



3 August 2021

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

Dear Dr Weier

RE: Consultation draft for the ACT Retail Electricity (Transparency and Comparability) Code Guideline

Shell Energy Australia Pty Ltd (Shell Energy) welcomes the opportunity to provide feedback on the new ACT Retail Electricity (Transparency and Comparability) Code Guideline.

About Shell Energy in Australia

Shell Energy is Australia's largest dedicated supplier of business electricity. We deliver business energy solutions and innovation across a portfolio of gas, electricity, environmental products and energy productivity for commercial and industrial customers. The second largest electricity provider to commercial and industrial businesses in Australia¹, we offer integrated solutions and market-leading² customer satisfaction, built on industry expertise and personalised relationships. We also operate 662 megawatts of gas-fired peaking power stations in Western Australia and Queensland, supporting the transition to renewables, and are currently developing the 120 megawatt Gangarri solar energy development in Queensland. Shell Energy Australia Pty Ltd and its subsidiaries trade as Shell Energy.

www.shellenergy.com.au

General Comments

The new ACT Retail Electricity (Transparency and Comparability) Code Guideline (the Guideline) provides a comprehensive explanation on how NERL retailers can comply with their obligations under the Transparency and Comparability Code.

Shell Energy asks the Commission to provide further clarity around the guidance given on how the obligations are applied to customers in embedded networks. Shell Energy notes that the better offer notification requirements will not apply to NERL retailers' embedded network customers. Shell Energy supports this approach given the impracticalities and the complexities that would arise. However, the Commission proposes that the reference price and clear advice entitlement obligations will apply for NERL retailers' 'embedded network customers' with the purpose being to assist small customers compare retail electricity offers. Shell Energy is seeking clarity from the Commission on the practicable application of these two obligations.

Shell Energy considers that **where a NERL retailer is the parent connection retailer for an embedded network and the customer is large, the Transparency and Comparability Code and as an extension the Guideline, should not apply.**

The Guideline outlines that if the embedded network is operated by the NERL retailer, the Transparency and Comparability Code will apply. Using the example in the Guideline³, it is proposed that a NERL retailer - who sells electricity to a body corporate of an apartment complex, where the body corporate (as the exempt seller) on-sells the electricity to the child meters (individual apartment owners/residents)- is required to provide reference price information to a representative of the body corporate so the body corporate can compare the

¹ By load, based on Shell Energy analysis of publicly available data

² Utility Market Intelligence (UMI) survey of large commercial and industrial electricity customers of major electricity retailers, including ERM Power (now known as Shell Energy) by independent research company NTF Group in 2011-2020.

³ https://www.icrc.act.gov.au/_data/assets/pdf_file/0010/1808641/Consultation-draft-guideline.pdf, pg 3



price it is paying against the reference price. The NERL retailer also must provide to the body corporate, under the clear advice entitlement:

- the estimated dollar impacts of terms and conditions, including tariff structures, that influence the costs they will face over the term of the contract
- any of that retailer's alternative offers that, based on their interaction with the customer, the retailer believes might be better suited to the customer.

However, embedded network customers who NERL retailers may contract with at the parent meter are most likely to be large business customers with load well over 100MWh. That is, the NERL retailers' customer is the person (or business) who buys energy at the site's gate meter and then on-sells the energy to the customers at the site. In this case, the customer at the parent connection point is a large business customer, likely to be on a large customer tariff under a negotiated commercial contract. The parent meter customer is billed and treated like any other large customer by the NERL retailer. In addition, the NERL retailer has no information on the usage profile, tariff allocation, contract conditions, metering, or billing arrangements of the child meters (small customers).

While we note that the Transparency and Comparability Code does not apply to large customers or aggregated business customers with load above 100MWh⁴, sections 2.2.2 and 4.2.2 of the Guideline do not provide this distinction and further the example provided in the Guideline makes this unclear. These clauses are drafted in such a way that the reference price and clear advice obligations apply to a NERL retailer no matter the customer load size. This distinction needs to be made clear as the reference price only applies to small customers under the *Utilities (Representative Consumption and Reference Price) Determination 2021*.⁵

Shell Energy recommends the Commission amend the Guideline, to make it clear that the reference price and clear advice obligations do not apply to an embedded network customer that is a large customer. This will remove any ambiguity around how the Guideline is drafted creating certainty for NERL retailers. It will also ensure that large embedded network customers do not receive information that is not applicable to their circumstances and which will create confusion.

If you would like to discuss this submission further, please contact [REDACTED] at [REDACTED].

Yours sincerely

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

⁴ Under section 56A of the Utilities Act, the ICRC has determined that the ACT Retail Electricity (Transparency and Comparability) Code applies to NERL retailers offering to supply, or supplying, electricity to small customers in the Territory. https://www.icrc.act.gov.au/__data/assets/pdf_file/0008/1790423/ACT-Retail-Electricity-Transparency-and-Comparability-Code.pdf, pg 1

⁵ representative consumption for: residential customer without controlled load- 6,100kWh; residential customer with controlled load – general consumption 6,300kWh, controlled load consumption 2,500kWh; small business- 20,000kWh.