Ministerial Council on Energy's (MCE) Standing Committee of Officials (SCO) Bulletin No. 190 on 21 March 2011, all activities carried out by the AER prior to the commencement of the Retail Law, Retail Rules and Retail Regulations (such as consultation, making instruments and decision-making) will be supported by appropriate transitional provisions enacted by participating jurisdictions. This is to ensure instruments and decisions made as a result of these activities are validly made under the Retail Law and Retail Rules and take effect on the commencement of the National Energy Customer Framework.<sup>8</sup>

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<sup>8</sup> The National Energy Customer Framework includes the National Energy Retail Law, National Energy Retail Rules and National Energy Retail Regulations.



## **2 Price comparator website functionality and impact on the Guideline**

This section provides an overview of the impact of the functionality of the price comparator website on:

- where Energy Price Fact Sheets will be made available to small customers via the Price Comparator Website;
- the generation of Energy Price Fact Sheets for each contract offer entered into the price comparator website system; and
- how retailers will provide Energy Price Fact Sheets to the AER for their contract offers.

### **2.1 Link to a contract offer's Energy Price Fact Sheet in the results listing of available offers displayed to a small customer**

A small customer using the price comparator website to compare contract offers will, after entering in details about their energy requirements and location, receive a listing of available contract offers in a table format. Information on each contract offer displayed to a small customer in the results listing will include a link to the contract offer's corresponding Energy Price Fact Sheet as generated via the price comparator website.

### **2.2 Generation of fact sheets via the price comparator website**

Retailers will be required to provide information and data on each generally available contract offer to the AER through an embedded online template within a retailer secure area of the price comparator website.

The AER notes that there will be considerable overlap between the information required for a fact sheet and the information retailers are required to provide to the AER for the price comparator website.

The retailer secure area of the price comparator website will therefore automatically generate a fact sheet for each contract offer created or modified by a retailer in the price comparator website system. Energy Price Fact Sheets generated via the price comparator website will be compliant with the Guideline's specifications regarding formatting.

#### **2.2.1 Link to a contract offer's Energy Price Fact Sheet in the results listing on the price comparator website**

A small customer using the price comparator website to compare contract offers will, after entering in details about their energy requirements and location, receive a listing of available contract offers in a table format. Information on each contract offer displayed to a small customer in the results listing will include a link to the contract

offer's corresponding Energy Price Fact Sheet **as generated via the price comparator website.**

The price comparator website will automatically generate Energy Price Fact Sheets for each contract offer to ensure that each Energy Price Fact Sheet linked on the price comparator website is compliant with Level AA of the Web Content Accessibility Guidelines Version 2.0 (WCAG 2.0). These accessibility requirements are recommended by the Australian Human Rights Commission and all Australian Government websites must be WCAG 2.0 Level AA by December 2014.<sup>9</sup>

While retailers will not have to generate and provide Energy Price Fact Sheets to the AER for each contract offer for the purposes of the price comparator website, the AER understands that retailers may view Energy Price Fact Sheets as a marketing tool. The Energy Price Fact Sheets generated via the price comparator website will be able to be customised by retailers and will allow for use of a retailer's branding, to an extent. Alternatively, a retailer may also produce its own Energy Price Fact Sheets for marketing purposes and for publishing on its website in accordance with the Guideline's requirements (see section 4.4.1 of the draft amended Guideline for further information).

### **2.2.2 Fact sheets for publication on a retailer's website**

As outlined in section 3.1 of the Guideline, a retailer must publish a fact sheet on its website for all contract offers that are generally available to small customers.

A fact sheet will be produced on the price comparator website for each generally available contract offer entered into the system. However, for the purposes of publishing fact sheets on a retailer's website, a retailer will have discretion to publish either a retailer-produced fact sheet or the fact sheet produced via the price comparator website.

## **2.3 Amendment to section 3.1 of the Guideline**

It is proposed that, as the retailer secure area of the price comparator will be an area for retailers to provide information to the AER, retailers will not have to email the AER their Energy Price Fact Sheets as required in section 3.1 of the Guideline.

It is proposed that retailers instead provide a link to each fact sheet as available on a retailer's website in an embedded template on the retailer secure area of the price comparator. The link provided is to enable the AER to access a retailer's Energy Price Fact Sheets if required for monitoring, investigation and compliance activities only.

The proposed amendment to section 3.1 of the Guideline is reflected in the draft amended Guideline.

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<sup>9</sup> In November 2009, the Online and Communications Council endorsed WCAG 2.0 requiring all Australian, state and territory government websites to conform to the guidelines to meet WCAG 2.0 Level A by December 2012. The Secretaries ICT Governance Board extended the requirement for Australian Government agencies to conform to WCAG 2.0 Level AA standard by December 2014.