

22 May 2015

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

Submitted by: AERinquiry@aer.gov.au

Dear Ms Proudfoot

AER Draft Retail Pricing Information Guidelines

Origin Energy (Origin) welcomes this opportunity to respond to the Australian Energy Regulator's (AER) consultation on draft changes to the AER Retail Pricing Information Guidelines (Draft Guidelines). The Guidelines aim to help small customers compare energy offers and make an informed decision on the offer that suits their needs. As Origin understands it, the purpose of the Guidelines is to provide guidance to retailers in the presentation of standing offer prices and market offer prices, thereby assisting consumers to consider and compare the range of offer prices available to them.

Origin supports the AER reviewing the Guidelines to identify changes that can enhance a customer's experience in making an informed decision about their energy offer. A move to align language and structure could assist customers in comparing offers. However, we caution the AER against becoming too prescriptive about how retailers must present, market and communicate offer prices, particularly where the constraints imposed could inadvertently make it more difficult or confusing for customers to compare offer prices. In our view, some of the AER's proposed changes in the Draft Guidelines would impose material implementation costs for retailers, leading to suboptimal outcomes for customers in both the short and longer term.

Restriction on using "guaranteed discounts"

A key concern is the AER's direction to restrict retailers from using "guaranteed discounts" when presenting or marketing energy products. The restriction would require retailers to display rates inclusive of guaranteed discounts on EPFS and wherever else pricing information is presented. This change would have significant ramifications for not only retail marketing, operations and potentially billing, but is likely to introduce greater customer confusion and complexity.

Customer confusion may first arise where there is a difference between the discount-incorporated rates on an EPFS and retailer website and the rates presented on a customer's bill. Retailer billing systems are currently set up to apply a discount to a base rate, not separately bill each individual guaranteed discounted rate. As such, when a customer comes to reconcile their bill to their offer price, there will not be a like-for-like reference point. This is likely to lead to an increase in customer queries to retailer call centres as well as ombudsman. There could also be confusion where a product includes both a guaranteed and a conditional discount.

From the retailer marketing and operations perspective, restricting the use of a guaranteed discount mechanism would require retailer systems to capture each individual discount rate as a separate rate. Currently, a retailer would have a base rate from which discounts are applied. If that were no longer allowed, then every time a retailer introduced a new product, it would need to create a new rate. When you multiply this across states and the different marketing campaigns across a year and across fuels

(electricity and gas), the result is potentially hundreds of new rates *per annum per retailer* that each need to be created, captured, monitored and updated.

Operational complexity around customer engagement also increases. As identified above, retailers would need to provide additional training to call centre staff to educate them how to communicate offer prices when signing customers up to new energy offers. Different processes may be required for products with guaranteed discounts as opposed to conditional discounts. Assuming the Draft Guideline does not extend to how retailers bill customers, there is added complexity to link the marketed and published rates to the actual billing rates combined with a training program for call centres to manage queries from confused customers.

Origin would strongly oppose applying the Draft Guideline requirement regarding guaranteed discounts to customer billing. The current Draft Guideline drafting is unclear regarding the scope of its application with respect to billing. The Guideline states that “wherever else retailers provide pricing information, retailers must display rates including any guaranteed discount(s)”.¹ Significant IT system and operational changes would be required to introduce the spectrum of billing rates for customers. These changes would require a long lead time and would not be completed by October 2015. To the extent the AER amends the Guidelines requirements around presenting guaranteed discounts, it is important that the changes are limited to marketing information and do not force retailers to change their billing systems also. Origin will separately provide the AER with more detail on the costs of these changes on a confidential basis.

From a competition perspective, the increased operational imposts may dissuade retailers from continuing or increasing their existing level of marketing activity. It could also discourage innovation, if there is a concern that the AER may prescribe or restrict offer price formats in the future. Neither of these outcomes is in the long term interests of energy consumers.

Origin considers the AER Draft Guideline should set out that offer prices and applicable discounts should be communicated to customers in a clear and transparent way, not go so far as to prescribe the formats that retailers can or cannot use. Give the operational complexities arising from this proposed change, it is unclear what the net benefit is given that Fact Sheets currently state where discounts apply to the usage charges only and do not apply to the other charges such as the daily supply charge.

Proposed formatting and presentation changes

Origin also has concerns around some of the formatting and presentation changes and, if implemented, whether it is possible to comply with them all concurrently. For example, there is a requirement to limit an EPFS to two pages. At the same time, there are requirements to use a minimum of 12 size font, restrict tables to no more than three columns, lock in a consistent layout across all EPFS, and include additional information such as the Energy Made Easy Logo and a new statement about Energy Made Easy. In our view, if we were to comply with the latter formatting requirements, there are electricity and gas products that would not conform with the two page limit.

Origin’s recommendation would be to focus on maintaining the two-page limit for EPFS. We also support the AER prioritising the importance of offer information. We would encourage the AER to allow retailers an element of flexibility, however, in the order of which that priority information is presented. Today, retailers reposition information and tables to keep an EPFS to two pages, which is one reason why EPFS layouts may differ between retailers. A way to keep EPFS to two pages is to clean up the overall information requirements on the EPFS. For instance, the proposed requirement to include the Energy Made Easy logo and update the new EME statement could take up to a quarter of a page based on the pro forma provided in the AER’s consultation documents for limited customer benefit..

We also see limited benefit in the overly prescriptive formatting requirements to ensure left alignment is used and to limit tables to a maximum of three columns. As shown below, Origin’s self generated

¹ AER, *Draft AER Retail Pricing Information Guideline – for consultation*, April 2015, p.12.

Fact Sheets (Figure 1) include a clear, easy understandable table format. The main difference between this and the EME format (Figure 2) is the use of a separate column to display the rate unit. Convention for presenting numbers (i.e. rates) in a table is to use right alignment, not left. To merge the numbers columns with the unit text field would require system updates. Origin questions the net benefit from the AER prescribing this level of formatting in the Draft Guideline.

Figure 1: Extract from Origin generated Energy Price Fact Sheet (EME ref OR220965MR)

Domestic	Unit	Excl GST	Inc GST
Consumption of first 10.9589 kWh/Day	cents per kWh	22.85	25.135
Consumption of next 10.9589 kWh/Day	cents per kWh	22.88	25.168
Remaining consumption kWh/Day	cents per kWh	23.01	25.311
Daily Supply Charge	cents per day	71.97	79.167

Figure 2: Extract from EME Energy Price Fact Sheet (OR220965MR)

Electricity charges	Price (exc. GST)	Price (inc. GST)
All Consumption consumption Anytime		
Consumption for first 10.9589kWh per day	22.850000 cents per kWh	25.135000 cents per kWh
Consumption for next 10.9589kWh per day	22.880000 cents per kWh	25.168000 cents per kWh
Remaining consumption per day	23.010000 cents per kWh	25.311000 cents per kWh
Daily supply charge	71.970000 cents per day	79.167000 cents per day

Social media communications

We question the value of the extended requirement to include the following statements to promotion offers through social media and advertisements on social media:

- 'An Energy Price Fact Sheet for this offer is available at [insert retailer website]'; or
- 'Energy Price Fact Sheets are available at [insert retailer website]'.

Some forms of social media, like Twitter, for example have character limits per communication. For Origin, including the longer of the two statements would take up 81 of a 140 Twitter character limit. This reduces the effectiveness of the communication form. Where social media is used to announce retailer offers, it predominately directs customers to web-based communications for more information. The existing information requirements include references and links to both the EPFS and Energy Made Easy. We would therefore dissuade the AER from extending the application of section 3.4 of the Draft Guideline to cover social media as well as mass media.

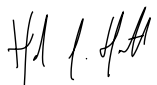
More detailed comments

The attached appendix provides further comments on the various changes to the Draft Guideline.

In future consultations, we would also encourage the AER to provide a marked up version of the Draft Guideline to assist stakeholders in considering and responding to proposed changes.

Should you wish to discuss the contents of this response, please contact David Calder (Regulatory Strategy Manager) on (03) 8665 7712 in the first instance. We look forward to working with the AER to finalise the Guidelines.

Yours sincerely,



Hannah Heath
 Manager, Retail Regulatory Policy
 Energy Markets
 (02) 9503 5500 – Hannah.Heath@originenergy.com.au

Origin Energy comments on AER Draft instrument - Amendments to Retail Price Information Guideline (the Guideline)

Reference (Notice of Draft Instrument)	Category	Change description and Guideline reference	Origin position	Comments
1. Section 4.1.2, Page 13	Enforcement architecture	Section 1 of the guideline has been amended to clarify that the AER will work with the ACCC to address misconduct in the energy market.	Note	
2. As above	Language requirements	Section 2.2 requires retailers to use the word <i>usage</i> in place of <i>consumption</i> to describe the unit price for energy.	Support	
3. As above	As above	<p>A new section 2.3 (Language requirements) has been inserted into the guideline. This specifies the language and terminology to be used in Energy Price Fact Sheets (EPFS). Terms that are prohibited are set out here. These include:</p> <ul style="list-style-type: none"> • 'Evergreen'; • 'Evergreen with fixed benefit period'; • 'Fixed', or 'Fixed term' where except where the price is also fixed; • 'Early termination fee'; and • 'Termination fee'. 	Do not support removal of Fixed or Fixed Term	<p>Important to distinguish between Contract Term and Energy Plan term.</p> <ul style="list-style-type: none"> • A contract sets the standard terms and conditions. It may not have a specific end date (see section 4 below). • The Energy Plan instrument sets out specific elements like prices and applicable benefits (e.g. discounts, rebates/credits, etc.). These would apply for a specified period. <p>Between these "prohibited terms" and "proposed alternatives" cannot identify how to articulate the situation where a contract has no specified end date but does have a fixed period Energy Plan, Therefore concerned about prohibiting the use of "fixed" or "fixed term" without a viable alternative. Open to discussions with the AER on alternate language.</p>
4. As above	As above	<p>Alternate terms are proposed for EPFS:</p> <ul style="list-style-type: none"> • 'No contract term' (in place of 'Evergreen'); • '[x] month contract'; • 'Contract term'; • 'Contract length'; • 'Guaranteed discount' (in place of 'unconditional discount'). 	Mostly reasonable	<p>Use of 'no contract term' in place of Evergreen does not really work in practice. All contracts have a term – just some do not have a fixed term. For contracts that do not have a specified duration, would seek to describe them as "no fixed term".</p> <p>See section 3 above.</p>

Reference (Notice of Draft Instrument)	Category	Change description and Guideline reference	Origin position	Comments
5. As above	Discounting	Section 2.4.2 of the guideline has amended obligations in relation to representing discounts. Retailers must provide information on the availability and eligibility of <u>conditional</u> discounts. Representations on 'unconditional' discounts can only be made if the base level from which the discount is being applied is also stated. That is, if the standard tariff is \$0.30/kWh and the offer is 20% off, we must state that the 20% off relates to \$0.30/kWh.	Oppose	See comment 14 below.
6. As above	Additional information on EPFS	Section 2.4.3 of the guideline has been amended setting out required additional information to be included in an EPFS. Retailers must now include the following: <ul style="list-style-type: none"> • The Energy Made Easy logo; and • the statement "Energy Made Easy is an independent Australian Government website that allows you to compare all generally available energy offers in your area". 	Do not support	Updated statement is too long (almost double existing statement) without adding value relative to existing requirement. Proposed location on EPFS layout for both the EME logo and new statement reduces available space to communicate information on offers by almost a quarter of a page, which is significant with a 2 page limit. If required to use updated statement, recommend use a font less than size 12 to help manage space limitations.
7. As above	Structure of EPFS	Section 2.4.4 of the guideline has been amended to clarify if add-on options on an EPFS affect the key elements of an offer (e.g. the service to property charge), then a separate EPFS is required (<i>see item 18 for more detail</i>).	Note	Support AER's decision to continue to allow additional options, such as GreenPower, on a single EPFS – reduces the number of EPFS a customer needs to consider. Note there would be an increased operational effort to produce additional EPFS to display explicitly the separate charges if an offer did impact the key elements of an offer.

Reference (Notice of Draft Instrument)	Category	Change description and Guideline reference	Origin position	Comments
8. Section 4.1.2, pages 13-14	Structure of EPFS	<p>A new section 2.4.8 [2.4.7 in the draft guideline] has been added to the guideline called 'Prioritisation of Information'. This obliges retailers to set out energy information in a specified order on an EPFS. The objective is to improve clarity and comparability for customers. The prioritisation required is as follows:</p> <ol style="list-style-type: none"> 1. Retailer name; 2. Key offer information; 3. Pricing information; 4. Guaranteed discounts; 5. Conditional discounts; 6. Fees and charges; 7. Add-on options; 8. Energy Made Easy statement (see item 6 above). 	Support prioritising information but not mandating layout	<p>Appreciate consistency can improve comparability, but capturing all product dimensions in a specific order will not always be compatible with two page limit. Today, move around elements on EPFS to ensure all required offer information fits on two pages. To help keep EPFS to two-pages, could review existing content to simplify and minimise requirements. Current fact sheets include too much information to be a useful and accessible tool for customers.</p>
9. Section 4.1.2, page 14	Availability of offers	<p>The distinction between generally and non-generally available offers has been strengthened in section 3.1. Non-generally available offers include family and friend's offers, targeted mail outs and obsolete offers. If there is confusion over whether an offer fits the definition of generally available or not, retailers are encouraged to contact the AER.</p>	Support	
10. As above	Publication and accessibility of EPFSs	<p>Section 3.2 has been amended. All EPFSs need to be placed in a 'prominent position on a retailer's website and need to be described by the term 'Energy Price Fact Sheet' on both the website and actual fact sheet. Retailers will not be able to request obtaining customer information (name, address, DOB) in order for customers to access EPFSs. A link to the EPFS for any offer on a retailer's website must be prominently displayed.</p>	Support	<p>Origin's Fact Sheets are currently in a prominent location on our website and are obtainable without having to provide personal information.</p>

Reference <i>(Notice of Draft Instrument)</i>	Category	Change description and Guideline reference	Origin position	Comments
11. As above	Marketing via social media	Section 3.4 extends to social media campaigns the requirements that apply to mass media advertising (e.g. a statement referring to the relevant EPFS and a link to a retailer's website).	Not practical	Some forms of social media, like Twitter, have character limits per communication making inclusion of a statement referring to EPFS impractical. Reduces effectiveness of communication form. Where social media is used as part of a retail campaign, further information normally provided in a web-based format, which is already covered by the Guidelines and requires a prominent statement to EPFS and Energy Made Easy. Would therefore dissuade AER from extending application of 3.4 to Social Media.
12. As above	Obsolete offers on EME	Section 4.2 has been amended so that within two business days of an offer becoming obsolete (and therefore no longer generally available), it must be removed from publication on Energy Made Easy website.	Support	Old offers are expired on the effective of the new offer commencing. In future this will be achievable in bulk when the AER roll out the new version of EME.
13. As above	Review of offers on EME	There has been a minor amendment to section 4.3.1, changing the obligation from a six monthly review for currency of offers to a review timeframe that is "frequent enough to ensure all offers are current and up to date"	Support	

Reference (Notice of Draft Instrument)	Category	Change description and Guideline reference	Origin position	Comments
14. Section 4.2.2, page 16	Guaranteed discounts	<p>New section 2.4.2.3 of the guideline requires retailers to state the rate to which a guaranteed (unconditional) discount is to apply and also set out the rate after the guaranteed discount has been applied.</p> <p>Confirmed in discussions with AER, this requirement means that rates need to be presented inclusive of any guaranteed discounts, but exclusive of other discounts. Also, the guideline, notice of draft instrument and conversation with AER, indicates that this provision would apply to representations of prices in all marketing/advertising, not just Fact Sheets.</p>	Oppose.	<p>Do not support requirement to display rates inclusive of guaranteed discounts on EPFS and wherever else pricing information is presented.</p> <p>Fact sheets currently state where discounts apply to the usage charges only and do not apply to the other charges such as the daily supply or GreenPower charges.</p> <p>Requirement likely to be problematic and detract from the comparability of offers.</p> <p>May create greater confusion where a product includes both a guaranteed and a conditional discount.</p> <p>Can result in greater customer confusion where presentation of rates on EPFS is no longer consistent with the rates presented on a customer's bill as billing systems set up to apply a discount to base rate not separately bill at discounted rate.</p> <p>Substantive IT and opex costs to:</p> <ul style="list-style-type: none"> • Amend how prices are displayed on retailer websites when a customer is signing up to an offer online; • Train call centre staff to communicate different discounts and manage consequential billing queries; • Manage increased ombudsman queries; and • Update billing systems to bill on the basis of an unconditional discount rate rather than an applied discount rate to a price.

Reference <i>(Notice of Draft Instrument)</i>	Category	Change description and Guideline reference	Origin position	Comments
15. Section 4.3, pages 16-18	Standardising EPFSs	<p>Section 2 of the guideline has been amended so that all retailers must use the same format, irrespective of whether they use Energy Made Easy to generate an EPFS or they generate it themselves. Retailers must also use:</p> <ul style="list-style-type: none"> • a minimum 12 point font size • no more than three columns should be used in tables in EPFSs, tables must be centred and be clearly bordered • any shading is to meet requirements <p>Attachment A of the amended guideline clarifies what information is to be set out in table format.</p>	<p>Oppose – practical challenges</p> <p>(See section 8 above)</p>	<p>Unclear how able to include required information, in mandated layout, using size 12 font and keep Fact Sheets to two pages. Also, current EME EPFS include four (or more) columns. Reduction in columns could result in longer presentation of material, causing problems with the two-page limit. For retailer-generated EPFS, would require system changes to comply. Left alignment requirement inconsistent with conventional presentation of numbers in a table, which is right alignment.</p> <p>Unclear whether size 12 font applies to footnotes also (would not support).</p> <p>Question value in EME generated EPFS using 6 decimal places for rates.</p>
16. Section 4.4, pages 18-20	Accessibility of EPFSs	<p>Retailers are to provide prominent links to EPFSs for generally available offers on their websites. Customers should not be required to begin an online sign-up process to access an EPFS or enter information such as their name, address and so on. A downloadable version of an EPFS must now be provided (even if all of the information is presented on a web page).</p>	Note	<p>Origin's Fact Sheets are in a prominent location on our website, can be accessed without needing to sign up to an offer and can be downloaded in PDF format.</p>
17. Section 4.5, pages 20-21	Structure of EPFSs	<p>As per item 8 above, section 2.4.7 has been added to the guideline and requires retailers to place information in a certain order on the EPFS for each offer. Attachment A to the guideline sets out the priorities in detail.</p>	Oppose – practical challenges.	<p>See comments in section 8 and section 15 above.</p>
18. Section 4.6, pages 22-23	Offer variations and EPFSs	<p>A separate EPFS will be required if additional options change the basis of the offer (e.g. if a higher daily supply charge is to apply for solar customers).</p>	Note	<p>See comments in section 7 above.</p>