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26 July 2019

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

Submitted electronically: [RPIGconsultation@aer.gov.au](mailto:RPIGconsultation@aer.gov.au)

Dear Ms Proudfoot,

### **Re: Draft AER Retail Information Pricing Information Guidelines**

Red Energy and Lumo Energy (Red and Lumo) are pleased to make this submission on draft amendments to the Retail Pricing Information Guideline (RPIG) to the Australian Energy Regulator (AER).

Red and Lumo's view on the proposed changes to the RPIG is similar to that of the Australian Energy Council (AEC), specifically that the changes to the RPIG are more substantial than 'mechanical revisions' and require detailed consideration. We strongly recommend that the AER undertake further research and possibly raise a rule change should the value to consumers be realised. Rather than enshrining the prescribed Default Market Offer information in the National Energy Retail Rules (NERR) through a new version of the RPIG, further research is required to better understand what value this new information creates.

### **Content of price change letters**

A notable example of a proposal that should be assessed in more detail is the AER's decision to adopt the Australian Competition and Consumer Commission's (ACCC) interpretation of the *Competition and Consumer (Industry Code-Electricity Retail) Regulations 2019* (the Electricity Code). This means the Code applies to a price change letter, which the ACCC confirmed in its non-binding Guide to the Electricity Retail Code. The AER is aware that this is not explicit in the Electricity Code but reflects the ACCC's Guide. The AEC rightly notes that is a highly unusual way to introduce obligations under the NERR.

In relation to price changes, it must be noted that the Australian Energy Market Commission (AEMC) finalised a rule relating to the timing and content less than one year ago. The rule change process includes extensive analysis and consultation, assessment of different forms of the obligations and their respective costs and benefits, and a final rule that the AEMC considers will generate the greatest net benefit for consumers. The advance notice of price change rule means consumers receive a consistent message and with common content for **all** electricity and gas contracts. The proposed amendments to the RPIG change this, in light of the current coverage of the Electricity Code.

The AER's Notice of Draft Instrument states that prescribing that price change letters must include information from the Electricity Code will 'address some of the key concerns identified in the REPI report'. We note, however, that the ACCC was particularly concerned about consumers who hadn't actively participated in the market for some time and were on a standard retail contract because they have never switched retailer or had reverted to a standing offer at the end of a fixed market contract.

This was the primary basis for its recommendations for a Default Market Offer (DMO) and to align the content of end of contract notices with that of expired benefit notices (recommendation 29). The ACCC did not make specific recommendations about the content of price change letters but simply noted the AEMC's consultation on the advanced notice of price change rule change request. The AEMC was mindful of these concerns and the ACCC's full suite of recommendations when it finalised the price change rule.

While there may be a case to expand the content of price change letters, we don't think it has been clearly established. The AER's previous changes to the RPIG were based on detailed behavioural analysis and consumer testing to determine what information consumers need to participate in a competitive market with confidence. The AER also considered when consumers should receive that information and through what mechanism.

We think a more rigorous process before the AER makes further amendments - such as that which the AEMC follows to consider rule change requests or the AER used when developing version 5 of the RPIG - is necessary in order to assess whether consumers will actually benefit. This also reflects the extensive regulatory measures to address concerns about consumer engagement in energy markets that have only just come into effect. Regulatory measures need to complement each other to help consumers participate in competitive energy markets

The Electricity Code mandates that retailers must provide a significant volume of additional information, based on new concepts such as a reference price and model annual usage, to consumers at various times. It is too soon to determine how consumers will respond to this additional information and how this helps them. Further, it is too soon to assess how consumers are responding to the currently prescribed content of price change letters or to conclude that the current form is inadequate.

### **Structure and terminology**

Finally, the revised RPIG is a difficult document to interpret, both for consumers and for retailers. As mentioned, we are concerned that consumers will receive different advice depending on their circumstances (e.g. solar, location) and/or the fuel to which the notice relates. Furthermore, retailers must ensure they use the correct terminology when they describe concepts that in a consumer's mind, are similar. A relevant example here is the distinction between 'unconditional percentage' discount and 'guaranteed' discount'. These seem to be arbitrary distinctions that create compliance risks and add to compliance costs for little obvious benefit.

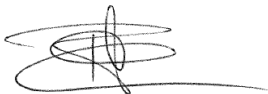
Another example is the different message a dual fuel customer would receive about price changes. An efficient retailer will typically send a single notification with common terminology and content under the current rules but this wouldn't be possible under a revised RPIG. The different content for each fuel and the prescribed volume of information means that a retailer would probably send two notifications to avoid confusion. This adds to the cost of complying with the various notification obligations.

### **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, Queensland and South Australia and electricity in the ACT to over 1 million customers.

Red and Lumo thank the AER for the opportunity to respond to its issues paper. Should you wish to discuss aspects or have any further enquiries regarding this submission, please call Geoff Hargreaves, Regulatory Manager on 0438 671 750.

Yours sincerely

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the end.

**Ramy Soussou**  
General Manager Regulatory Affairs & Stakeholder Relations  
**Red Energy Pty Ltd**  
**Lumo Energy (Australia) Pty Ltd**