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Dr Annette Weier
Chief Executive Officer
Independent Competition and Regulatory Commission
PO Box 161
Civic Square ACT 2608

Submitted via email: icrc@act.gov.au

Dear Dr Weier,

ACT Retail Electricity (Transparency and Comparability) Code Guideline — consultation

AGL Sales Pty Ltd ('AGL') welcomes the opportunity to provide feedback to the Independent Competition and Regulatory Commission's (the 'Commission') consultation on the ACT Retail Energy (Transparency and Comparability) Code Guideline (the 'Guideline') dated 14 July 2021.

AGL is one of Australia's biggest energy providers, providing over 4 million electricity, gas, and telecommunications services to residential, small and large businesses, and wholesale customers in New South Wales, Queensland, Victoria, South Australia and Western Australia. While AGL does not actively market in the Australian Capital Territory (ACT), it is a NERL retailer under Section 75 of the *Utilities Act 2000* (ACT). AGL offers the below commentary for the Commission's consideration:

Transitional Better Offer Arrangements

We commend the Commission for considering stakeholder feedback and allowing for a reasonable timeframe to implement complex system changes associated with the better offer check. However, we question the merit of the transitional better offer arrangements put forward by the Commission and whether clause 3.5 of the ACT Retail Energy (Transparency and Comparability) Code (the 'Code') will serve to "...strike the right balance in avoiding unnecessary costs on retailers..." as intended.¹

Although the full implementation date of the better offer check is 1 July 2022, by 1 October 2021, the Commission expects energy retailers to have designed, developed, and implemented a generalised better offer message for all eligible customer bills and bill summaries. Changes to an energy retail invoice require substantial effort and expenditure of time and resources. Adding new content to an existing bill template requires comprehensive coding and software testing to ensure that the new change does not interfere with other existing bill logic, including in other states. Many retailers are also wholly dependent on third-party mail house vendors to code, print, and issue their bills. At peak demand times, mail house vendors may quote

¹ Independent Competition and Regulatory Commission, Improving the transparency and comparability of retail electricity offers, Final Report, 13 July 2021, p4.



retailer clients a delay of 12 weeks for change requests. Following the proposed 9-month transitional arrangements under the Code, retailers will again have to expend resources to develop the system logic and algorithms required for a customised better offer message to replace the transitional better offer message.

AGL would recommend it is more effective to remove the transitional arrangement and allow retailers the opportunity to focus on meeting the full best offer requirement by 1 July 2022.

We believe, the clear advice entitlement coming into effect on 1 October 2021 will meet the Commission's objective until the better offer provisions take full effect on 1 July 2022 without imposing additional costs associated with the transitional better offer message. The transitional arrangements would serve only to divert limited resources from focusing on full implementation of the Code and increase retailer costs and, therefore, energy costs unnecessarily.

Reference price obligation – Types of communications covered

The Commission has listed several communication mediums which attract the reference price requirement including, but not limited to, digital and traditional mass media advertisements, comparison sites, marketing material and generally, any communication relating to a price, tariff or offer to a small customer in the ACT.² The Guideline also provides an exhaustive list of communications exempt from the reference price requirement such as bills, debt collection notices and where clear advice is provided during an interaction.³ However, it is worth noting that energy retailers issue a variety of service and account maintenance communications which have not been explicitly exempt from the reference price requirement. These communications may include the Confirmation Pack, account remediation letters, communications required under the National Energy Retail Rules, tariff reassignment letters, and a variety of other letters where a price or tariff may appear as part of the service message. As opposed to marketing material, customers cannot opt-out of these service and account maintenance correspondence.

AGL recommends the Commission confirm that these service and account maintenance messages, where a price or tariff may be communicated to a small customer as part of this message, do not attract the reference price requirement.

Better Offer & Multisite Customers

We note that under clause 3.3(4) of the Code, retailers are exempt from performing the better offer check where a small customer receives a single bill for the provision of services at multiple properties. The wording of the Code suggests that this customer cohort is then exempt from receiving a better offer message on their bill or bill summary.⁴ The transitional better offer message provision does not stipulate whether the exemption would also apply until the commencements of the better offer obligations under clauses 3.3 and 3.4 of the Code. AGL supports an exemption for multisite customers from receiving the better offer and transitional better offer message. However, the wording of the relevant provision captures only multisite customers with a collective billing arrangement and is not broad enough to capture all multisite customers, for example, where the premises are contracted under a multisite agreement but where each site still receives an individual bill or

² Independent Competition and Regulatory Commission, ACT Retail Electricity (Transparency and Comparability) Code Guideline Consultation Draft, 14 July 2021, p4.

³ Ibid.

⁴ *Utilities Act 2000 (ACT)*, ACT Retail Electricity (Transparency and Comparability) Code: clause 3.3(1): *Before providing a better offer message in accordance with clause 3.4, a retailer must check whether it has a better offer.*



bill summary for the relevant period. The best offer requirements under the Victorian framework allow for an exemption where the total aggregated consumption of all sites exceeds the small customer threshold. While AGL understands that the Code is not within scope of this consultation, AGL recommends that additional clarification be provided in Guideline to capture various types of multisite arrangements.

Better Offer Message Frequency

Clauses 3.4(1) and 3.5.1(a) of the Code require a NERL retailer to provide a better offer message at least once every three months or once in each billing cycle if the agreed billing cycle is longer. Further, the Code imposes strict requirements on the form, content, and placement of the better offer message with respect to the bill or bill summary. The Commission should consider that there are circumstances outside of the retailer's control which cause bill issue delays beyond the three-month period. Under the Victorian framework, retailers may opt to issue a standalone best offer letter, however, this adds considerable costs to the program of work, may conflict with the current requirements under the Code and, generally, is seen to create customer confusion. The Commission may wish to provide guidance around the better offer message that, in the event of a bill delay outside the reasonable control of the retailer, the retailer should ensure the better offer message appears on the subsequent bill or bill summary.

If you would like to discuss any aspect of AGL's submission, please contact Valeriya Kalpakidis, Regulatory Strategy Manager at vkalpakidis@agl.com.au.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Con Hristodoulidis', with a long horizontal flourish extending to the right.

Con Hristodoulidis
Senior Regulatory Strategy Manager
Policy and Markets Regulation