



public interest
ADVOCACY CENTRE LTD

**Transparent pricing: submission in response to
the *Issues paper: AER Retail Pricing Information
Guidelines***

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1. Introduction

1.1 The Public Interest Advocacy Centre

The Public Interest Advocacy Centre (PIAC) is an independent, non-profit law and policy organisation that works for a fair, just and democratic society, empowering citizens, consumers and communities by taking strategic action on public interest issues.

PIAC identifies public interest issues and, where possible and appropriate, works co-operatively with other organisations to advocate for individuals and groups affected. PIAC seeks to:

- expose and redress unjust or unsafe practices, deficient laws or policies;
- promote accountable, transparent and responsive government;
- encourage, influence and inform public debate on issues affecting legal and democratic rights;
- promote the development of law that reflects the public interest;
- develop and assist community organisations with a public interest focus to pursue the interests of the communities they represent;
- develop models to respond to unmet legal need; and
- maintain an effective and sustainable organisation.

Established in July 1982 as an initiative of the (then) Law Foundation of New South Wales, with support from the (then) NSW Legal Aid Commission, PIAC was the first, and remains the only broadly based, public interest legal centre in Australia. Financial support for PIAC comes primarily from the NSW Public Purpose Fund and the Commonwealth and State Community Legal Services Program. PIAC also receives funding from Industry and Investment NSW for its work on energy and water, and from Allens Arthur Robinson for its Indigenous Justice Program. PIAC also generates income from project and case grants, seminars, consultancy fees, donations and recovery of costs in legal actions.

1.2 Energy + Water Consumers' Advocacy Program (EWCAP)

This Program was established at PIAC as the Utilities Consumers' Advocacy Program in 1998 with NSW Government funding. The aim of the Program is to develop policy and advocate in the interests of low-income and other residential consumers in the NSW energy and water markets. PIAC receives policy input to EWCAP from a community-based reference group the members of which include:

- Council of Social Service of NSW (NCOSS);
- Combined Pensioners and Superannuants Association of NSW (CPSA);
- Park and Village Service;
- Ethnic Communities Council NSW;
- rural and remote consumers;
- Institute of Sustainable Futures (ISF), University of Technology (UTS);
- Western Sydney Community Forum (WSCF); and
- National Seniors.

2. The current review

Under the proposed National Energy Customer Framework (NECF) the Australian Energy Regulator (AER) is likely to be required to publish several guidelines, including Retail Pricing Information Guidelines. Specifically, these responsibilities are likely to be outlined in the National Energy Retail Law (NERL) and National Energy Retail Rules (NERR), once this package has been finalised and has commenced.¹

PIAC welcomes the opportunity to comment on the *Issues Paper: AER Retail Pricing Information Guidelines* (the Issues Paper).² PIAC notes that this consultation has commenced before the formal prescribed consultation timeline proposed in the NERL, and that the extra time for consultation is greatly appreciated.

PIAC also notes that it has been accepted to take part in the AER Retail Pricing Information Guidelines working group, and thanks the AER for this opportunity.

The Issues Paper provides background information on the consultation process, provides relevant research from Australian and other jurisdictions on retail price information standards, and asks a series of questions that the AER seeks responses to through this consultation process.

PIAC does not have the expertise to answer all of the questions posed by the AER and considers that there are areas of overlap in the questions. Therefore, rather than answer each individual question in turn, PIAC, in this submission, provides advice on retail pricing information by setting out pricing information principles and by offering a preferred retail pricing information model. This model has been guided by the information provided in the Issues Paper and by PIAC's own experience and research.

3. Pricing information principles

Pricing information standards are an important factor in ensuring that retail markets are fair, efficient and conducive to effective competition. The absence of pricing standards or some other form of regulated guidelines can lead to the kind of market failure experienced in the NSW energy retail industry, where prices have been obscured, access to price information has been limited and discount rates have been offered without reference to the base tariffs or the discounted tariff that consumers would face in signing up to market offers. PIAC has in the past raised this issue with the relevant regulatory authority, the Independent Pricing and Regulatory Tribunal of NSW (IPART), and IPART has noted its concerns about the impact of these failures on consumer outcomes.³ The NSW Government has since taken action in an attempt to address this concern.

PIAC supports the view that for markets to be effective in delivering fair and efficient outcomes to consumers, consumers need adequate and accessible information on which to base their choices.

¹ Australian Energy Regulator, *Issues paper: AER Retail Pricing Information Guidelines* (2010) [iv] <<http://www.aer.gov.au/content/index.phtml/itemId/734869>> at 29 April 2010.

² Ibid.

³ Independent Pricing and Regulatory Tribunal of NSW, *Final Report: Review of regulated retail tariffs and charges for electricity 2010-2013* (2010) [43-48] <http://ipart.nsw.gov.au/investigation_content.asp?industry=2§or=3&inquiry=196> at 29 April 2010.

In order to be adequate, information must be comprehensive enough for consumers to understand the short- and long-term impacts of their choices. To ensure that the information is accessible, it must be:

- clearly presented;
- simple enough to be understood by all consumers with basic financial literacy and numeracy;
- available to consumers at the time that they are weighing up their options; and
- understandable to members of the community with low levels of English literacy, including those from non-English speaking backgrounds.

In order to ensure the effectiveness of retail markets, pricing information should also be:

- accurate;
- up to date; and
- comparable across different retailers.

Given the complex nature of energy tariffs, in spite of the generic nature of the product itself, PIAC believes that enforceable and standardised guidelines, such as those proposed by the AER, are important in ensuring effective retail energy markets in Australia.

PIAC proposes the following principles for retail pricing information:

1. Pricing information should allow comparison between market offers.
2. Pricing information should be presented in a clear and precise format.
3. Pricing information should be understandable to all consumers who are expected to take part in the market.
4. Pricing information should be available at the time of decision-making.
5. Pricing information should be accurate and current.

4. PIAC's preferred model for retail pricing information

PIAC acknowledges that the application of the above principles may lead to trade-offs. Based on experience advocating on behalf of energy consumers in NSW retail energy markets, PIAC believes that the principles should be applied in the following way to the AER pricing information guidelines.

The AER Retail Pricing Information Guidelines should require that a 'Price information sheet' or similar be provided as a part of door-to-door marketing, and available on retailer websites. This Price information sheet should provide both unit pricing and an estimate of annual costs.

Minimum information requirements should also be specified for mass media advertising; these should include a base rate in addition to any discounts offered. The base rate should be in the form of unit pricing, including time-of-use variations. For print and other media, a template for price disclosure should be developed and should include reference to further information on the retailer's website.

PIAC acknowledges that not all households have access to the internet, but believes the conditions specified offer a workable compromise between the level of disclosure and practicality.

PIAC believes that pricing should be available to consumers as both unit pricing and as an estimate of annual cost. This would provide enough detail to capture complexity of energy pricing, such as time-of-use tariffs, and to allow consumers to calculate the costs for individual household usage where they are interested and able to do so.

To ensure that annual costs are relevant to individual consumers, PIAC recommends that load profiles and demographic averages should in the least be state-based, or by distribution area if possible.

Discounts, rebates and fees should be disclosed separately to the base tariff offer in order to avoid confusion about what is being offered. An additional annual cost could usefully be itemised to illustrate the benefit of the discount. This will avoid an issue faced with price disclosure in NSW, where percentage discounts were being quoted without reference to the base tariff.⁴

5. Other issues

PIAC has comments on two further issues not raised in the Issues Paper.

The first is the availability of price comparator websites. PIAC acknowledges that price comparator websites are somewhat out of the AER's control, but also notes that in some states and territories the jurisdictional regulator has taken responsibility for providing this service. It would be understandable for the AER to consider adopting this role as it takes on an expanded role in the regulation of consumer retail issues. However, PIAC recommends that the price comparator websites remain the responsibility of the states and territories, as this allows for the provision of additional jurisdictional energy information, such as the availability of rebates, concessions and other measures to assist vulnerable consumers.

The second additional item relates to the issue of access raised above in relation to market failures. PIAC has found that in NSW retailers have required potential customers to provide substantial personal information before product pricing is made available. This information has included name, address, driver's licence number and other contact details. PIAC believes that this is inappropriate and a significant barrier to access to the information. It is therefore important that the AER ensure that this practice does occur under the Retail Pricing Information Guidelines.

6. Conclusion

It is PIAC's experience that energy retailers have kept pricing information obscured from consumers, and that this practice has made it difficult for consumers to compare offers across different retailers. The likely outcome of this is that retailers can avoid competing on price. With energy prices set to rise significantly over the coming years, it is important that vulnerable and low-income households are able to find the energy contract that best suits their needs.

For this reason, PIAC recommends that the AER consider the pricing information principles and the preferred model of retail pricing information, outlined above, in the development of the Retail Pricing Information Guidelines.

⁴ Ibid, 44.