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Thank you for the opportunity to comment on the *Position Paper: AER Retail Pricing Information Guideline*.

The Energy & Water Ombudsman NSW investigates and resolves complaints from customers of electricity and gas providers in NSW, and some water providers. Customers often complain to EWON that they have been misled by marketers into entering an energy contract without having clear information about the full contract terms, including comparative pricing information.

EWON supports the *Guideline's* aims of presenting pricing information in a way best suited to provide customers with a clear and accurate basis for comparing energy offers. We note that several of the comments made in our submission to the original *Issues Paper* in March 2010 have been incorporated into the current *Position Paper*.

We have responded to those issues raised that are relevant to EWON's experience of customer complaints, and for ease of reference we have adopted the same numbering as the *Position Paper*.

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

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

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#### *(i) Unit pricing or estimated annual cost*

In our earlier submission to the *Issues Paper*, EWON expressed a preference for a combination approach, providing customers with both unit pricing and an indicative annual dollar amount. We still support this view, and we note that the qualitative consumer research conducted by the Wallis Consulting Group also expressed a preference for both formats in their recommendations<sup>1</sup>. As the *Guidelines* and the *Energy Price Fact Sheets* are designed to assist customers make informed choices, it seems reasonable to respond to a demonstrated customer preference as to which format which they found easiest to understand.

We appreciate that an estimated annual cost figure has the potential to significantly mislead customers because:

- an individual customer's consumption patterns can vary throughout a year
- with TOU meters, a customer's daily load patterns can vary widely depending on whether or not they are home during the peak time band.

We agree that false expectations of a customer's annual energy costs would be expected to lead to an increase in complaints to both the retailer and EWON. However we feel that if the estimated annual cost figure was accompanied by very clear and prominent provisos, this would be clearly understood by most customers. The provisos should make it clear that the annual cost estimate was based on a certain level of consumption, but that the customer's actual costs will differ if there are significant changes in the volume or pattern of consumption, or in the tariff rates.

The AER's position is that only the standardised unit pricing method should be adopted, as reflected in clause 2.6 (1) of the *Guideline*. While this avoids the potential for inaccuracy associated with the annual cost method, customers are then required to make their own calculations to get a sense of their overall energy costs. This may be a difficult exercise for many customers, who may have little awareness of how many kilowatts they currently use. Unit pricing on its own does not appear to provide a very accessible measure of comparison for many customers.

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<sup>1</sup> Wallis Consulting Group, *Australian Energy Regulator Retail Energy Pricing Guidelines* at p 4.

While for most other household transactions, the units of measurement are clearly understood (eg kilograms, litres, metres) the kilowatt hour (kWh) and the megajoule (MJ) are not as yet readily recognised. We support the AER's comments at page 22 of the *Position Paper* encouraging retailers to include additional information to help customers understand their energy consumption, and how that may relate to common household appliances.

We also note the positive feedback given in the qualitative research by the Wallis Consulting Group<sup>2</sup> to the various options in the Concept documents, providing easy ways of converting the price per unit to what it means for a customer's home or business.

As energy costs are becoming an increasing concern for many households, information about what a given number of kilowatt hours represents in terms of appliance usage could possibly be effectively addressed by a wider public awareness campaign.

### ***(ii) Fees***

Clause 2.7 of the Guideline states that '*retailers must provide information on key fees that are applicable to a contract offer*'. It states that the key fees include (but are not limited to):

- account establishment fees
- exit fees/early termination fees
- disconnection fees
- reconnection fees.

Clause 2.7 specifically states that the AER does not consider a special meter read fee to be a key fee. Rather than being specifically included in the *Energy Price Fact Sheet*, the only information on special read fees will be via a reference to where additional information on other fees is available.

In NSW, it is not generally expected that a special meter reading fee or disconnection fee will be charged when a customer closes or transfers an account, so customers complain to EWON when a retailer charges a fee in these circumstances. The strong common theme among these complaints is that the customers were not told about the fee in advance – either by the marketer with whom they agreed to a contract, by the contact centre when they opened their account, or in the contract documentation provided by the retailer.

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<sup>2</sup> Wallis Consulting Group, *Australian Energy Regulator Retail Energy Pricing Guidelines* at p 32

Customers indicated that if they had been aware of these fees, this may have influenced whether to agree to a contract with that retailer, particularly if the amount of the fee essentially negated any possible savings the customer expected to make under the contract.

For this reason it is encouraging that the Guidelines include the disconnection charge as a key fee, particularly as it is around \$99 in New South Wales.

A special meter reading fee on closing an account only applies to gas and not to electricity, and the fee is less than the disconnection charge. However, many customers still complain that this unexpected charge is not reasonable as they had not been informed about it when they signed a contract or opened their account. This applies particularly to customers who said they told the marketer that they would be moving premises in a few months, and therefore specifically asked if there were any additional fees, and were assured that no other fees applied.

Similarly, EWON considers that any fee relating to a particular payment method (eg a merchant service fee for payment by credit card) should also be disclosed in the *Energy Price Fact Sheet*. The imposition of this fee may significantly diminish any potential saving under the contract. If a customer's preferred payment method attracts a fee with one retailer but not with another retailer, this is significant information that a customer requires in order to make an informed choice.

EWON considers that any fee for a service that is applied as a matter of course when a certain situation arises, as opposed to a service specifically requested by a customer, should be clearly disclosed to customers before entering a contract. Without this information, the *Guideline* would not be achieving its stated aim of presenting pricing information in a way best suited to provide customers with a clear and accurate basis for comparing energy offers.

EWON recommends that special meter reading fees, and any payment related fees such as merchant service fees, are added to the list of key fees specified in clause 2.7.

#### 4. Scope of the Guideline

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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.

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The AER considers the *Guideline* should capture information on retail offers that are provided to customers through door to door sales, telemarketing, and the internet. The inclusion of telemarketing sales is a major change from the position in the original *Issue Paper*.

We note the provision in clause 2.4 of the *Guideline* that telemarketers should advise customers that *Energy Price Fact Sheets* are available on the retailer's web-site, or they can request a copy direct from the retailer. When a copy is requested, the retailer must supply it to the customer within 5 business days.

EWON has concerns about how this will work in practice. For example what is the status of the energy contract during the 5 business days while the customer may be waiting to receive this information?

EWON receives frequent calls from customers who have told an energy marketer that they were not ready to enter a contract until they had a chance to receive the contract information from the retailer and review it thoroughly. When they discover that their account has transferred to the new retailer, they complain that this was done without their consent.

In the course of investigating these complaints, EWON will frequently review the voice recording between the marketer and the customer. These recordings often show that the marketer has agreed to send the information, and has explained to the customer that they have 10 days to cancel the contract if they do not wish to proceed. The customer is expressly asked if they agree to this, and the marketer will wait until the customer says "yes".

Many customers say they have often only agreed to be sent the information as a polite way of terminating the marketing call, not realising that they have committed themselves to a contract. They have not appreciated that the start date for the cooling off period is from the date the information is provided. If they fail to cancel the contract within the cooling off period, the transfer goes through.

In an effort to reduce the number of complaints in these situations, EWON is liaising with various retailers to improve their marketing scripts so that the situation regarding the start date of the cooling off period is made much clearer to customers.

We see the potential for clause 2.4 to similarly cause confusion for customers. If a customer asks for a copy of the relevant *Energy Price Fact Sheet*, s 235 of the *National Energy Retail Rules*<sup>3</sup> provides that the cooling off period commences from the date the customer receives the ‘required information’.

The ‘required information’ is more fully defined in s 246, and includes

*‘all applicable prices, charges, early termination payments and penalties, security deposits, service levels, concessions or rebates, billing and payment arrangements and how any of these matters may be changed’.*

If a customer requests a copy of the *Energy Price Fact Sheet* in the course of a marketing call, this seems to indicate that they are not yet in a position to make a decision.

We recommend that an additional sentence is added to clause 2.4 to make it clear that when a customer has requested an *Energy Price Fact Sheet* the retailer is to suspend any marketing activity with that customer until 5 business days have passed, when they are free to contact the customer again to confirm whether they wish to proceed with a contract.

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<sup>3</sup> The version of the Rules contained in the Second Exposure Draft, November 2009

## 5. Presentation of information

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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.

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The AER has recommended a template format for presenting the pricing information as the best way to enable a like for like comparison. EWON supports this approach, and considers that the examples provided in Attachment A and Attachment B both present the required information in an acceptable format.

We appreciate the inclusion of both GST inclusive and exclusive rates, as raised in our earlier submission to the original *Issues Paper*.

EWON notes that the AER intends running further consumer research on the *Guideline*, which may include whether the term ‘*Energy*’ is the most appropriate word to describe these *Fact Sheets*, or whether they should be separately labelled *Electricity Price Fact Sheet* or *Gas Price Fact Sheet*. We agree it is appropriate to be guided by the outcome of this customer testing before settling on the required title for this document.

EWON supports the AER’s view that the word ‘cents’ should be written in full, as in ‘*cents per kWh*’, rather than abbreviated as ‘*c/kWh*’. We do not consider that expressing gas prices in gigajoules (GJ) is a useful suggestion, as this unit of measurement does not typically appear on customer’s gas bills.

If you would like to discuss this matter further, please contact me or Prue McLennan, Investigations Policy Officer on 8218 5250.

Yours sincerely



**Clare Petre**  
**Energy & Water Ombudsman NSW**