



**EnergyAustralia**

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Sarah Proudfoot  
General Manager—Retail Markets Branch  
Australian Energy Regulator  
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Submitted Electronically to: [AERinquiry@aer.gov.au](mailto:AERinquiry@aer.gov.au)

Dear Ms Proudfoot

### **Review of the Retail Pricing Information Guidelines**

EnergyAustralia appreciates the opportunity to provide further input into the review of Retail Pricing Information Guidelines (the Guidelines). We are one of Australia's largest energy companies, providing gas and electricity to over 2.6 million household and business customers in NSW, Victoria, Queensland, South Australia and the Australian Capital Territory. EnergyAustralia owns and operates a multi-billion dollar portfolio of energy generation and storage facilities across Australia, including coal, gas and wind assets with control of over 4,500MW of generation in the National Electricity Market.

EnergyAustralia are concerned that the AER is proposing changes to the guideline which are not supported by evidence that they will achieve the desired outcomes. We support the general principle of simplifying Energy Price Fact Sheets and marketing collateral however we believe that the terminology proposed has been chosen arbitrarily without having verified that it is in fact more accessible to customers and that retailers, through their ongoing interaction with their customers, are best placed to determine which terms are most meaningful. We further believe that matters concerning advertising and marketing of products more broadly are matters for the ACCC and are covered by the Australian Consumer Law.

### **Language Requirements**

As indicated in our initial submission, the retail energy industry is rife with technical terminology and concepts which may confuse customers who would otherwise have no exposure to them. EnergyAustralia agrees that helping consumers understand important concepts is vital however we are concerned that the AER's selection of preferred terminology is unlikely to assist consumers in this regard.

We note that "Termination fee" remains a prohibited term despite it being the terminology used in the NERR. We do not believe that this is appropriate as it will not assist the consumer to reconcile their marketing material with their contractual documents or the regulatory frameworks which govern them. We also note that the apparent contradiction in Table 1 of the draft guideline in relation to use of the term "Fixed" has not been addressed in the additional consultation document. These examples raise concerns as to the process for selecting preferred terminology and whether or not the AER's preferred terms are acceptable to consumers.

When designing customer collateral and marketing material, retailers engage or employ communications professionals and often conduct market research to ensure that they are communicating with customers in their preferred terms. We question whether a similar evidence base has been gathered to determine which terms are acceptable and which are prohibited, and if so, how this evidence is more valid than that compiled by individual retailers. It is not in any business's interest to confuse their customers and consequently we believe that retailers and not regulators are in the best position to determine how to communicate with their customers.

Further to the question regarding how the acceptable language was selected, we are concerned at the proposal to regulate advertising and marketing documents. In a highly competitive market, retailers seek to differentiate themselves through their advertising and marketing materials. Regulation of the terminology used in these materials may stifle a retailer's ability to differentiate and have a deleterious effect on competition. We do not believe that regulations above and beyond the Australian Consumer Law will benefit consumers.

### **Conditional Discounts**

While EnergyAustralia supports efforts to ensure that consumers can understand how their energy use will be charged, we are concerned that expanding conditional discount disclosure to advertising and marketing materials will add additional cost. Advertisements are primarily designed to spark consumer interest and drive them to seek out more information. We consider it more appropriate that full information is provided after the consumer has been engaged and is actively seeking additional information. EnergyAustralia has robust processes to ensure that advertising and marketing materials comply with Australian Consumer Law requirements as we believe that this is the suitable benchmark for transparency of offer information.

Furthermore, we consider that the proposal to allow for a staged introduction to the new requirement to be difficult and costly for the AER to enforce as various pieces of collateral conforming to two different standards would be in the marketplace at the same time.

### **Guaranteed Discounts**

EnergyAustralia believes that the proposed amendment to 2.4.2.3 of the Guideline will significantly increase costs to retailers which will be passed on to consumers. Many retailers engage in direct mail advertising, ie. sending either physical or electronic mail to consumers to advise them of energy offers. We are concerned the changes to the guideline will capture this type of campaign and will require retailers to effectively mail out individual quotes rather than general advertising information. This advertising channel is currently viable as retailers

are able to use a generic piece of collateral to cover all distribution areas and meter types. If the guideline is amended as proposed, multiple versions for each promotion would be required which would impose significant costs.

EnergyAustralia opposes the proposed amendment as we understand it to apply and are seeking advice from the AER whether this was in fact the intent.

## Summary

EnergyAustralia supports moves to increase consumers' ability to participate in the market and we consider that the Guideline plays a vital role in achieving this. We are concerned however that the proposed amendments to the Guideline are not supported by evidence that they will address the concerns of the AER and other stakeholders.

We believe that any customer confusion which may exist is a result of the constant evolution of the retail energy market and that the responsibility for improving customers' understanding and engagement lies with retailers. Prescriptive regulation as outlined in the draft Retail Pricing Information Guideline will not allow retailers to adapt their messaging in response to consumer needs and risks further alienating some consumers if the parameters for communicating information about retail offers remain static as the market continues to evolve.

We consider that the Australian Consumer Law provides appropriate protections to ensure that consumers are not misled and believe that retailers will continue to strive to find better ways to provide useful information as a means of differentiating themselves in a highly competitive market.

If you require any further information with regard to this submission, please contact me on 86281731 or via email at [joe.kremzer@energyaustralia.com.au](mailto:joe.kremzer@energyaustralia.com.au)

Yours sincerely,



**Joe Kremzer**  
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