

29 October 2010

Mr Tom Leuner  
General Manager Markets Branch  
Australian Energy Regulator  
GPO Box 520  
Melbourne VIC 3001

By email: AERInquiry@aer.gov.au

Dear Mr Leuner,

### AER Retail Pricing Information Guideline

AGL Energy Ltd (**AGL**) welcomes the opportunity to provide comments on the *Position Paper: AER Retail Pricing Information Guideline* (the **Position Paper**) published by the Australian Energy Regulator (the **AER**) in September 2010.

AGL supports the overall policy intent of providing energy consumers with timely and accurate information to compare energy offers. Participation in the market by consumers, coupled with transparency of standing and market offer prices, will ensure the continuing success of competition in Australian energy markets.

AGL has a number of concerns, however, with certain aspects of the AER's Position Paper which are summarised below.

Australian energy markets are some of the most competitive energy markets in the world. This suggests that there is no justification for increasing energy regulation in the area of price disclosure. AGL acknowledges and supports the AER's obligations under the Retail Law. These obligations can effectively be met by adopting key policy principles from the Victorian approach, specifically the requirements to show unit pricing over annual costs and the obligation to publish one generally available offer. As Victoria has the most competitive energy market in the world<sup>1</sup>, there is no evidence to suggest that a more onerous approach is required.

AGL is concerned that the AER has found it necessary to take an overly prescriptive approach to defining the content and format of the Energy Price Fact Sheets. In particular the specific format of tables to be included and the positioning of those tables within the fact sheet.

We acknowledge the importance of customers receiving notification of any changes to their tariffs in a clear manner, however AGL strongly disagrees with the suggestion that a disclosure statement be included with, or in the next bill following, notification of a variation.

Our responses to the specific questions for consideration contained in the Position Paper and comments on the draft Guideline are provided at Attachment A.

Should you wish to discuss any aspect of this submission further please contact me at nwallis@agl.com.au or on 03 8633 7440.

Yours sincerely,



Nicole Wallis  
Manager Retail Markets Regulation

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<sup>1</sup> VaasaETT Global Energy Think Tank World Retail Energy Market Rankings [www.utility-customer-switching.com](http://www.utility-customer-switching.com)

## Attachment A

### ***Methods of presenting retail offer information***

The AER seeks stakeholder feedback on its preliminary approach to presenting energy prices.

AGL supports the AER's preliminary position that standardised unit pricing is the approach that is most likely to provide consumers with sufficient information to enable informed customer decision making, without the risk of misleading customers.

### ***Scope of the Guideline***

The AER seeks stakeholder views on whether the Guideline should supplement requirements on retailers to notify customers of any variations to their offers.

The AER also seeks views on how the Guideline could supplement the requirements in the Retail Law/Rules.

AGL supports the AER's preliminary view that the Guideline applies to internet presentation of energy offers and written pricing information given to customers (including door-to-door sales). Mass media advertising, such as billboard, television and radio typically does not provide detailed information about prices, and is adequately regulated by the Australian Consumer Law/Trade Practices Act, hence it would be not appropriate for the Guideline to apply to such forms of advertising. Customers are unlikely to make a decision on these forms of advertising alone, without seeking further information on the offer.

We do not oppose the suggestion that the Guideline may require mass media advertising to include a statement such as "a full written disclosure statement is available at [*insert website details*]", where the advertising refers to a specific price and/or discount.

### Changes in tariffs

AGL acknowledges that it is important for customers to be notified of any changes to their tariffs in a clear manner. AGL strongly disagrees with the suggestion that a disclosure statement be included with, or in the next bill following, notification of a variation.

Price variation notification for small customers on market based contracts is one of the contractual terms that a small customer should consider during the selection process.

The proposed form of notification would require significant system development effort to implement for relatively little consumer benefit. The obligations are particularly onerous for retailers with innovative or differentiated products and would act as a barrier to competition.

The implication of this obligation would be to require retailers to prepare price fact sheets for all product and tariff combinations even where these are not currently available to new customers. This would include obsolete tariffs and closed product offerings. The number of fact sheets required for AGL to meet this obligation would be in the hundreds.

Providing an additional disclosure statement at the time of each tariff variation is an unnecessary duplication of information as the price variation fact sheet will be identical to the offer fact sheet that the customer has already received, with the exception of the new tariff amounts which the customer is separately notified of in accordance with the notification requirements under the Retail Law and Rules. This requirement will not add any further protection or benefit to the customer, and will only serve to increase compliance and administration costs.

AGL can confidentially provide the AER with estimated costings to provide a disclosure statement in the next bill after a price variation if required. The administration and compliance burden would include, additional resources to develop and maintain the fact sheets, system development and testing costs, increased printing and mailing costs.

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The cost to retailers of presenting a disclosure statement in accordance with the Guideline when presenting revised prices to customers far outweighs any potential benefit to customers.

### ***Presentation of Information***

The AER seeks stakeholder views on this issue. If stakeholders are supportive of mandatory inclusion of such examples, they should provide examples of the types of information that would be most useful for inclusion in the Guideline.

#### Title of disclosure statement

AGL supports the AER's position that it is appropriate to have a common title for the disclosure statement to assist customers in sourcing information of retail offers.

The title 'Energy Price Fact Sheet' is preferable to the use of multiple titles, ie 'Electricity Price Fact Sheet', 'Gas Price Fact Sheet', and 'Electricity and Gas Price Fact Sheet', as the use of multiple titles increases complexity and limits the ability to combine both fuels on one disclosure statement.

The AER suggests that the term 'energy' may not be appropriate as customers may not associate 'energy' with gas and electricity. We suggest that the term 'energy' is appropriate; AGL and many other retailers use the term 'energy' on contracts, collateral, websites and advertising. In fact, 'energy' is used in the name of a number of retailers.

#### Price information to be presented in table format

Requiring retailers to present offer information in a prescriptive template format will increase the compliance costs as significant system changes may be required to present information in a standardised format. An overly prescriptive format will also limit the ability of retailers to express their brand image and may stifle product innovation if potential new offerings do not fit within the specified format.

The Guideline should be limited to prescribing the content of the disclosure statement only and not the detailed format or layout of that information.

AGL acknowledges the consumer research findings that using tables to display unit pricing information is simple and easy to understand. Requiring other offer information to be included in a table format is overly prescriptive and could result in a more cluttered fact sheet. In the examples provided in Attachment A and B of the draft Guideline there is a large amount of text provided within the tables which could be presented more clearly in a bullet point or list format.

#### How to present energy prices

AGL agrees with the AER's view that prices for energy usage should be expressed clearly and in a way that is easy to compare across retailers. Expressing usage charges consistently as 'cents per kWh' and 'cents per MJ', and the supply charge as 'cents per day' is appropriate to allow easy comparisons, however prescribing whether this is shown as "cents per kWh" compared to "c/kWh" is overly prescriptive. With increasing complexity in tariff structures requiring additional information to be included within pricing tables it may be simpler and more streamlined to use the shorter "c/kWh" expression.

We support the AER view that energy consumption examples may be provided, but the inclusion of such examples in the disclosure statement should not be mandatory. The mandatory inclusion of consumption examples creates the possibility of inconsistency between retailers, in turn creating customer confusion. Retailers should be left to decide whether consumption examples are included within the fact sheets. Further, given that the AER is proposing that the fact sheet should be no longer than two A4 pages, the inclusion of picture examples as suggested intrudes on the limited space available.

AGL agrees with the AER that tariffs should be expressed as both GST exclusive and GST inclusive.

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## **Draft Guideline**

AGL provides the following comments on the draft Guideline.

### 2.1 General Requirements

AGL requests that the wording of the requirement to make available an Energy Price Fact Sheet for each contract offer is clarified to only include currently available contract offers. We suggest that the wording is changed to:

For each **currently available** *standing offer* and *market offer* (contract offer) that a *retailer* offers to a *small customer*, the *retailer* must make available an *Energy Price Fact Sheet* that provides information on each *contract offer*.

Clarification is requested from the AER on whether a retailer can present simultaneous offers for gas and electricity on the same Energy Price Fact Sheet even where those offers are two separate contractual offers and not a dual fuel offer.

### 2.2 Information published on retailer's website

The current wording suggests that all Energy Price Fact Sheets need to be available on the website including those that have limited eligibility such as employee offers, family & friends offers, and channel specific offers. If a retailer is required to include all of these offers on the website it will result in a proliferation of offers being displayed for any given postcode and meter type, many of which will not be available to most customers. This would result in a poor customer experience and could limit the retailer's willingness to offer innovative offers or attractive pricing to specific customer segments.

The obligation to publish offers on the retailer's website should be limited to standing offers and "*at least one existing market offer applicable to a customer's circumstances that is generally available for acceptance*". This is consistent with the Victorian approach to disclosure of product and pricing information<sup>2</sup>. The Victorian energy market is the most competitive in Australia and the world<sup>3</sup> so there is no evidence to suggest that a more onerous obligation is required.

### 2.3 Door-to-door sales

AGL agrees that it is appropriate to provide an Energy Price Fact Sheet to a customer during door-to-door and in person marketing if the customer desires additional time to consider their options. The requirement to provide an Energy Price Fact Sheet should be on request only. Suggested wording is provided below:

During any door-to-door sales or in person marketing activity to a *small customer* a *retailer*, or its agent, must provide an *Energy Price Fact Sheet* for each *contract offer* that is being marketed, **if requested to do so by the *small customer***.

Although the following paragraph in the draft Guideline does allow for the scenario where the contact is ended before the offer is made, there will be circumstances where the customer listens to the offer and decides not to proceed. In these circumstances the customer may feel pressured if the sales person is obliged to provide them with the offer in writing even after the customer has declined that offer.

### 2.4 Telemarketing and telephone queries

The current wording of this clause is overly prescriptive and will apply the obligation to advise on the availability of fact sheets to many routine customer enquiries. This clause should be limited to obliging retailers to provide fact sheets to customers on request. If the AER finds it necessary to oblige retailers to advise customers of the availability of fact sheets then this should be limited to marketing activity and customer enquiries that relate directly to a retailer marketing contract offers.

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<sup>2</sup> refer clause 1.2 of Guideline No. 19 Energy Price and Product Disclosure Issue 3, June 2009.

<sup>3</sup> VaasaETT Global Energy Think Tank World Retail Energy Market Rankings [www.utility-customer-switching.com](http://www.utility-customer-switching.com)

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## 2.6 Price information to be provided in an Energy Price Fact Sheet

AGL seeks clarification that table formats provided in the examples would allow changes to the table structure. If the table structure is intended to be prescriptive then AGL would request wording be included at the end of this section to allow an alternative structure to be used with the AER's approval.

AGL's current practice for displaying price information is to have an additional column within the table for the "units" (c/kWh, c/day) rather than duplicate this information across the GST exclusive and GST inclusive columns. This format ensures that the actual pricing information is less cluttered and easier to read. A sample AGL pricing table is shown below.

<b>Residential Tariff (GD/GR)</b>	<b>GST exclusive</b>	<b>GST inclusive</b>	<b>Units</b>
First 1,020 kWh / 91 days	17.02	18.722	c/kWh
Consumption > 1,020 kWh / 91 days	17.82	19.602	c/kWh
Supply Charge	69.70	76.670	c/day

## 2.7 Other information requirements

AGL questions the need to include disconnection and reconnection fees as "key fees" within the fact sheet. A disconnection or reconnection to the network will usually only occur on the customer's request or following written notification from the retailer outlining the amounts of the fee (in the case of disconnection for non-payment). Where the retailer passes these costs through to the customer as a direct pass through of the distributor charges it is not always possible to accurately predict the cost of a disconnection or reconnection. These fees vary depending on the type and timing of the disconnection or reconnection (eg. pole top vs fuse removal, business hours vs after hours).

Further, to title these fees specifically as "disconnection fees" and "reconnection fees" has the potential to confuse or mislead customers. A disconnection may be considered to be a de-energisation (eg. remove fuse), an abolishment of the meter or a special read to facilitate final billing on move-out. Each of these scenarios would have a different cost associated with them. In some cases a removal of the fuse may have different fee depending on the circumstance, for example if it has been requested by the retailer when a customer is moving out of a premise or for a disconnection for non-payment.

The requirement to have discounts, rebates and fees listed in table formats is overly prescriptive and unnecessary. The type of information shown in example 4 includes key product features which are usually shown prominently at the top of the relevant disclosure statement. Requiring this information to be included in a table below the tariffs table (so effectively at the bottom of the first page, or on the second page of the fact sheet) limits the retailer's ability to clearly differentiate their products from competitors on non-price based incentives.

The requirement under point 6 in section 2.7.4 to have tables centred on the page, and specifying where on the page the tariffs table commences is overly prescriptive and unnecessary.

AGL does not support the AER's proposal that separate Energy Price Fact Sheets are required for each additional option such as green energy. This would exponentially increase the number of fact sheets required and limit the customer's ability to see all of their options for a particular offer on one fact sheet.

Clarification is requested on the requirement to identify the fact sheet with a unique name or reference code or both. AGL currently identifies each disclosure statement with the product name (eg. Advantage 5) and then includes a unique document code within the footer to identify the product, tariff, fuel and distribution area combination. It is unclear whether this is sufficient. The examples provided include a "Tariff Ref #" that appears to have no easily identifiable meaning. AGL questions the value of including this within the fact sheet heading.

AGL supports the AER's intention to keep the Energy Price Fact Sheet to no longer than two standard A4 pages. However, this requirement may be difficult to meet with increasing tariff complexity and the extent of information required under the Guideline, especially when the non-mandatory information requirements are taken into account.

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