AUSTRALIAN ENERGY COUNCIL

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Guide to the Electricity Retail Code Version 2 – Draft for Consultation

The Australian Energy Council (the AEC) welcomes the opportunity to make a submission to the Australian Competition and Consumer Commission (the ACCC) on the Guide to the Electricity Retail Code Version 2 – Draft for Consultation (the Draft Guide).

The AEC is the industry body representing 24 electricity and downstream natural gas businesses operating in the competitive wholesale and retail energy markets. These businesses collectively generate the majority of electricity in Australia and sell gas and electricity to over 10 million homes and businesses.

The AEC understands the role of the ACCC in enforcing the Electricity Retail Code (the Code), and supports the ACCC's approach to date of developing and publishing comprehensive guidance to retailers as to how it will interpret its obligations. However, the AEC is concerned that the consequence of recent amendments to the Code to include time varying tariffs will increase confusion for customers seeking to engage with the market, and may have a number of unintended consequences around the ability of retailers to offer more innovative electricity offers.

Whilst the AEC accepts that this Guide does not in itself create these issues, it does highlight the risks that electricity consumers will face in attempting to engage in the market. To the extent possible within the remit of the Code, the AEC considers the ACCC should at all times seek to enforce the Code in a manner that delivers on the intent of simplifying comparisons for energy consumers. In effect, the AEC would like to see the Guide set out minimum standards that allow all consumers to compare offers between retailers, but encourage retailers to go above and beyond the minimum standards, and develop approaches that provide meaningful comparisons to their customers. The Draft Guide does not achieve that objective, and the AEC considers further efforts are required to enable retailers to offer time varying tariffs in a manner that is understandable to customers, and explainable by customer service staff. Without this, there is a significant risk that retailers will be unable to effectively offer these types of tariffs to customers that might genuinely benefit from them.

Calculating the price of a tariff

The Code primarily is focused on delivering two customer outcomes. The first, is that a retailers standing offer tariff cannot be higher than the Default Market Offer (DMO). The second objective is to enable customers to easily compare the value of a market offers, to enable them to make a choice that best suits their needs.

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The AEC considers that the Draft Guide adequately sets out the ACCC's expectations as to how retailers must develop their standing offer tariffs under the Code. While the approach to develop compliant time varying tariffs is complicated, this is unlikely to impact end customers.

However, the AEC is concerned by the approach taken by the ACCC in the Draft Guide to comparing the price of a time varying offer with the DMO.

Whilst the methodology proposed by the ACCC allows a customer to compare the average value of different tariffs, this is unlikely to benefit customers unless the tariffs being compared are similar in structure, and their own consumption profile is similar to the average profile. For flat tariffs, these two variables are irrelevant, with only the customers total consumption impacting the accuracy of the comparison.

For tariffs with time varying structures, the AEC does not consider customers are able to draw any meaningful information from a comparison percentage expressed in the manner described in the Draft Guide. This is due to the strict requirement to advise a customer of the comparison percentages based on average consumption data, rather than actual customer data. In short, focusing on average usage patterns is likely to result in customers placing weight on a comparison percentage that is potentially incorrect based on their circumstances.

While the AEC acknowledges that this inaccuracy is an unavoidable feature of any reference price, for flat tariffs with fewer variables, this risk can be mitigated through a simple explanation to a customer. Explaining the process to determining the comparison percentage for time varying tariffs would be challenging, and in any event, deliver little actual value to a customer.

Options to mitigate the risks to customers

The AEC considers that the ACCC could decrease the above stated risks by allowing retailers greater flexibility in how they might use the alternative requirements for offers described in section 7.6 of the Draft Guide.

While the ACCC's interpretation of this requirement in the Code would allow retailers to refer to the customers actual expected costs instead of the minimum average costs when they are aware of a customer's historical consumption pattern, they are still required to advise the customer of the comparison percentage. In effect, they are required to provide the customer with both accurate information, and inaccurate information. This seems unlikely to benefit consumers, given the use case of the comparison percentage is to allow a customer to simply compare different offers. In this scenario, a customer would be better served being provided with the actual expected cost number only.

Encouraging retailer innovation in offers

The AEC continues to be concerned that an overly prescriptive comparison approach will decrease the ability of retailers to develop innovative offers that suit customer needs. While these offers are rarely advertised broadly, retailers are still required to advise customers of the comparison percentage and all other necessary information when discussing tailored offers with customers, and in all pricing communications.

The focus on the comparison percentage, as opposed to the expected cost of an offer, will likely create incentives for retailers to ensure their offer is constructed in a manner that aligns to the AER's average profiles, rather than individual customers. In effect, retailers might be unable to market an innovative offer that benefits customers with particular characteristics (for example, a customer who owns a battery might have very low peak consumption), because the comparison percentage would not appear attractive.

The AEC would welcome the opportunity to continue to work with the ACCC and the Government over the next 12 months to further consider opportunities to develop an effective comparison approach, while

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encouraging innovation in tariff design. This will become increasingly important as the industry progresses to developing and implementing more cost reflective tariffs.

For any questions about our submission please contact me by email at ben.barnes@energycouncil.com.au or on (03) 9205 3115.

Yours sincerely,

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