



Notice of final amended instrument

## **AER Retail Pricing Information Guideline**

January 2012

© Commonwealth of Australia 2012

This work is copyright. Apart from any use permitted by the Copyright Act 1968, no part may be reproduced without permission of the Australian Competition and Consumer Commission. Requests and inquiries concerning reproduction and rights should be addressed to the Director Publishing, Australian Competition and Consumer Commission, GPO Box 3131, Canberra ACT 2601.

Inquiries about the currency of these guidelines should be addressed to:

Australian Energy Regulator  
GPO Box 520  
Melbourne Vic 3001

Tel: (03) 9290 1444  
Fax: (03) 9290 1457  
Email: [AERInquiry@aer.gov.au](mailto:AERInquiry@aer.gov.au)

## Contents

<b>Shortened forms and definitions .....</b>	<b>3</b>
<b>Retail consultation procedure.....</b>	<b>4</b>
<b>1 Overview.....</b>	<b>5</b>
1.1 Purpose of the amendment to the Guideline .....	5
1.2 Development of amendments to the Guideline.....	6
<b>2 Price comparator website functionality and impact on the Guideline .....</b>	<b>8</b>
2.1 Generation of Fact Sheets via the price comparator website.....	8
2.1.1 Link to a contract offer’s Energy Price Fact Sheet in the results listing on the price comparator website .....	8
2.1.2 Fact sheets for publication on a retailer’s website .....	9
2.2 Amendment to section 3.1 of the Guideline .....	9
<b>Appendix A .....</b>	<b>10</b>
<b>Appendix B .....</b>	<b>13</b>

# Shortened forms and definitions

---

<b>ACCC</b>	Australian Competition and Consumer Commission
<b>ACCC-AER Information Policy</b>	The ACCC and AER general policy on the collection, use and disclosure of information, available from the AER's website, <a href="http://www.aer.gov.au">www.aer.gov.au</a> .
<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. <sup>1</sup>
<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.
<b>Small electricity customer</b>	A small electricity customer is a customer consuming less than 100 megawatt hours per annum.
<b>Small gas customer</b>	A small gas customer is a customer 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. <sup>2</sup>

---

<sup>1</sup> A market retail contract is a customer retail contract as referred to in the National Energy Retail Law.

<sup>2</sup> A standard retail contract is a customer retail contract that is as defined in the National Energy Retail Law.

## **Retail consultation procedure**

This Notice and the accompanying amended AER Retail Pricing Information Guideline (the 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).

As advised in the Standing Committee of Officials Bulletin No. 190 of 21 March 2011, all activities carried out by the AER prior to the commencement of the National Energy Retail Law (Retail Law) and Retail Rules (such as consultation, making instruments and decision making) will be supported by appropriate transitional provisions enacted by participating jurisdictions. This will 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>3</sup> Therefore, the amended Guideline released with this Notice will take effect on 1 July 2012.

---

<sup>3</sup> The National Energy Customer Framework includes the National Energy Retail Law, National Energy Retail Rules and National Energy Retail Regulations.

# 1 Overview

Under the National Energy Retail Law (Retail Law), the Australian Energy Regulator (AER) may develop and amend Retail Pricing Information Guidelines.<sup>4</sup>

After an extensive consultation process commencing in March 2010, the AER Retail Pricing Information Guideline (the Guideline) was published on 12 September 2011.<sup>5</sup> The Guideline aims 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 (Fact Sheets) as a medium in which information on contract offers is presented to small customers. The Guideline requires 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 requires 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 Guideline and resulting Fact Sheets form only one component of a range of tools that will be available to assist consumers to compare energy offers and make informed purchasing decisions. Another such tool is 'Energy Made Easy', a price comparator website being developed by the AER as required under the Retail Law.<sup>6</sup> The primary purpose of the price comparator website is to assist small customers to compare the standing offer prices and market offer prices generally available to them.<sup>7</sup> The price comparator website will be operational by 1 July 2012, when the Retail Law commences.

The amended Guideline accompanying this Notice 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 for the purposes of a price comparator website in the manner and form (including by the date or dates) required by the AER Retail Pricing Information Guideline.<sup>8</sup> The

---

<sup>4</sup> s 61(1), National Energy Retail Law.

<sup>5</sup> The AER Retail Pricing Information Guideline and Notice of final instrument released September 2011 can be accessed at <http://www.aer.gov.au/content/index.phtml?itemId=734869>.

<sup>6</sup> s 62(2), National Energy Retail Law. The AER's Statement of Approach to the price comparator website can be accessed at: <http://www.aer.gov.au/content/index.phtml/itemId/748266>.

<sup>7</sup> s 62(3), National Energy Retail Law.

<sup>8</sup> s 63(b), National Energy Retail Law.

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

A new section has been included in the amended Guideline to assist retailers in fulfilling their requirements under the Retail Law to provide information and data for the purposes of the price comparator website.<sup>9</sup> In particular, the new section sets out information regarding 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.

Under the Retail Law, 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>10</sup> The Retail Law also allows for this Guideline to specify any additional matters that the AER considers necessary or convenient to assist customers to consider and compare standing offer prices and market offer prices offered by retailers.<sup>11</sup> For these reasons, the amended Guideline also concerns other aspects of contract offers and retailer information for the purpose of the price comparator website.

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

To inform the development of the amended Guideline, the AER conducted targeted consultations with stakeholders including energy retailers and jurisdictional regulators in September 2011.

In November 2011, the AER released for public consultation a Notice of draft amended instrument and a draft amended Retail Pricing Information Guideline, which contained proposed additions and changes to the September 2011 Guideline. The views expressed in the above-mentioned targeted consultations informed the development of the draft amended Guideline. A list of stakeholders who made submissions to the draft amended Guideline and Notice of draft amended instrument is at Appendix B.

The submissions received to the draft amended Guideline and Notice and the targeted consultations with retailers and jurisdictional regulators have informed the final

---

<sup>9</sup> See section 4 of the amended Guideline accompanying this Notice.

<sup>10</sup> s 62(5), National Energy Retail Law.

<sup>11</sup> s 61(3)(c), National Energy Retail Law.

amended Guideline and Notice. Copies of the earlier consultation documents, along with the submissions received to the draft amended Guideline and Notice of draft amended instrument are available on the AER website.<sup>12</sup>

The AER's considerations and responses to the most recent submissions on the draft amended Guideline and Notice are set out at Appendix A.

---

<sup>12</sup> Consultation documents and submissions relating to this amended Retail Pricing Information Guideline accompanying this Notice can be accessed at <http://www.aer.gov.au/content/index.phtml/itemId/749242>. Information relating to the development of the September 2011 Retail Pricing Information Guideline can be accessed at <http://www.aer.gov.au/content/index.phtml?itemId=734869>.



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

### 2.1 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 recognises that there may be 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. Fact Sheets generated via the price comparator website will be compliant with the Guideline's specifications regarding formatting.

#### 2.1.1 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 Fact Sheet **as generated via the price comparator website**.

The price comparator website will automatically generate Fact Sheets for each contract offer. This will ensure that each 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>13</sup>

---

<sup>13</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

### **2.1.2 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 by retailers into the system. For the purposes of publishing Fact Sheets on a retailer's website, a retailer may either publish the Fact Sheet produced via the price comparator website or develop its own Fact Sheet, provided it meets the requirements of the Guideline.

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

As the AER will have access to Fact Sheets generated by the price comparator website for each generally available contract offer entered by retailers, retailers are no longer required to email the AER their Fact Sheets as previously required in section 3.1 of the September 2011 Guideline.

## Appendix A

### Response to submissions

Issue raised	AER response
<b>Consistency between Energy Price Fact Sheets and the price comparator website</b>	
<p>A retailer recommended that a disclaimer on a Fact Sheet disclose the fact that the prices are displayed exclusive of any discounts, given that such a disclaimer is appropriately included in the price comparator website results page. The retailer encourages consistency across all documents to assist with customer comprehension.</p> <p>A consumer group noted that where retailer-generated Fact Sheets are provided on a retailer’s website, there is a need to ensure that information such as the terms used and details of the offer as well as the presentation of such information is consistent with the price comparator-generated Fact Sheet, to avoid customer confusion.</p>	<p>The AER acknowledges the need to ensure there is consistency between information displayed to consumers on both the price comparator website and the Fact Sheets. Given that contract offer information entered by retailers into an embedded online form in the retailer secure section of the price comparator website will be used to generate a Fact Sheet for that offer, the AER considers that there will be sufficient consistency in the display of prices on the Fact Sheets and the price comparator. The intention of the price comparator website disclaimer, which will be displayed prior to the results page, is to inform users of the purpose of the comparator and to ensure users are aware that the comparator is a guide only.</p> <p>We note concerns regarding the potential for customer confusion if retailer and price comparator website versions of Fact Sheets are not consistent. The AER however believes that requirements regarding price and other information and format of the Fact Sheets are sufficiently specified in the Guideline to enable consistency between both retailer-generated and price comparator website-generated Fact Sheets for the same contract offer (see section 2 of the Guideline for information and formatting requirements).</p>

<b>Generating Energy Price Fact Sheets for non-generally available offers</b>	
<p>A retailer questioned the benefit of completing a Fact Sheet for market offers that are not generally available. It was argued that for some non-generally available contract offers, a Fact Sheet may not provide additional information of value to a customer.</p>	<p>The AER considers that customers should have access to Fact Sheets on non-generally available offers if they are seeking to compare offers or want written information on an offer being provided to them. While the AER is not requiring that retailers publish Fact Sheets for these offers on their website, we consider that retailers should have a Fact Sheet readily available if a customer request one, for example if offers are being marketed to specific customer groups through door-to-door sales.</p>
<b>Information required from small customers to obtain an Energy Price Fact Sheet on a retailer’s website</b>	
<p>A retailer sought guidance on how the requirement that a customer should not be required to provide technical or personal information to obtain a Fact Sheet would operate in practice, particularly in relation to customers who have time-of-use meters installed. The retailer argued that the absence of the customer providing a balanced level of technical and/or customer information would significantly diminish the ability of the retailer to provide relevant pricing information to the customer.</p>	<p>The purpose of this requirement is to ensure that each contract offer’s Fact Sheet can be readily accessed by customers on a retailer’s website should a customer require one. We expect that a retailer would be able to request reasonable information from a customer, such as an energy usage profile in the case of time-of-use offers, to better determine which products would be suited to a customer. However, the provision of such information by a customer should not be a prerequisite to a customer gaining access to a Fact Sheet.</p>
<b>Timeliness of submission of offer and data information</b>	
<p>A retailer stated that there may be circumstances in which retailers are unable to meet the two business day requirement in submitting their offer and data information to the AER for the purposes of the price comparator website. It was requested that the AER consider extending the requirement to provide Fact Sheets should be extended to five business days to ensure that retailers, in the event of extenuating</p>	<p>The AER believes that the requirement on retailers to provide offer information to the AER within two business days of the offer becoming available to customers is a sufficiently reasonable time period. If the offer is available to be marketed to a customer, then a retailer could reasonably be expected to be in a position to provide</p>

circumstances, are able to comply with the Guideline.

A consumer group stated that where there are changes to existing offers, retailers should be required to update the website with their offer information before the changes come into effect. The consumer group argued that allowing retailers up to two business days after a modification to an offer comes into effect to update the price comparator website creates the possibility that a user searching the website will print an outdated Fact Sheet and enter into a contract on the basis of incorrect pricing information. The consumer group argued that such an occurrence is likely to cause inconvenience and undermine confidence in the website.

information about that offer to the AER.

The AER acknowledges concerns regarding access to current pricing information in the situation where there is a modification to an existing offer. While we agree that it would be ideal if a modification to an offer is displayed on the comparator when the change comes into effect, we believe that a consistent two business day turn around for any provision of information from the retailer (modification to an offer or entering a new offer) would make it easier for retailers to comply with the Guideline from a practical perspective. We also note that the Retail Law states that a lag between information made available on the price comparator and a retailer's contract offer prices does not affect the operation of that retailer's prices or variations to those prices.<sup>14</sup>

---

<sup>14</sup> s 62(9), National Energy Retail Law.

## Appendix B

The following stakeholders made submissions to the AER's draft amended Retail Pricing Information Guideline:

- AGL
- Alinta Energy
- Consumer Utilities Advocacy Centre
- Department for Manufacturing, Innovation, Trade, Resources and Energy (South Australia)
- Energy and Water Ombudsman NSW
- Queensland Council of Social Service
- TRUenergy