



TRUenergy Pty Ltd  
ABN 96 071 611 017  
Level 33, 385 Bourke Street  
Melbourne Victoria 3000

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Australian Energy Regulator - Markets Branch  
GPO Box 520  
Melbourne VIC 3001

Dear Sir/Madam

I am writing to you in relation to the Australian Energy Regulator (AER) Retail Pricing Information Guideline (the guideline). TRUenergy welcomes the opportunity to provide the following comments in relation to this consultation.

### **Introduction**

In responding to the discussion paper TRUenergy is not entirely clear of its purpose.

TRUenergy has long held the view that such regulatory obligations should be designed to address market failures. While Section 242 of the Retail Law makes reference to the AER being responsible for the drafting of this guideline, TRUenergy does not believe this reference or the existence of similar instruments in some jurisdictions is sufficient justification for the drafting of the guideline. TRUenergy would also question whether the AER should be responsible for the drafting the Pricing Information Guideline given The Australian Energy Market Commission is 'the rule maker and developer for the nation's energy markets'.<sup>1</sup>

In assessing the need for this guideline TRUenergy is of the view that the AER must give greater consideration to the role of private sector comparative websites.<sup>2</sup> Such comparator sites play an important role in helping customers to market informed decisions about choosing their energy retailer without the need for additional regulations.

TRUenergy encourages customers to make informed decisions about their energy needs. Currently there exist a number of different ways in which customers can inform themselves about energy offers in the markets including, via the independent switching companies which have information about different energy offers in the market, visiting government, regulator and energy ombudsman websites and through direct or indirect contact with individual retailers. TRUenergy believes that customers who take the time to inform themselves using these tools are best placed to make the necessary decisions about from which company they buy their energy.

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<sup>1</sup> <http://www.aemc.gov.au/About-Us/Who-we-are.html>

<sup>2</sup> Existing comparator websites include : [switchwise.com.au](http://switchwise.com.au), [goswitch.com.au](http://goswitch.com.au), [switchselect.com.au](http://switchselect.com.au) and [switchpower.com.au](http://switchpower.com.au).

TRUenergy is concerned that the introduction of this guideline may restrict retailers in the way they structure their tariffs in order to enable customers to compare the price of products from different retailers. TRUenergy is of the view that the pursuit of 'standardisation' will come at the cost of product innovation, which will ultimately result in retailers competing solely on price. While it is accepted that price is an important factor in the customer's decision making process for choosing a retailer, other factors such as, rebates, loyalty schemes and non energy offers, are also important.

TRUenergy believes the guideline is ultimately unnecessary in that it will increase the regulatory burden on retailers without any commensurate benefit to end customers. Before proceeding with the implementation of the proposed guideline TRUenergy is of the view that the AER must clearly articulate the benefit to end customers of the measures which the guideline would replicate.

### **Forms of Advertising**

TRUenergy believes that there are existing provisions in the Trade Practices Act which provide customers with sufficient protection from misleading and deceptive mass market advertising. As such TRUenergy is of the view that the guideline should relate only to written and internet energy offers.

### **Price Disclosure Statement**

While price disclosure statements are aimed at providing the customer with more information about their energy offer, TRUenergy believes that such statements can be confusing to the customer and do not inform the customer about the non-price aspects of an offer.

TRUenergy is particularly concerned by the way such disclosure statements have become another form of regulation by requiring retailer to structure their tariffs in such a way so as customers can compare tariffs of different retailers. Moreover such statements can never fully disclose the variations in the way retailers structure their tariffs. For example in the case of billing some retailers bill customers on the number of days while other retailers bill on fixed quarterly billing periods, thus any comparison between tariffs which were billed according to the different processes would be incorrect.

TRUenergy would also refer the AER to the QCA's paper on Amendments to the Electricity Industry Code requiring prior notice for price changes in the Queensland market. If implemented retailers would be required to provide the following to each small customer on a negotiated retail contract in an attachment to their first bill following the price change coming into effect and for each market offer on the retailer's website:

- (a) the amount (and change if applicable) of any loyalty rebate;
- (b) the amount (and change if applicable) of any entry rebate;
- (c) the amount (and change if applicable) of any account establishment fees;
- (d) the amount (and change if applicable) of any exit or early termination fees;

- (e) the amount (and change if applicable) of any direct debit rebate;
- (f) the amount (and change if applicable) of any other fees and charges;
- (g) the date from which the new prices are/were applicable;
- (h) how or where customers can obtain information to manage their energy usage; and,
- (i) the rights of customers to switch energy providers.

TRUenergy maintains that requirements (a)-(f) are focused purely on the financial aspects of the energy contract and fails to take account of any of the non-financial benefits provided by retailers.

Should the AER decide that a price disclosure statement is required TRUenergy would encourage it to look at the approach taken by the Essential Services Commission of South Australia. The key benefit of the ESCOSA guideline is that it enables retailer some level of innovation.

### **Unit pricing**

TRUenergy supports the use of c/kwh and c/mj as the standard units of quoting of electricity and gas prices.

While TRUenergy understands the intention of introducing unit pricing in the retail energy sector, it nevertheless believes it would be too difficult to implement in that non financial benefits would not be factored in to the price.

### **Discounting/Rebates/Fees**

TRUenergy believes all discounts, rebates and fees must be separate from the base price.

However TRUenergy is of the view that retailers must not be either directly or indirectly restricted from discounting against the regulated tariff in those markets where price regulation continues.

In NSW under Section 7.1.7g of the Marketing Code of Conduct retailers are required to:

*'The Customer's right to and applicable Standard Form Contract and how the terms of the offered Supply Arrangement (including all costs), differ from any applicable Standard Form Contract'*

TRUenergy believes such regulations are onerous and encourage retailers to discount against the regulated tariff to minimise regulatory burden. For retailers which do not discount against the regulated tariff, the compliance process is considerably harder in that they must provide the customer with an estimation of what an average customer in the equivalent network area would pay if they were on the regulated tariff compared with the market based offer.

TRUenergy believes this regulation is misleading in that the comparative information provided by the retailer can never fully reflect the true circumstances of the customer. At the same time because such regulations are not competitively neutral first tier retailers are provided with a significant advantage.

As such TRUenergy believes any discounting must not restrict retailers in the way they structure their tariffs.

### **Consumption Guidelines**

Customers' consumption can vary greatly during a billing period due to appliance usage, climatic area, the type of hot water system used in the premises, the size of the customer's premises, the number of the people living in the household and individual habits. Because such guidelines only provide an indicative assessment of their potential energy costs, they are unlikely ever to reflect the customer's actual circumstances and therefore are likely to add confusion.

Given the significant variation in small business consumption profiles, it is likely to be difficult for retailer to provide consumption profiles which are relevant to all small businesses.

Finally due to the introduction of Time of Use pricing, TRUenergy believes that the use of consumption bands will become meaningless because the amount of energy used will no longer be important as the time of day it is consumed. TRUenergy also does not believe the use of the network load profile will be relevant in such circumstances and is of the view that customers will always be better off getting in touch directly with retailer to work out the best offer for their circumstances as opposed to assessing their usage based on consumption bands.

Yours sincerely

Alastair Phillips  
Regulatory Manager  
TRUenergy