

27 May 2015

Ms Sarah Proudfoot
General Manager – Retail Markets Branch
Australian Energy Regulator
GPO Box 520
Melbourne VIC 3001

Email: AERinquiry@aer.gov.au

Dear Ms Proudfoot,

RE: Amendments to the AER Retail Pricing Information Guidelines

The Energy Retailers Association of Australia (ERAA) welcomes the opportunity to provide comments in response to the Australian Energy Regulator's (AER) amended draft Retail Pricing Information Guidelines (the Draft Guidelines).

The ERAA represents the organisations providing electricity and gas to almost 10 million Australian households and businesses. Our member organisations are mostly privately owned, vary in size and operate in all areas within the National Electricity Market (NEM) and are the first point of contact for end use customers of both electricity and gas.

The ERAA supports the provision of clear, concise and practical information to consumers to allow consumers to understand the material elements of their supply agreement with their retailer and the prices they will pay. This information is currently provided to consumers through the provision of Energy Price Fact Sheets (EPFS), required to be available on a retailers website and provided to a consumer when entering into the contract, and a written disclosure statement either before the formation of a contract or as soon as practicable after the formation of a retail contract with a consumer.¹ Additionally the Energy Made Easy (EME) website managed by the AER provides general education material and allows consumers to compare all available offers based on their location.

The ERAA provides specific comment on elements of the Draft Guidelines below.

Terminology

The ERAA supports efforts made by the AER to reduce customer confusion in relation to energy offers, however mandating the use of specific terminology in EPFS can lead to inconsistency with retailer bills and consumer contracts. The ERAA believes mandating the use of particular terminology will result in either additional confusion for consumers or substantial cost to retailers to align other collateral. For example *early termination charge* is a term defined in the National Energy Retail Rules (NERR) and commonly used in contractual documents, as such the ERAA does not believe there is any benefit to be achieved through precluding its use. Similarly, the Draft Guideline proposes to mandate the use of the term *fixed benefit period* and prohibit any other term referring to this concept. It is unclear why the Draft Guideline proposes to mandate a term that is considered problematic

¹ National Energy Retail Rules, rr 62 – 64.



by many in the industry² and prohibits retailers from using terms that endeavour to address these concerns. Indeed, section 2.3 of the Draft Guidelines otherwise prohibits use of the word *fixed* in the context of contract duration, unless prices are also fixed. The ERAA considers that retailers should be free to use terms that they consider suitable. Alternatively, the Draft Guidelines could specify a range of acceptable terms, including *energy plan period* and *benefit term*.

Incentives

The Draft Guidelines requires retailers to include the details of any non-price incentives applicable to an offer on an EPFS. The ERAA does not support this requirement as incentives and promotions can be very short term and the cost of updating EPFS to accommodate such promotion is unlikely to be justified. If this is imposed it could lead to retailers not offering these benefits and reducing consumer choice in order to avoid this significant regulatory burden. The ERAA does not see a need to require updating the EPFS in this circumstance as there is no consumer detriment. If a consumer is not aware of the incentive it is in effect a bonus and potentially to the retailer's detriment if they do not disclose the incentive.

Reference to Energy Made Easy

The amended requirements around the availability of EME on EPFS in section 2.4.3.7 of the Draft Guideline, to include a longer statement and logo are viewed by the ERAA as unnecessary. The amended statement is unduly wordy and in size 12 font and the inclusion of the EME logo only adds additional length to EPFS.

Format

The ERAA understands that the standardisation of EPFS is intended to allow consumers to compare various offers more easily and notes that it is important to achieve greater consistency across EPFS. The ERAA has several concerns on the amended requirements of Draft Guidelines in relation to the standardisation of EPFS. With respect to the font size requirement, it is not clear which components of an EPFS it would apply to and also considers that the EME generated versions may not be able to manage this in under two pages.

The ERAA supports the maximum length of two pages for EPFS, but believes that the required information needs to be reviewed as EPFS currently require the inclusion of too much information to be a useful and accessible tool for consumers. The ERAA believe more can be done to simplify and minimise the content on EPFS given the requirements around written disclosure statements. Disclosure statements provide a significant amount of information and are better placed to provide additional non-price related information to consumers. Additionally the ERAA notes that current EPFS have four columns and the Draft Guidelines propose only three columns.

The ERAA endorses the AER's decision to continue to allow multiple tariff types to be included on a single EPFS in section 2.4.4 of the Draft Guideline. In allowing multiple tariff types to be included on a single EPFS it reduces the number of EPFS a consumer needs to consider when comparing available offers.

Additionally the ERAA would like to see the inclusion on additional optional field in EME for ACS metering charges should retailers want to separately itemise ACS charges, in the interest of providing greater transparency to consumers. Presently, if retailers create their own EPFS, ACS charges may be displayed separately, however if retailers are required to use EME to produce EPFS, then EME should be amended to accommodate the optional field.

² For example, the rule change request resulting in the National Energy Retail Amendment (Retailer price variations in market retail contracts) Rule 2014 No.1

Guaranteed discounts

The new section 2.4.2.3 of the Draft Guidelines requires prices to be presented inclusive of any guaranteed discounts, but exclusive of other discounts whenever pricing information is made available to consumers. The ERAA does not support this proposed requirement to display rates inclusive of guaranteed discounts on EPFS and the extension of this requirement to all circumstances where pricing information is presented. The ERAA considers that this requirement will be problematic from a practical perspective and will detract from the comparability of offers. If this requirement is implemented, the ERAA notes that rates presented on an EPFS and in advertising material will no longer be consistent with the rates presented on a consumer's bill and in other collateral (such as welcome packs). Additionally, this requirement is likely to create greater confusion where a product includes both a guaranteed and conditional discounts.

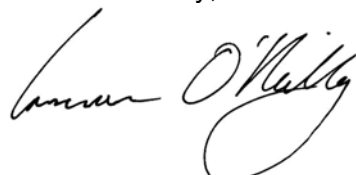
The ERAA support the Draft Guidelines clarification over the classification and distinction of generally and non-generally available offers in the Draft Guidelines in section 3.1.

Social media

The ERAA is particularly concerned about the extension of section 3.4 of the Draft Guidelines to include the promotion or marketing of offers on social media. This requirement is not practical given wording, stylistic and character limitations of social media platforms. The priority for consumers and retailers alike in space-limited social media marketing should be the adequate disclosure of the offer under the Australian Consumer Law, not a link to Energy Price Fact Sheets.

Should you wish to discuss the details of this submission, please contact me on (02) 8241 1800 and I will be happy to facilitate such discussions with my member companies.

Yours sincerely,



Cameron O'Reilly
CEO
Energy Retailers Association of Australia