

16 March 2018

Ms Sarah Proudfoot
General Manager, Retail Markets
Australian Energy Regulator
GPO Box 520
Melbourne VIC 3000

By email: AERInquiry@aer.gov.au

Dear Ms Proudfoot,

Retail Pricing Information Guidelines

Simply Energy welcomes the opportunity to comment on the DRAFT AER Retail Pricing Information Guidelines Version 5.0 (Draft Guidelines) to apply from June 30 2018.

Simply Energy operates in Victoria, South Australia, New South Wales, Queensland and the Australian Capital Territory retailing electricity and gas to over 660,000 customer accounts.

Simply Energy agrees with addressing the complexity of energy market information and giving consumers the confidence in the accuracy and comparability of the information.

However, Simply Energy considers that some of the proposed amendments to the Retail Pricing Information Guidelines will act as a barrier to enhancing clarity and potentially even distort consumers' views of what products are available in the market, when they can be accessed, and how to understand the details included in regulated documentation.

Two Plan Documents

Simply Energy supports the creation of a simplified document in the form of a Basic Plan Information Document (BPID), to increase customer awareness and understanding of offers available in the market. Simply Energy's view is that the application of these documents needs to be clearly defined in the final Guideline. Simply Energy understands that a link to the Contract Summary (CS) will be contained within the BPID.

Simply Energy would also like the AER to consider that the strict requirements around the input and output of information for the BPID and CS may have the unintended consequence of stifling the creation of innovative offers. Innovative offers may not necessarily conform to a c/kWh and daily supply charge model. Types of innovative offers not accounted for in the Draft Guidelines could include subscription models or a set charge per day or month for energy consumed.

Simply Energy encourages the AER to consider an exemption template that can be customised allowing for differing units of measure (e.g. \$ per month) or in blocks (similar to a mobile phone with data plan). Basing a template only on product structures currently being considered by retailers will be a barrier for future innovation. The importance of consumers having increased access to new and improved offers is paramount in such a dynamic market.

Use of EME ID number

Simply Energy supports the use of an Energy Made Easy ID number as a reference point, as it will create a better customer experience and reduce confusion in customer interactions. The current functionality of Energy Made Easy, however, does not support searching for a specific plan using a plan ID number on the front-end of Energy Made Easy.

If retailers are required to use the plan ID number in conversations with customers, Simply Energy would like to see Energy Made Easy include this functionality. This will help retailers to discuss offers accurately with customers and prospective customers.

Simply Energy also recognises that individually negotiated consumer agreements may not reflect a predefined offer. In these cases, the ID number would not be known when discussing the agreement with the consumer. As a result, the retailer would be in breach of the guidelines despite the absence of material impact to the interests of the consumer. Simply Energy recommends a degree of flexibility in the requirements to avoid this outcome.

Generally Available/Non-Generally Available

One of Simply Energy's key points of concern is the expansion of the definition of generally available offers.

Simply Energy currently has a number of offers with strict eligibility criteria. Simply Energy's auto club offers require a customer to be a current financial member of a participating organisation at the point of sale. These offers are classified under the current Retailer Pricing Information Guidelines as non-generally available due to the strict eligibility criteria. Simply Energy believes that the re-classification of these offers as generally available will drive confusion among consumers, even if additional filters or metrics are provided.

Unlike an offer that includes the membership itself, the requirement to be a member prior to acceptance of an offer provides a degree of exclusivity that, regardless of the size of the membership base, makes the offer non-generally available. This is the same way that sporting group memberships and community group offers are not available to every consumer.

Also, from a competition perspective, having exclusive offers as "generally available" on a government website could lead to concerns about appearing similar to third line forcing for customers to whom the offers are not available due to the lack of membership or subscription status.

Simply Energy would support making the distinction between the two types of offers clear, through guidance on what constitutes a generally available and non-generally available offer. For example, the definition could be based on whether a membership was required at the point of sale or was included in the offer.

In addition, we understand that there is an intention to class returning customer or customer retention offers as generally available. Simply Energy uses these offers to incentivise selected customers to remain with Simply Energy, and more than 10 criteria must be met before one of these offers is made to a customer. Simply Energy does not understand how offers that are so restricted would fall within the definition of generally available.

Including restricted offers as generally available on Energy Made Easy runs the risk of consumer disappointment, complaints, and potentially distrust in the usefulness of Energy Made Easy, when customers seek these offers and are informed that they are not eligible for them.

Marketing Requirements

The Draft Guidelines indicate that a welcome pack must contain both a BPID and a CS. Simply Energy's view is that only the CS is required in the welcome pack.

The CS is intended to provide the key information needed by a customer to understand the offer, and prospective and existing customers can obtain a BPID on request (or immediately for in-

person marketing activity) if they are interested in the additional detail it provides. As a result, including both CS and BPID appears to be unnecessary duplication that risks providing the customer with even more unwanted material they have to work through.

Terminology Change

Simply Energy supports consistency of terminology to reduce consumer confusion and increase consumer understanding. However, we have concerns that some of the proposed changes to promote consistency will not achieve these objectives. Terms such as 'shoulder' and 'controlled load' are ingrained and meaningful, and should be retained.

In particular, the proposal to replace 'controlled load' with 'separately metered usage' runs the risk of misleading consumers. Controlled loads have traditionally been separately metered, but it is the 'control' aspect that is relevant to the consumer, not that they are separately metered. A controlled load is controlled by a switch or time clock that dictates when the load is active.

Replacing the term 'controlled load' with 'separately metered usage' conceals the nature of the load, and may lead consumers to believe that they are able to lower their energy costs by shifting usage to take advantage of an off peak tariff at their property. Any attempt by a consumer to shift their usage would result in no change to the usage component of their bill for this load, as the load is not controlled by the consumer.

Where a smart meter is installed the meter could contain a separate register, which is simply a time of day configuration, or a controlled load and a separate register. The confusion comes from not being able to determine the difference between the two where they are both labelled as 'separately metered' not controlled and 'off peak'.

Simply Energy agrees that the terminology needs clarity and consistency but it must be factually correct and reflect the actual metering, controls and times of measurement.

Simply Energy would like to see consideration given to the scale of this change and recommends consumer education on the terms and their meaning rather than masking their meaning with new terms.

Time Frames

Simply Energy acknowledges the political pressure around the swift implementation of the revised Retailer Pricing Information Guidelines. However, the proposed effective date of 30 June 2018 does not allow sufficient time for testing and implementation of the required systems and processes to accommodate the significant changes to the way retailers present their offers.

Energy Made Easy does not currently have the functionality described in the proposed rule, and we would like the AER to consider changing the effective date to provide adequate lead-time for implementation. Simply Energy estimates a lead-time of at least 3 months is required after Energy Made Easy has been updated with the new capabilities expressed in the Draft Guidelines. If the change represents a major shift in the way that retailers engage with Energy Made Easy, Simply Energy would like consideration given to training and testing of the Energy Made Easy system changes.

The implementation of any terminology changes across all collateral and processes at Simply Energy has a lead-time of around 8 weeks. We appreciate that this may not seem like a major change but there are many flow-on impacts as previously advised. Furthermore, there is a significant cost for retailers in implementation of this change.

Simply Energy also encourages the Australian Energy Regulator to consider the upcoming changes in Victoria. We believe that the two jurisdictions should be aligned as much as possible to ensure a consistent consumer experience across jurisdictions and to create efficiency in implementation. Further consequences of these guidelines could be the cost and extra effort required by national retailers to service two different methods and regulations around presenting our offers in the market. Any clear division between Victoria and NECF states could create further confusion in the market, defeating the purpose of the sweeping change proposed by the Prime Minister.

Conclusions

Simply Energy supports initiatives to increase consumer engagement and understanding. The Draft Guidelines go some way towards progressing these objectives; however, Simply Energy believes that the AER has not fully considered the impact on competition and innovation within the energy market.

Simply Energy is not aware of evidence to suggest that the rule change for generally available offers is justified, as there is no measurement of the numbers of offers currently available in the comparison market as a whole (including commercial comparators) to have established a regulatory failure.

Simply Energy would like to see further consideration around generally available and restricted offers. The basis for the proposed changes appears to be what is perceived to be missing from Energy Made Easy. However, the underlying assumption seems to be that Energy Made Easy should have more detail, whereas the initial intention was to have it provide the minimum requirements - not be a one-stop shop - which is why the current definition of 'generally available' was chosen.

I trust this submission provides you with some useful information. If you would like to contact me in relation to these responses, please feel free to do so on (03) 8807 1171 or by email at James.Barton@simplyenergy.com.au. Yours sincerely

A handwritten signature in blue ink, appearing to read 'James Barton', with a stylized flourish extending to the right.

James Barton
General Manager, Regulation
Simply Energy