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16 March 2018

Sarah Proudfoot  
General Manager - Retail Markets Branch  
Australian Energy Regulator  
Level 17, 2 Lonsdale St  
Melbourne VIC Australia 3000

Submitted electronically

Dear Ms Proudfoot,

**Re: Retail Pricing Guidelines (RPIG) Version 5**

Red Energy (Red) and Lumo Energy (Lumo) welcome the opportunity to respond to the Australian Energy Regulator (AER) on the draft Retail Pricing Information Guidelines (the draft guideline).

We welcome the AER updating the RPIG to ensure it meets the needs of today's energy market. Following the Prime Minister's roundtable meetings in late 2017, we have actively worked with the AER and other stakeholders to deliver better outcomes for energy consumers. Revising the RPIG represents an important milestone in this ongoing process.

Despite the good intentions of all involved, we are concerned there will be unintended consequences arising out a number of the proposed changes. Additionally, a number of the obligations in the draft are unclear and need significantly more detail to provide retailers confidence they are complying with the AER's intent. The RPIG must be clarified in the final decision to remove any ambiguity. Neither consumers nor retailers benefit from a guideline where compliance is subjective.

Further comments on the proposed changes are included in the Appendix.

**Implementation timeframes**

Red and Lumo understand the AER's desire to implement the amended guideline as soon as possible. We agree that ensuring consumers receive the benefits arising from clearer marketing and communications as expediently as possible is important. However the extent of the changes proposed in the draft guideline are significant and will require time to implement.

We believe a period of four to six months to be the minimum timeframe for implementation following the final decision being released. This allows retailers to train staff, redevelop websites and marketing (which is often booked significantly in advance), and make changes to other systems and processes resulting from the new RPIG. Additionally, the extensive changes to EnergyMadeEasy (EME) necessary to enable retailers to create and export the new plan documents will require comprehensive user testing. We expect the AER to include ample time and

contingency to allow this process to be as seamless as possible for retailers, noting that the draft guideline significantly expands the number of offers to be inputted.

### **Staged implementation**

We consider a small number of the proposed changes are not particularly time sensitive, and may benefit from delayed implementation. Delayed implementation will have a dual benefit. Most importantly allowing further testing to ensure the changes ultimately deliver greater benefits to consumers, but also to minimise retailer implementation requirements, and allow the AER to implement the remaining changes sooner than they might otherwise.

In particular, we consider some of the language changes proposed would benefit from significant consumer testing and research, with little gained from rushing to implement ill considered changes. We will discuss specific concerns with language further below.

### **About Red and Lumo**

We are 100% Australian owned subsidiaries of Snowy Hydro Limited. Collectively, we retail gas and electricity in Victoria, New South Wales and South Australia and electricity in Queensland to approximately 1 million customers.

Red and Lumo thank the AER for the opportunity to respond to this consultation. Should you have any further enquiries regarding this submission, please call Ben Barnes, Regulatory Manager on 0404 819 143.

Yours sincerely

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

### **Ramy Soussou**

General Manager Regulatory Affairs & Stakeholder Relations

**Red Energy Pty Ltd**

**Lumo Energy Australia Pty Ltd**

## **Appendix - Red and Lumo submission to Draft Retail Pricing Guideline version 5**

### **Separation of plan documents**

We support the AER's intention to split the Energy Price Fact Sheet (EPFS) into two plan documents. As noted in our submission to the Issues Paper, the EPFS appears to be attempting to perform multiple functions.

In particular, we consider the Basic Plan Information Document (BPID) will make it easier for consumers to compare and understand offers available to them. While we consider merely renaming the EPFS the Contract Summary (CS) is unlikely to significantly benefit consumers, we understand that given the time constraints, a slightly improved CS being made available to the most interested and engaged customers might be of some benefit. In future, we strongly suggest the AER aims to simplify and improve the CS further, making more significant changes to presentation and content to allow both the CS and BPID to work together in concert, performing a valuable and specific purpose.

### **Content of the BPID**

We consider the BPID proposed will allow interested consumers to get a simple overview of an offer they are interested in. In order to be as valuable as possible as a comparison tool, we consider that as much as possible the content of the BPID should be static, with response variations resulting from whether or not a retailer includes that element in their offer.

For example, the key fees section should list the most common fees that the AER considers will impact a large proportion of customers. Even if a retailer doesn't charge this fee (e.g. a paper bill fee), the fee type should still be shown, albeit at zero cost. Customers can then easily compare different offers across the market according to their key features. Similarly, we expect the key features section will include red crosses if an offer doesn't include a feature, such as eligibility for off-peak savings. We strongly oppose each retail offer having different key features so everything appears with a green tick.

### **Types of fees**

Red and Lumo consider greater clarification is needed regarding the key fees the AER considers should be included on the BPID. For example, disconnection and reconnection might relate to fees resulting from a disconnection for non-payment, or for moving house. In order to allow consumers to compare, the terminology used needs to describe the same fee.

Further clarification should also be given regarding the types of metering fees the AER consider are necessary to include on the plan documents. For example, fees might be charged when a meter is installed, a monthly fee charged for smart metering, or a meter reading fee imposed for customers requesting type 4A meters. At this stage it is unclear what would be included on the BPID and CS.

### **The comparison table**

We are comfortable with the inclusion of the comparison table for flat price offers such as general usage only, or general usage with controlled load. We strongly recommend the AER reconsider its position that the comparison table should be included on time of use (TOU) offers.

It is extremely important that the advice provided by EME, and by extension the BPID, is clear, simple, and accurate. We know that consumers who use EME place great trust in the information it provides, to the extent that even when something has been misinterpreted, they are convinced that because the information came from an independent 'government' source, it must be true.

This level of trust places retailers (who tend to be considered untrustworthy) in a difficult position if the information provided by EME is not reflective of a consumers specific circumstance.

The AER has rightfully made a decision to exclude tariffs with a demand component from the price comparison as the variability of a consumer's specific usage patterns make a prediction impossible. We strongly consider this same principle applies to TOU products.

The NSW Independent Pricing and Regulatory Tribunal (IPART) in its 2017 Market Monitoring report<sup>1</sup> looked at the impact of two particular customers usage on two different TOU products, and compared this with a generic usage profile necessary for a comparison table. IPART found that the generic profile predicted both customers to be better off on a flat product, when in fact one customer was better off on one of the TOU offers, and the other better off on the other one. This example highlights the difficulties of generic predictions for more complex energy offers.

We are very concerned that the AER appears to be taking a view that even though a comparison is inaccurate, consumers are better served by receiving poor information that encourages them to engage in the market than they are not receiving the information at all. This is short sighted, and given the level of trust highlighted above, it is undoubtedly not in the long term interests of consumers for the comparison table to purport to be doing something it's not. Retailers will bear the reputational risk and consumers will have less confidence in what they currently consider a reliable and trustworthy source of information. This will likely discourage engagement in the market.

A staged approach to the comparison table appears prudent. We would welcome the AER initially introducing the table for flat offers as the first stage. This period would allow further testing of consumer preferences and comprehension, allow policy makers to understand the value and usage of the data provided, and enable the development of better predictive consumption models for more granular tariffs. A comparison table for TOU offers or a more interactive, dynamic tool could then be introduced at a later date as stage two, without the significant consumer detriment risk there is today.

Finally, we consider the comparison table output must be based on an annual price. Quarterly and bi-monthly bills are increasingly becoming a relic of yesterday's energy market, with most retailers now offering monthly billing as the default for customers with smart metering. Additionally, seasonal consumption means annual usage cannot simply be divided by four to achieve a relevant bill prediction. While we understand the notional desire of customers to receive a prediction that reflects their usual billing cycle, we question whether they would still value this if they were aware that the prediction in fact had no correlation to their most recently issued bill. At the very least, the AER must include information regarding seasonality and how the predictions were calculated.

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<sup>1</sup> IPART, Review of the performance and competitiveness of the retail electricity market in NSW 1 July 2016 to 30 June 2017, pg 71

### **Innovation in energy offers**

We consider the AER must detail in the final decision how it intends to manage the increasingly varying range of offers being made by energy retailers today. The BPID, and the comparison table already appear unable to handle any type of offer not directly reflecting a 'traditional' energy tariff. While not prevalent today, we already see cap products, flat fee products, subscription fee products, free day products and prepayment products that do not appear to fit in the comparison table. The AER must provide guidance to retailers as to how the increasing number of these types of products will be handled in future iterations to ensure that the comparison table is not out of date before it is even implemented, and an explanation to customers that these comparison tools relate only to a subset of offers available to them.

### **Language**

As we have noted previously, it is not beneficial to consumers to simply replace a poorly understood term with another one. We support a number of the proposed changes, particularly the decision to clearly distinguish between offers including a controlled load (often referred to as two rate and prices as peak and off peak), and time of use offers (priced as peak, off peak, and shoulder). We agree this is confusing to consumers. We are also comfortable with the term general usage as it is likely to be understood with little explanation, and is plain english.

We are particularly concerned with the proposal to replace the term 'controlled load' with 'separately metered usage'. Separately metered usage is no more intuitive to a consumer than controlled load, and the term does not appear to be based on any significant comprehension testing or evidence. As an aside, the term isn't reflective of today's technology, where smart meters simply have an internal register that records the controlled usage. Separately metered usage in smart meter installations won't be separately metered at all.

To a lesser extent, 'semi-peak' also appears to fail the common sense test. While it may seem more intuitive than shoulder to the AER, we consider preferences would differ if tested amongst consumers. The term 'shoulder' on its own might not appear to reflect an energy purchase, but it is a commonly understood term in many different industries, particularly tourism.

Changes in language require intensive implementation. Aside from the plan documents, changes would need to be reflected in all customer facing communications, websites, and retail contracts. In addition, contact centre and sales staff will need to undertake significant training and development to embed the changed terms into their vernacular. When changes are made to the language retailers are allowed to use it must be done with a long term view - it would not be appropriate to change one term for another, only to realise that the amended term was no better than the original and to replace it again. Not only would the cost imposed on retailers be unacceptable, it would fundamentally disadvantage those customers who did understand the original terms.

We urge the AER to undertake further comprehension (not preference) testing, to determine if the amended terms will in fact provide consumers greater insights when making a decision about their energy plan. If this is undertaken, we will commit to implementing the agreed changes as soon as possible. We suggest this is undertaken before any language is amended to reduce implementation impacts.

### **Using plan ID's**

Red and Lumo are comfortable with the obligation to require retailers to ensure contact centres have the ability to utilise EME plan IDs. We do not support expanding the use



of plan IDs any more broadly than on request in particular in any other digital or print marketing.

### **Expanded definition of generally available offers (GAO)**

We support the AERs intention to expand the definition of GAOs. Expanding the definition will increase transparency in offers and allow engaged consumers greater insights into the offers that may be available to them.

But, it is important to note that retailers are not obliged under the rules to make an offer to a customer, even if it is generally available. For example, we might have offers available only to new or existing customers, customers with particular levels of consumption, or based on previous history with Red or Lumo. While generally available, some customers may want these offers, however find themselves only being offered an alternate product. An unintended consequence of this could be that retailers withdraw potentially attractive offers they are providing to customers today.

We suggest that the AER allows retailers to make it clear on the BPID and EME any specific eligibility criteria that might apply for a particular offer to reduce any frustration this causes. Previously these offers would likely have been restricted (and therefore unpublished), so the onus will be on the AER to explain to customers that simply because an offer is shown on EME, specific eligibility criteria may limit its application.

It is additionally important that the AER is particularly clear in the RPIG what types of offers are generally available. The draft guideline is ambiguous and we are concerned that retailers will work to structure their offers in a manner that allows them to be restricted, when in fact they should be generally available. At a minimum, we consider that if an offer is marketed in any manner then it should be generally available.

### **Generating plan documents**

Red and Lumo do not consider the current upload and export functionality of EME to be adequate for the vastly expanded role envisioned in the draft guideline.

Requiring retailers to upload all restricted offers to generate plan documents will require significant system capability. In particular, obligations to generate plan documents for all obsolete plans may result in hundreds of additional uploads, for which plan documents are rarely, if ever, required. We would prefer obsolete plans be excluded from any plan document requirements to reduce unnecessary compliance burden.

In order to allow retailers to comply with the increased scope, we consider the existing obligation to upload all prices within 2 business days to be insufficient. We recommend this timeframe is extended to 5 business days at a minimum.

Additionally, the technical capability of EME to export plan documents must be improved as part of the functionality redevelopment. The current export processes are not scalable. We would prefer the AER provide retailers with API's to enable development of automatic export functionality in our systems. We would welcome further discussions between retailers and the AER to ensure the functionality in the new EME meets the needs of all parties.

### **Provision of plan documents online**

The draft guideline makes significant changes to retailer obligations regarding the provision of plan documents. Some of these are beneficial to consumers, and we support them in principle, however others appear to result in information overload to

consumers, with significant duplication with other obligations in the National Energy Retail Rules.

We support the obligation to provide direct links to specific BPIDs, and placing these links in prominent places where offers are advertised or sold. The placement of the link should be clear and accessible to the customer during the sign up process, however the specific location should be left to the retailer or their third party to determine what is most appropriate and logical.

We strongly object to the obligation in the draft guideline for links to the BPID and CS to be hosted on the EME website. It is very poor practice in digital design for a site to link to popups on another website. We know our customers are extremely cautious when interacting online, and having a link divert to an unknown website will likely raise significant concern. Additionally, having multiple websites that need to interact with each will result in an unacceptable customer experience, in particular given we know our website is increasingly being visited by customers using mobiles and tablets. While we understand the intention of the AER is to ensure plan documents are up to date and ultimately make it easier for retailers to comply, we consider the onus must remain with retailers to host up to date and accurate information. The benefits of managing the customer experience ourselves significantly outweighs the costs. In any event, retailers will remain obliged to maintain up to date information on our websites to ensure compliance with the Australian Consumer Law.

#### **Provision of plan documents in the welcome pack**

We do not support the amended obligation to include both the BPID and the CS in a customers welcome pack. This is not an obligation in the current RPIG, and will likely result in information overload for customers; these documents are readily accessible elsewhere and customers will have already accessed them at this point.

The National Energy Retail Rules already provide significant information requirements for retailers in welcome packs. This information largely replicates the information included in the BPID and the CS.

As a result, retailers will be sending a letter to the customer detailing the required information in rule 64, and then providing both plan documents to advise the customer the same information in a different form. We strongly suggest the AER revisit this obligation, considering the intent of the draft guideline, noting that a customer will be offered the BPID during the sales process, then is provided all relevant information again in the welcome pack. It does not seem beneficial to require retailers to provide customers more information, when the intent of the draft guideline is to make comparison and switching simpler.

#### **Provision of plan documents in door to door sales**

Similarly, we do not consider it necessary to require retailers to provide both the BPID and the CS at the door. As noted by the AER, the BPID will include advice for a customer as to how to obtain a CS. As such, requiring sales agents to carry a hard copy of the each version of the CS, in case it might be requested appears operationally cumbersome. If provision of the CS in hard copy is considered critical, we would be comfortable agreeing to send the customer a CS at a later date if unable to be provided at the door.