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Australian Competition Consumer Commission
Email: ElectricityMonitoring@accc.gov.au

Dear ACCC

Guide to the Electricity Retail Code – Meridian and Powershop response to the draft consultation

Meridian Energy Australia Pty Ltd and Powershop Australia Pty Ltd (MEA Group or Powershop) thank the Australian Competition and Consumer Commission (ACCC) for the opportunity to provide comments on the Competition and Consumer (Industry Code— Electricity Retail) Regulations 2019 (the Code) Draft Guide (the Guide) to apply from 1 July 2019.

The MEA Group is a vertically integrated generator and retailer focused entirely on renewable generation. We opened our portfolio of generation assets with the Mt Millar wind farm in South Australia and the Mt Mercer wind farm in Victoria. Subsequently, in early 2018, MEA Group acquired the Hume, Burrinjuck and Keepit hydroelectric power stations, further expanding our modes of generation. We have supplemented our asset portfolio by entering into a number of power purchase agreements with other renewable generators, and through this investment in new generation we have continued to support Australia's transition to renewable energy.

Powershop is an innovative retailer committed to providing lower prices for customers and which recognises the benefits to customers in transitioning to a more distributed and renewable-based energy system. Over the last five years, Powershop has introduced a number of significant, innovative and customer-centric initiatives into the Victorian market, including the first mobile app that allows customers to monitor their usage, a peer-to-peer solar trading trial and a successful customer-led demand response program. Powershop has also been active in supporting community energy initiatives, including providing operational and market services for the community-owned Hepburn Wind Farm, supporting the Warburton hydro project, and funding a large range of community and social enterprise energy projects through our Your Community Energy program.

MEA Group acknowledges the enforcement role the ACCC has in respect of the Code and the Guide. However MEA Group believes that the absence of a robust and proper consultation process has led to potential compliance risks for retailer's, creates further de-harmonisation with existing regulatory requirements (particularly price change requirements) and more importantly could potentially result in adverse customer outcomes.

Powershop supports the intent of a reference price as it enables a customer to immediately judge an offer's value by simple comparison. However MEA Group is concerned with the manner in which the Guide requires the reference price to be presented and advertised, as we believe that it is likely to lead to further customer confusion.

The success or failure of a comparison price mechanism relies on customers understanding what the purpose of the reference price is and the benefits it should provide, in order for it to be effective and have the desired impact for industry.

Our responses to the draft decisions are set out below.

Glossary

1. Does the guide provide a glossary with clear terms?

The Code should adopt the Australian Energy Regulator's (AER) Retail Pricing Information Guideline (RPIG) definitions of a 'generally available' market offer and 'restricted' market offer, with these definitions included in the glossary.

Section 2: Requirements that apply concurrently with the Code

2. Does the guide make it clear that retailers must also comply with the requirements under the Australian Consumer Law and National Energy Retail Law in addition to the Code?

The Guide does make it clear that retailers must also comply with the requirements of the Australian Consumer Law (ACL) and National Energy Retail Law (NERL), however we are concerned that the Code's requirement in respect of the mandatory language to be used in advertising may lead to a retailer unintentionally, breaching the ACL (e.g. misleading and deceptive conduct). This is on the basis that MEA Group believes that documenting a reference price in advertising materials is likely to confuse some customers as to the terms of the actual offer.

Section 3: Offers covered by the Code

3. Does the guide make it clear which offer types the Code applies to?

MEA Group believes it is not clear as the Code is not harmonised with existing requirements under the RPIG. The RPIG requires offers to be classified as either generally available or restricted – this approach has not been adopted in the Code.

MEA Group's view is that the Code must adopt the concept and classifications of a generally available market offer and a restricted market offer or risk damaging innovation and competition. Restricted offers will not be comparable to any other market offer given the potential variables (e.g. bespoke metering setups, multiple party energy solutions). For this reason restricted offers should not be subject to the reference price under this Code.

MEA Group encourages the ACCC to exempt restricted offers from the requirements of the Code and thereby incentivise and encourage retailers to provide innovative offers and products.

Section 4: Cap on standing offer prices

4. Does the guide and its worked examples make it clear how to check compliance with the price cap for all relevant offers?

The MEA Group believes the Guide provides clear examples to check compliance with the price cap for all relevant offers.

5. Does the guide make it clear that retailers are expected to contact customers, in compliance with the Code, where their standing offer will change?

While the guide does make it clear that retailers are required to contact customers should their standing offer change as a result of the new price cap, MEA Group does not support the deviation from existing NERL and National Energy Retail Rules (NERR) requirements regarding price or tariff changes.

MEA Group believes that no further derogations should be made from existing NERL and NERR requirements, which is broadly supported by the ACCC's findings in the Retail Electricity Pricing Inquiry. Continuous variations to customer communications, particularly in relation to pricing, will not benefit customers as ultimately increased regulatory process costs are borne by customers.

Section 5: Advertising prices and discounts

6. Does the guide make it clear how all advertisements, publications and offers are required to comply with the Code?

Similar to our response to question 5, the Guide does make the requirements clear, but contradicts existing NERL and NERR provisions. MEA Group encourages the ACCC to remove any duplication that does not have a material benefit to customers and is in conflict with the NERL and NERR.

7. Does the guide provide worked examples that are clear and provide enough information?

The MEA Group is satisfied that the Guide provides clear worked examples and appropriate information to ensure advertisements are compliant.

8. Does the guide provide clear examples of the advertisements that do not comply with the Code?

The MEA Group is satisfied that the Guide provides effective examples of how to ensure advertisements are compliant.

9. Does the guide make it clear that retailers are expected to contact customers, in compliance with the Code, where their market offer will change?

Please refer to our response at questions 5 and 6.

10. Does the guide make it clear that customers should be presented with information which enables them to make an informed decision about the retailer and tariff that is best suited to their needs and circumstances?

The MEA Group believes the Guide provides clear guidance on the retailer and tariff information that is required to be presented to customers.

If you have any queries or would like to discuss any aspect of this submission please do not hesitate to contact me.

Yours sincerely,



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