



3 August 2015

Ms Sarah Proudfoot  
General Manager – Retail Markets Branch  
Australian Energy Regulator  
GPO Box 520  
Melbourne VIC 3001

By e-mail

Dear Ms Proudfoot

### **Amendments to AER Retail Pricing Guidelines V 4.0**

Origin Energy (Origin) welcomes this opportunity to respond to the Australian Energy Regulator's (the AER) Amendments to AER Retail Pricing Information Guidelines V 4.0 (the Guideline).

Origin strongly supports the position that customers should be provided with information that is clearly understood, consistent and readily accessible. However, Origin is concerned that the additional amendments proposed by the AER exceed the scope of this review and it is questionable whether the benefits to customers outweigh the costs.

Retailers are subject to the Australian Consumer Law (ACL) and Competition and Consumer Act (CCA). This legislation, along with the National Energy Retail Law (NERL) governs the way that retailers market and communicate offers to customers. We believe the proposed amendments exceed the oversight role of the Guideline and will impact on general advertising and marketing undertaken by retailers through various media. The purpose of such marketing is to alert customers in a general fashion to the availability of certain products and services.

The level of detail around language requirements proposed in the Guidelines has the potential to diminish the effectiveness of marketing messages, confuse customers and increase the cost of advertising for retailers. None of these outcomes are in the best interests of customers.

For these reasons, we recommend the AER not apply the additional amendments set out in the Guideline to general marketing undertaken by energy retailers.

We address each of the three amended sections of the guideline below.

#### Language requirements

Origin does not believe that amendments to acceptable language and prohibiting certain terms should be extended to marketing and advertising material. We do not believe it is the role of the Guideline to govern language applied by retailers in these circumstances. While we agree that it is in the best interest of customers and retailers that language should be as consistent as possible and unambiguous in meaning, we do not consider that extending the Guideline provisions to apply to general advertising will be of benefit to consumers and will limit the ability of retailers to market products and services to customers.

#### Conditional discounts

Origin believes that extending guideline requirements in relation to conditional discounts exceeds the scope of the review of the Guideline. The eligibility criteria for a conditional discount can depend on a

range of factors that are already set out in energy price fact sheets (EPFS) and terms and conditions. Requiring such information to be duplicated in marketing material is likely to confuse customers and reduce the effectiveness of the overall message contained in any advertising.

#### Guaranteed discounts

Origin understands that the previous draft guideline requirement that guaranteed discounts be expressed in pre and post discounted amounts has been changed to oblige retailers to show pre-discounted amounts only. We support this change as it will reduce compliance costs and likely customer confusion, and we note it does not prevent a retailer from including post-discount amounts in energy price facts sheets.

Origin does not believe that stating the amount of the tariff in general advertising is appropriate given the different circumstances and prices to which a guaranteed discount may apply. Our interpretation of additional amendment number three is that where information specific to customer distribution zone, meter type and so on is not available, a retailer is not required to state the pre-discounted tariff to which a guaranteed discount applies. For example, advertising on television or on a billboard to a general audience would not require a retailer to state the applicable tariffs to which a discount applies. Confirmation of this interpretation by the AER would provide certainty for retailers.

#### Implementation issues

The AER propose that the Guideline will take effect on 1 January 2016, following publication of the final version on 1 October 2015. The effective date coincides with price updates for retailers and resourcing constraints that are likely to make a three month implementation period difficult to achieve and will increase the costs of compliance. Origin requests the AER to consider an effective date of 1 March 2016 to ameliorate these risks.

#### Closing

We would reinforce the views contained in our response to the draft guideline on 22 May 2015 regarding guaranteed discounts (noting that some of our concerns have been addressed in the further amendments), proposed formatting of EPFSs, social media communications and our detailed comments.

Should you wish to discuss the contents of this response, please contact David Calder, Manager Regulatory Strategy on (03) 8665-7712 in the first instance.

Yours sincerely



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