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29 October 2010

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

Email: AERInquiry@aer.gov.au

Dear Mr. Leuner,

Re: AER Retail Pricing Information Guideline

EnergyAustralia welcomes the opportunity to comment on the AER's Position Paper on the Retail Pricing Information Guideline and the draft Guideline.

While the AER appears to be clear on the purpose of the Guideline at the start of the Position Paper, once further discussions, both within the Position Paper and Stakeholder Forums, are considered the purpose of the Energy Price Fact Sheet becomes clouded. It is important that the purpose of the Guideline be agreed as then it will be easier to resolve a number of the issues being discussed.

It is EnergyAustralia's opinion that the Energy Price Fact Sheet should be a summary of an offer and contain the critical offer information, for example, term, price, discount, price variation and critical fees. Its purpose from a customer perspective is to assist the customer in assessing various market offers and provide accurate information so that they can make the best decision appropriate to their circumstances. It should be made clear that the purpose of the Energy Price Fact Sheet is not to educate customers on their energy usage or energy efficiency. There is a wealth of information already available to enable customers to understand their total energy usage and to reduce usage. To try and include this information in the Energy Price Fact Sheet will potentially lead to information overload.

In the development of the Guideline it needs to be remembered that the Guideline will apply nationally, across several states that are at different points in terms of price deregulation, competition and product development. Therefore, what may work in an area which has a simple flat tariff structure may not be appropriate where more complex tariffs are in place. While national consistency is ideal, it is important that the Guideline not be so prescriptive as to preclude any desired state based tailoring a Retailer may wish to make.

As part of the Position Paper the AER has sought stakeholders' comments on a number of specific questions. We have provided a response to those questions as well as feedback on the Draft AER Retail Pricing Information Guideline.

Position Paper

Methods of presenting retail offers

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

EnergyAustralia supports the AER's position of only requiring standardised unit pricing, that is, the requirement that rates are presented in a c/kWh or c/MJ manner. The provision of information in this manner gives the customer all the information necessary for them to assess various offers. While we recognise that some customers may find the information complex, it is the only way that the information can be presented accurately for all customers.

If the purpose of the Energy Price Fact Sheet is to provide information to assist a customer in assessing energy offers it is important that the information provided is accurate and not misleading. EnergyAustralia is of the view that summarising unit prices into an annual cost is misleading and may lead to customers making decisions that are not appropriate to their specific circumstances. This is not just an issue for the future when smart meters are introduced but a current issue under the NSW Time of Use tariffs and the Victorian Two rate tariffs.

Changes in tariffs

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 requirement in the Retail Law/Rules.

EnergyAustralia has concerns about the possibility of the Guidelines including requirements to present a disclosure statement in accordance with the Guidelines when presenting revised prices to customers. The obligations to inform customers of variations to market and standing offers under the proposed Retail Law and Rules are sufficient. Additional requirements to include a disclosure statement is, in EnergyAustralia's view, overregulation that will provide limited value to the customer while resulting in increased compliance and administration costs.

The obligations of the Guideline should be limited to providing Energy Price Fact Sheets at the point of sale and/or time of inquiry. Providing an Energy Price Fact Sheet when there is a price variation event may lead to customer confusion especially when the Energy Price Fact Sheet includes information such as the cooling off period, account establishment fees etc which do not apply to the customer at this point in time. Similarly general information about the term are no longer relevant to the customer's specific situation eg they may be 1 month, 6 months or even 23 months into a 2 year term.

How to present energy prices

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.

EnergyAustralia has concerns about the additional information that the AER is considering to require for inclusion in the Energy Price Fact Sheet. While understanding that appliance information is useful in terms of customers understanding what the unit of measure means in a practical sense, if the use of appliances and approximate usage was mandatory there is a risk that there will be information overload to customers. Further in order to ensure that the Energy Price Fact Sheet is no longer than two standard A4 pages and all the required information is included it may be necessary to drop the font sizes. If too much information is included in the Energy Price

Fact Sheet or they become too long there is a risk that customers will not bother to use them. As previously stated, the purpose of the Energy Price Fact Sheet and Guideline need to be agreed as that will facilitate discussion on the appropriate content.

AER Retail Pricing Information Guideline

Section 2.3 Door-to-door sales and other in person marketing activities

As currently drafted, this section would oblige a marketer who completes or even partially completes a sales pitch to a small customer to provide that customer with an Energy Price Fact Sheet (or multiple Energy Price Fact Sheets, if multiple contract offers are made), even if the customer chooses **not** to accept the offer and does **not** want an Energy Price Fact Sheet. That cannot be an intended consequence of this section.

If a customer in this situation is interested enough to want information left behind to consider further, a reasonable and commonsense approach is to envisage that they will ask for that information. A marketer should then be obliged to provide that information (ie. an Energy Price Fact Sheet) when a customer requests one. Therefore, we suggest redrafting this section, as follows:

*“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 **to that customer, if that customer requests the retailer, or its agent, to leave information about the offer/s with the customer.***

For avoidance of doubt, an Energy Price Fact Sheet does not need to be provided if the door to door sales or other marketing activity ends promptly without any conversation in relation to prices or offers. For example, if the small customer refuses to engage with the retailer, or its agent.”

Section 2.4 Telemarketing and telephone queries

Under this section a Retailer is obligated to supply an Energy Price Fact Sheet to a customer within Five Business Days. The Position Paper makes it clear that the obligation is that the customer must **receive** the Energy Price Fact Sheet within Five Business Days. At present, neither Victoria nor Queensland stipulate timeframes for providing information to customers, while the obligation in NSW is for pricing information (similar to the proposed Energy Price Fact Sheet) to be sent within 10 business days of the request. EnergyAustralia considers a timeframe in line with that required in NSW is more appropriate than that proposed by the AER. Further, it would make more sense if the obligation on the Retailer was limited to what was within their control, that is, the sending rather than the receiving of the Energy Price Fact Sheet. We believe this section should be redrafted as follows:

*“Where a small customer requests an Energy Price Fact Sheet, the retailer must ~~supply~~ **send** (either via post or email) the Energy Price Fact Sheet to the small customer within ~~five~~ **ten** business days.”*

If the AER's decision is to keep the five business day obligation, EnergyAustralia believes the retailers should only be required to use best endeavours to comply rather than having an absolute obligation.

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

It is unwise to prescribe rigid terminology for use on the Energy Price Fact Sheets. For example, the Victorian "Supply Charge" prescribed in this section is what is commonly called a "Service Availability Charge" or "System Access Charge" in NSW and a "Service Fee" in Queensland for electricity. If the Energy Price Fact Sheets for all states and territories must rigidly use the Victorian term, it may lead to customer confusion in those states that do not use the term "Supply Charge" (eg. if a customer crosschecks Energy Price Fact Sheets against their bills). There should be some flexibility around terminology.

EnergyAustralia believes the requirement to include the units after both the GST exclusive price and the GST inclusive price is unnecessary and leads to the Energy Price Fact Sheet looking crowded especially when it is coupled with the requirement to spell out "cents per" rather than just using "c". A single reference to the units, as a separate column if necessary, is sufficient.

Section 2.7 Other information requirements

2.7.1 Fees

"Key fees include (but are not limited to): ..." This section is too vague about what fees the AER considers to be "key" fees. It should not be a difficult task to specify those fees comprehensively. Otherwise retailers are exposed to inadvertently omitting fees that the AER may, in fact, subsequently consider to be "key".

From the examples of acceptable Energy Price Fact Sheets provided in Attachments A and B, it would appear that an Energy Price Fact Sheet will only be required to list those "key fees" that apply to that particular contract offer. For example, if an Account Establishment Fee is not applicable to that offer, the Energy Price Fact Sheet simply does not list one (as opposed to listing "Account Establishment Fee - \$0"). We support this approach in the interests of keeping the Energy Price Fact Sheets as succinct as possible without unnecessary information. This approach is also consistent with the Wallis Consulting research report, which identified the need to strike a balance between providing enough information for a consumer to make an informed decision without "swamping" them with too much information.

2.7.3 Additional information to be provided

It is unclear what is meant by "an explanation of whether this affects customer eligibility for the offer" when referring to the distribution area applicable to the contract offer. Any Energy Price Fact Sheet is going to be limited to the applicable distribution area or areas.

Given the obligations that currently exist in NSW (and which may continue to exist during a transition period) to offer Green Power accredited products to new and moving customers, we consider the AER encouragement to have separate Energy Price Fact Sheets rather than including the options within a single sheet could potentially result in an exponential growth in the number of Energy Price Fact Sheets and with that a reduction in usefulness to customers. It is also worth noting that for a number of retailers Green Power levels are additional to the offer being made to the customer and can be changed and even removed without it impacting on the customer's underlying offer. Under these circumstances to present green power options as separate Energy Price Fact Sheets is illogical.

Glossary

The definition of "Business days" has a superfluous "other" in it ("Business days means any other day other than a Saturday, Sunday or a public holiday.").

The definition of "Small customer" has a missing "in" ("Small customer has the meaning given in the National Energy Retail Law").

I trust this submission will assist the AER in preparing the Retail Pricing Information Guideline. We look forward to working further with the AER as it prepares further drafts of the Guideline. Please contact EnergyAustralia's Executive Manager – Energy Pricing, Catherine Marshall on (02) 9269 7256 should you have any questions.

Yours sincerely,

A handwritten signature in cursive script that reads "Jane Mills".

Jane Mills

General Manager Sales & Marketing