



**ACT Council of Social Service Inc.**  
1/6 Gritten Street, Weston ACT 2611  
ph. 02 6202 7200  
e. [actcoss@actcoss.org.au](mailto:actcoss@actcoss.org.au)  
w. [actcoss.org.au](http://actcoss.org.au)  
abn. 81 818 839 988

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

Via email: [icrc@act.gov.au](mailto:icrc@act.gov.au)

Dear Dr Weier

**Submission to Consultation Draft: ACT Retail Electricity (Transparency and Comparability) Code Guideline**

Thank you for inviting the ACT Council of Social Service (ACTCOSS) to provide our views and comments on the content and clarity of the Independent Competition and Regulatory Commission's (ICRC) consultation draft of the ACT Retail Electricity (Transparency and Comparability) Code Guideline.

**About ACTCOSS**

ACTCOSS represents not-for-profit community organisations and advocates for social justice in the ACT. ACTCOSS leads the ACT Energised Consumers Project which is co-funded by Energy Consumers Australia (ECA) and the ACT Government. Through this project ACTCOSS advocates for residential, not-for-profit, and small business energy consumers in the ACT.

**Background**

ACTCOSS advocated for the introduction of the ICRC's ACT Retail Electricity (Transparency and Comparability) Code as an important measure to make it easier for small energy consumers in the ACT to identify electricity offers that better suit their circumstances and are likely to reduce their electricity bills. We support the key components of the code, namely that:

- Electricity retailers' prices are to be compared to a reference price
- Electricity retailers are obliged to undertake better offer checks and provide customers with a better offer message on bills or bill summaries
- Customers are entitled to clear advice from electricity retailers.

Electricity is a necessity not a luxury. Energy justice requires that low-income and vulnerable consumers have ready access to electricity at a fair price – they should not be forced to shop around for an essential service. The onus should be on electricity retailers to identify whether a customer would be better off on a different offer and to inform their customers accordingly. If electricity retailers find this challenging or impossible to do, then we cannot reasonably expect most customers to do this themselves.

Requiring electricity retailers to compare their offers to a common reference price is critical to enabling customers to more easily and fairly engage with the market to try to access more affordable electricity.

The clear advice entitlement represents an important piece of 'responsibility-based regulation' – requiring electricity retailers to take responsibility for helping customers navigate their way to the retailer's most suitable energy plan. We value this type of regulation which puts more power in electricity consumers hands while placing more responsibility and accountability on retailers.

## Comments

### Better offer obligation

Our key recommendation in relation to the Guideline is that it should strongly encourage electricity retailers to implement better offer checks and better offer notifications wherever feasible during the transitional period between 1 October 2021 and 1 July 2022 (or a later date as decided by the ICRC). The Guideline should otherwise present no barrier to electricity retailers introducing better offer checks and better offer notifications for all or any cohorts of residential and small business customers during the transitional period.

For example, where a residential or small business customer is on a standing offer and would clearly be better off on a market offer that is based on applying an unconditional discount to the standing offer tariff, electricity retailers should be encouraged to advise their customers accordingly. In such instances, electricity retailers should be permitted and encouraged to use the final better offer message ("We think you could save money on another plan") rather than using the transitional better offer message ("Could you save money on another plan?") during the transitional period. This should also apply where a customer's existing market offer has been superseded by a new, lower-priced/higher-discount market offer.

## Types of customers covered by the reference price obligation

We understand that the *Utilities (Representative Consumption and Reference Price) Determination 2021*, and subsequently the Code and Guidelines, applies to the following types of small customers:

- residential customers on flat tariffs or time-of-use tariffs and whose prices for the supply do not include a controlled load tariff
- residential customers with controlled load on flat tariffs or time-of-use tariffs and whose prices for the supply include a controlled load tariff
- small business customers on flat tariffs and whose prices for the supply do not include a controlled load tariff.

While it may be outside the scope of the Guideline, ACTCOSS recommends that the ICRC and/or ACT Government provide clarification as to why the following types of customers are not covered:

- residential and small business customers on demand tariffs
- small business customers on time-of-use tariffs and whose prices for the supply do not include a controlled load tariff
- small business customers with controlled load on flat tariffs or time-of-use tariffs and whose prices for the supply include a controlled load tariff.

Our view is that the Code should, as far as is practicable, cover all residential and small business customers.

The exclusion of demand tariff customers is of particular concern given the ICRC has previously found that ‘customers on ActewAGL’s demand tariff do not understand how the demand tariff works and are unaware that they can ask to change to a different tariff type’.<sup>1</sup> Through our members delivering frontline community services, ACTCOSS has heard of concerns that low-income households have experienced higher electricity bills and/or bill shock due to being placed on a demand tariff following transition to a smart meter.

## Embedded networks

Section 2.2.2 of the Guideline notes that the Code applies where an embedded network is operated by a National Energy Retail Law (NERL) retailer, but it does not apply where an embedded network is operated by an exempt retailer. Further, a NERL retailer can seek an exemption from the ICRC in the application of the Code to

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<sup>1</sup> ICRC, [Retail electricity price investigation 2020-24 Draft Report](#), ICRC, Canberra, 2020, p 80, accessed 5 August 2021.

its embedded network customers where it considers the costs of implementing the Code could outweigh the benefits to those customers.

Section 3.2.3 of the Guideline notes that the ICRC has determined that the better offer obligation will not apply to embedded network customers.

Section 4.2.2 of the Guideline notes that the ICRC has determined that the clear advice obligation will apply to embedded network customers.

As noted above, ACTCOSS's view is that the Code should, as far as is practicable, cover all residential and small business customers in the ACT. We appreciate that there are practical reasons for the ICRC determining that the Code will be partially applied to embedded networks. However, we would support measures to ensure that the Code provides as much coverage for embedded network customers as possible. This includes recommending that the ICRC consider applying the better offer obligation to NERL retailers with embedded network customers.

More broadly, ACTCOSS is interested in better understanding the nature and extent of embedded networks in the ACT, their regulation, and the experiences of embedded network customers. ACTCOSS has concerns that embedded network customers are particularly vulnerable due to a lack of choice over their electricity provider. We would welcome further engagement with the ICRC on the issue of embedded networks to ensure that these customers are not disadvantaged due to the complete or partial exclusion of embedded networks from certain regulations.

### Bundled offers

We recommend that the Guideline include an example of an advertisement for an electricity and gas bundled offer that would comply with the ACT Code. ACTCOSS would prefer that the Code also applied to gas retailers given the significant number of ACT residential and small business energy consumers who are connected to gas.

### Green charges

Section 2.4.2 of the Guideline addresses green charges as an optional extra offered by electricity retailers. While it is likely to be outside the scope of the Code (and the Guideline), we recommend that where electricity retailers offer green (renewable) energy as an optional extra at an additional cost to customers they should be required to advise ACT residential and small customers that their electricity bill already includes the cost of achieving the ACT's 100% renewable electricity target through the Large-scale Feed-in Tariff Scheme.

### Continued engagement

ACTCOSS strongly supports the introduction of the ACT Retail Electricity (Transparency and Comparability) Code, and we value having clear guidelines for electricity retailers to follow to ensure the Code's objectives are achieved. We thank

the ICRC for inviting ACTCOSS to provide feedback on the consultation draft Guideline. ACTCOSS is keen to engage further in the implementation of the Code and in the further development of electricity regulation in the ACT so that contributes to fairer outcomes for residential and small business energy consumers in terms of their access to safe, secure, reliable, clean, and affordable energy as an essential service. We value the critical role the ICRC plays in achieving such outcomes.

If you would like to follow up on any of the issues raised in this submission please contact [REDACTED], Senior Policy Officer at ACTCOSS on [REDACTED] or [REDACTED]

Thank you for considering our feedback.

Yours sincerely

[REDACTED]

[REDACTED]

CEO

Email: [REDACTED]