

21 May 2018

Michelle Looi
Assistant Director, Retail Markets Branch
Australian Energy Regulator

By email: AERinquiry@aer.gov.au



Dear Ms Looi,

Submission to Benefit Change Notice Draft Guidelines

The Public Interest Advocacy Centre (PIAC) is an independent, non-profit legal centre based in New South Wales. Established in 1982, PIAC tackles systemic issues that have a significant impact upon disadvantaged and marginalised people. We ensure basic rights are enjoyed across the community through litigation, public policy development, communication and training. The Energy + Water Consumers' Advocacy Program represents the interests of low-income and other residential consumers, developing policy and advocating in energy and water markets.

PIAC welcomes the opportunity to respond to the AER's draft Benefit Change Notice Guidelines. PIAC supports the intent of the Guidelines, to ensure that consumers can more easily compare and switch energy plans when their benefits expire.

Defining benefit changes

A key aspect of the draft Guideline is the guidance as to when retailers are required to send a benefit change notice. Broadly, this guidance can be considered in two parts:

- The definition of a benefit change; and
- Whether a benefit change is excluded

The AER should provide further definition of what constitutes a benefit change. Currently, the Guideline relies on the broad definition in NERR 45A that a benefit change means:

“(a) a change to, or the expiry of, a benefit (such as a price discount) provided to a customer for a minimum period or a fixed benefit period under a market retail contract during the term of that contract (whether or not as a result of the variation to the contract); and
(b) a change of the type specified in the benefit change notice guidelines, but does not include an excluded change.”

In the Notice of Draft Instrument, the AER implicitly acknowledges that this definition is not specific enough when it further clarifies whether benefit change notices would be required in a number of specific cases. Given that 45A defines a benefit change, in part, as a change specified by this Guideline, PIAC recommends that the AER clarify these issues through definitions in the final Guideline. This will reduce confusion and lead to better outcomes for both consumers and retailers.

Excluded benefit changes

PIAC contends that exclusions should be limited. Therefore, we support the AER's decision to include changes regardless of whether they are beneficial or

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detrimental and whether or they are 'material'. In PIAC's view, consumers should be informed of the impact of any change.

However, PIAC concurs with the AER that there is merit in applying an exclusion for benefit changes where the benefit period is equal to or less than 40 days from the start of the contract. If a benefit change notice was required when such a benefit ended, consumers would need to be notified at the start of the contract, which would be impractical. Therefore, we support the exclusion of such benefit changes under clause 2.3 of the draft Guidelines.

Manner, form and content of the benefit change notice

PIAC supports the draft requirement that benefit change notices be provided to consumers in a manner that aligns with their preference. The AER uses the preference for email notifications as an example, PIAC agrees with this point.

However, the AER should ensure that the requirement also applies where a consumer has explicitly nominated to receive notifications in a language other than English. In that case, the benefit change notice should be presented in the language requested.

With regard to form and content, PIAC concurs with the AER that behavioural insights research should be central to producing the benefit change notice. In order for benefit change notices to lead to better consumer outcomes, they need to provide *better* information, not just *more* information. In PIAC's view, the use of behavioural insights research is an appropriate means of achieving this outcome. PIAC requests that any further insights from the Behavioural Insights Team analysis should be incorporated into the final Guideline.

Finally, PIAC contends that the form and content of benefit change notices should be consistent between retailers and over time to reduce confusion for consumers. For this reason, PIAC supports the draft Guidelines prescribing the inclusion of the of a headline statement, Energy Made Easy callout box and personalised data for use in Energy Made Easy.

Continued engagement

PIAC would welcome the opportunity to meet with the AER and other stakeholders to discuss these issues in more depth.

Yours sincerely,

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