

25 January 2023

The Hon Chris Bowen MP
Minister for Climate Change and Energy, Chair of Energy Ministers' Meeting
PO Box 6022, Parliament House
CANBERRA ACT 2600

Sent by email to:

Dear Minister

Request to consider an amendment to the NERL

I wish to request that Energy Ministers consider amending the National Energy Retail Law (NERL) to remove the current requirement for energy retailers to publish standing offer price variations in a newspaper.

We recommend removing this requirement as it is an ongoing cost for all retailers and does not provide useful protection to consumers.

The removal of this provision¹ will have a direct impact on reducing retailers' costs, without requiring extensive consultation, system changes or staff re-training that may offset the cost savings. In our view, removing this requirement would be unlikely to weaken existing consumer protections, given:

- the current regulatory framework requires retailers to publish price variations on their website, on the Energy Made Easy website, and notify consumers in writing
- the low likelihood that any consumer would rely on a newspaper notice to inform themselves about standing offer price changes
- consumers who are aware that price variations must be published, and successfully found the correct newspaper and date, would find it challenging to locate them given their typical lack of prominence in the classified section.

Should Energy Ministers agree to this amendment, we recommend:

- retaining the requirement that a customer must be informed that price variations have been published on a retailer's website (section 23(3)(b)(ii) of the NERL).

We suggest adding this requirement to section 23(3)(c), so that in addition to informing customers of the price variation with their next bill, retailers must also inform them that the new prices are published on their website.

¹ NERL, section 23(3)(b)

- the National Energy Retail Rules Schedule 1 - 8.2(a), which sets out the relevant model terms in the standing offer contract relating to the newspaper publication, is removed.

We consider this is a straightforward change that can provide some downward pressure on retailer costs.

We ask Ministers to consider whether, given the administrative nature of this change, the proposed amendments may be suitable to progress through omnibus legislation. We would also be happy to work with the Energy Senior Officials group to provide any assistance in progressing the amendments.

Background

One of the key priorities set out in the AER's *Strategic Plan 2020-25* is to simplify the retail market regulatory framework to encourage effective competition and reduce costs to serve.² We have also committed to an action in our recently released strategy, *Towards Energy Equity*, to reduce retailer costs to serve by considering if there are ways to improve the efficiency of regulation.³

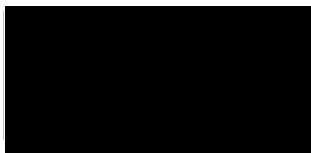
As part of our work towards meeting this goal, in early 2022, we engaged FTI Consulting (FTI) to identify opportunities to simplify or remove regulations that could reduce retailers' costs to serve without affecting consumer outcomes.

FTI spoke to retailers, consumer representatives and other stakeholders. Based on this engagement, it recommended several reforms for the AER to consider, such as:

- providing regulatory guidance on what constitutes explicit informed consent
- updating the AER's *Benefit Change Notice Guidelines*
- proposing a rule change to amend the requirements for over- and under-charging notifications
- amending the National Energy Retail Law (NERL) to remove the requirement that retailers publish standing offer price variations in a newspaper.

We have attached FTI's report (Attachment 1) for your reference. We have also published an open letter to stakeholders on the AER website (Attachment 2) setting out the actions we intend to take in response to FTI's findings.

Yours sincerely



Clare Savage
Chair, Australian Energy Regulator

CC: NEM Energy Ministers

² AER Strategic Plan 2020-25, p.12.

³ AER, *Towards Energy Equity Strategy*, October 2022, Action 14, p.38.