



ICRC

independent competition and regulatory commission

UTILITIES ACT 2000 | INDUSTRY CODE

ACT Retail Electricity (Transparency and Comparability) Code

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PART 1 PRELIMINARY

1.1 Name and authority

This instrument is the ACT Retail Electricity (Transparency and Comparability) Code, which is an industry code determined by the Independent Competition and Regulatory Commission (**ICRC**) under Part 4 of the *Utilities Act 2000* (**Utilities Act**).

1.2 Application to NERL retailers

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 **customers** in the **Territory**.

Section 75H(1)(a) of the **Utilities Act** provides that a **NERL retailer** commits an offence if the **NERL retailer** contravenes an industry code that applies to the **NERL retailer**.

1.3 Simplified outline

Under the ACT Retail Electricity (Transparency and Comparability) Code, **NERL retailers** offering to supply, or supplying, electricity to **customers** in the **Territory** must:

- (1) show how their **prices** for supplying electricity to certain **types of customers** compare to a **reference price**
- (2) tell their **small customers** if they may have a better **retail electricity offer** and invite their **small customers** to contact them for more information or refer to a **price comparator website**
- (3) provide clear, timely and reliable information to assist **small customers** to assess the suitability of, and select, a **retail electricity contract**.

1.4 Definitions

The following definitions apply for the ACT Retail Electricity (Transparency and Comparability) Code unless a contrary intention is specified:

annual reference consumption for a regulatory period, in relation to supplying electricity in the Territory to a customer of a particular type, means the amount specified in the reference price determination for the regulatory period in relation to the supply

annual total cost means the minimal possible amount payable by the customer under the offer excluding the value of any one-off gift or sign-up credits calculated on the basis of the tariff, charges and discount rates current at, as relevant, the date a bill or bill summary will be issued with all discounts applied (except any discount which applies because the customer buys another good or service) and including any amounts deducted, credited or received by the retailer under a government funded rebate, concession or relief scheme

benefit change means a change to, or the expiry of, a benefit (such as a price discount) provided to a customer for a minimum period or a fixed benefit period under

a retail electricity contract during the term of that contract (whether or not as a result of a variation of the contract)

better offer check has the meaning given by clause 3.3

better offer message has the meaning given by clause 3.4

bill summary means a communication from the NERL retailer to the customer that informs the customer that the NERL retailer has issued a new bill, and which includes the bill due date and the amount due

communicate prices for supplying electricity has the meaning given by subclause 2.3(3)

conditional price for a proportional conditional discount means the total annual amount including GST that a representative customer would be charged for the supply of electricity in the regulatory period at the offered prices, assuming the conditions on the discount were met and disregarding any other conditional discounts

customer has the meaning given in the *National Energy Retail Law (ACT) Act 2012*

distribution region means the region in which a particular electricity distribution network operates

explicit informed consent has the meaning given in section 39 of the *National Energy Retail Law (ACT) Act 2012*

fixed benefit period means a period of a retail electricity contract during which a benefit to the customer (such as a price discount) is available and where the end date of that period is specified or ascertainable at the beginning of that period, and earlier than the date on which the contract will end

ICRC means the Independent Competition and Regulatory Commission established under section 5 of the *Independent Competition and Regulatory Commission Act 1997 (ACT)*

lowest possible price means the total annual amount including GST that a representative customer would be charged for the supply of electricity in the regulatory period at the offered prices, assuming the conditions on all conditional discounts (if any) mentioned in the communication were met

market retail contract has the meaning given in the *National Energy Retail Law (ACT) Act 2012*

meter, in relation to a customer, means a device that measures the quantity of electricity passing through it or records the consumption of electricity at the customer's premises

metering data has the same meaning as in the *National Electricity Rules*

NERL retailer has the meaning given in section 75 of the *Utilities Act 2000 (ACT)*

offered price has the meaning given by subclause 2.3(1)

price:

- (a) subject to paragraph (b), includes a charge of any description, including a recurring fee (for example, an annual membership fee)
- (b) does not include any of the following:
 - (i) a one-off fee (for example, a connection fee or reconnection fee or an account establishment fee)

- (ii) a fee for making, or failing to make, a payment in particular circumstances (for example, a credit card transaction fee, a late payment fee or a direct debit dishonour fee)
- (iii) a fee for a service provided on request on an ad-hoc basis (for example, a fee for a meter read requested by a customer)

price change means a change to any of the tariffs or charges payable by a customer under a retail electricity contract

price comparator website means Energy Made Easy (www.energymadeeasy.gov.au) operated by the Australian Energy Regulator

proportional conditional discount means a conditional discount that is calculated as a proportion of all or part of the amount a customer is charged for the supply of electricity at the offered prices

reference price for a regulatory period, in relation to supplying electricity in the Territory to a customer of a particular type, means the annual price in the reference price determination

regulatory period means the period for which a reference price determination is in effect

representative customer, in relation to supplying electricity in the Territory in a regulatory period to a customer of a particular type, means a customer of that type who is supplied electricity in the Territory in the regulatory period in accordance with the annual reference consumption for that regulatory period in relation to the supply

residential customer means a customer in relation to whom the electricity is principally for personal, household or domestic use

retail electricity contract means a standard retail contract or a market retail contract in connection with the sale and supply of electricity to a customer

retail electricity offer means an offer by a NERL retailer to a customer to supply electricity under a retail electricity contract

small business customer means a customer in relation to whom both the following apply:

- (c) the electricity is not principally for personal, household or domestic use
- (d) the supply is, or will be, at a rate less than 100 MWh a year

small customer means a residential or small business customer

smart meter means an interval meter that is designed to transmit metering data to a remote location for data collection and does not, at any time, require the presence of a person at or near the meter for the purposes of data collection or data verification

standard control services are distribution network services that the Australian Energy Regulator classifies as standard control services, as opposed to alternative control services, which form the basic charges for use of the distribution system

standard retail contract has the meaning given in the *National Energy Retail Law (ACT) Act 2012*

Territory means the Australian Capital Territory

type means a customer in respect of which an annual reference consumption is determined in the reference price determination

unconditional price means the total annual amount including GST that a representative customer would be charged for the supply of electricity in the regulatory period at the offered prices, disregarding any conditional discounts

Utilities Act means the *Utilities Act 2000* (ACT).

PART 2 PRICES TO BE COMPARED TO REFERENCE PRICE

2.1 Requirement

A **NERL retailer** is required to perform its obligations under this Part in a way that promotes the objective of this Part.

2.2 Objective

The objective of this Part is to ensure that **NERL retailers** communicate **prices** for the supply of electricity in a consistent way to help **customers** compare **retail electricity offers**.

2.3 Communication must compare prices to the reference price

- (1) This clause applies, at a time in a **regulatory period**, to a **NERL retailer's prices** (the **offered prices**) for supplying electricity in the **Territory** to a **customer** of a particular **type** if both:
 - (a) an **annual reference consumption**
 - (b) a **reference price**are in force in relation to the supply.
- (2) A **NERL retailer** must not **communicate prices** for the supply of electricity (the **offered prices**) unless the communication meets the requirements of subclauses 2.3(4) and (5).
- (3) A **NERL retailer communicates** the **offered prices** if any of the following apply:
 - (a) the **NERL retailer** advertises or publishes the **prices**
 - (b) the **NERL retailer** offers to supply electricity at those **prices**
 - (c) both of the following apply:
 - (i) the **NERL retailer** notifies the **customer** of the **offered prices** in writing (other than as mentioned in paragraph (a) or (b)) as part of notifying the **customer** of a change to the **NERL retailer's prices** for supplying electricity to the **customer**
 - (ii) the **offered prices** are the **prices** that apply after the change.
- (4) The communication must state the following matters, making it clear that the matters relate to a **representative customer**:
 - (a) the difference between:
 - (i) the **reference price**
 - (ii) the **unconditional price**expressed as a percentage of the **reference price**
 - (b) for each **proportional conditional discount** mentioned in the communication, the difference between:

- (i) the **unconditional price**
 - (ii) the **conditional price** for the discount expressed as a percentage of the **reference price**
 - (c) the **lowest possible price**
 - (d) the **distribution region**
 - (e) the **type** of **customer**.
- (5) The communication must state the matters required by subclause 2.3(4) and subclause 2.4(1) if applicable clearly and conspicuously.

2.4 Alternative requirements for personalised offers

- (1) Subclause 2.3(4)(c) does not apply if the offer states the total annual amount the **NERL retailer** estimates the **customer** would be charged for the supply of electricity in the **regulatory period** at the **offered prices**, assuming the conditions on all **conditional discounts** (if any) mentioned in the offer were met.
- (2) In making an estimate for the purposes of subclause 2.4(1), the **NERL retailer** may have regard to:
- (a) the rate at which electricity was supplied to the **customer** in the past
 - (b) the timing or pattern of that past supply
 - (c) any other matter the **NERL retailer** considers relevant.

2.5 Advertising conditional discounts

- (1) A **NERL retailer** must not advertise **prices** for supplying electricity to **customers** if all the following apply:
- (a) the requirements in clause 2.3 apply to the advertisement
 - (b) the advertisement mentions a **conditional discount** in relation to the **prices**
 - (c) the advertisement does not meet the requirements of subclauses 2.5(2) and (3).
- (2) The **conditional discount** must not be the price-related matter that is mentioned most conspicuously in the advertisement.
- (3) The advertisement must state the conditions on the **conditional discount** clearly and conspicuously.

2.6 Records of compliance

- (1) A **NERL retailer** must maintain records that are sufficient to evidence its compliance with this Part, including:
- (a) the content of the **communication**
 - (b) the date of the **communication**
 - (c) how the **NERL retailer** calculated or estimated the matters mentioned in relation to the offered prices.
- (2) The **NERL retailer** must ensure that the records required to be maintained pursuant to subclause 2.6(1) are retained for at least six years.
- (3) The records required to be maintained pursuant to subclause 2.6(1) are not required to contain:

- (a) the name or contact details of the **customer**
 - (b) personal information about a **customer** who is an individual.
- (4) The **NERL retailer** may make a single record for the purpose of subclause 2.6(1) in relation to two or more **communications** if all the following apply:
- (a) the **communications** are made during the same **regulatory period**
 - (b) based on a single template or script
 - (c) substantially identical in content and form, apart from being made to different **customers**.

PART 3 BETTER OFFER NOTIFICATION ON BILLS

3.1 Requirement

A **NERL retailer** is required to perform its obligations under this Part in a way that promotes the objective of this Part.

3.2 Objective

The objective of this Part is to give **small customers** an entitlement to prominently displayed, helpful information that enables them to easily:

- (1) identify whether their **NERL retailer** may have a better **retail electricity offer**
- (2) understand how to contact their **NERL retailer** for more information and advice about whether there is a plan that better suits their circumstances
- (3) understand how to access **retail electricity offers** from other **NERL retailers** via the **price comparator website**.

3.3 Better offer check

- (1) Before providing a **better offer message** in accordance with clause 3.4, a **NERL retailer** must perform a **better offer check**.
- (2) A **NERL retailer** is required to carry out a **better offer check** for a **small customer** as follows:
 - (a) if the **small customer** has a **smart meter**, the **NERL retailer** must use the **metering data** from that **smart meter** to assess whether the **annual total cost** of any of its **retail electricity offers** available to the **small customer** may be less than the **small customer's** current **retail electricity contract**
 - (b) if the **small customer** does not have a **smart meter**, the **NERL retailer** must use reasonable endeavours to assess whether the **annual total cost** of any of its **retail electricity offers** available to the **small customer** may be less than the **small customer's** current **retail electricity contract** having regard to any information the **NERL retailer** has about the **small customer**.
- (3) The reference to 'any information the **NERL retailer** has' in subclause 3.3(2)(b) includes, for example, the tariff structure of the **small customer's** current **retail electricity contract** or the rate at which electricity was supplied to the **small customer** in the past.

- (4) A **NERL retailer** is not required to comply with this clause where the **small customer** receives a single bill in respect of the provision of electricity services at two or more premises.

3.4 Better offer message

- (1) A **NERL retailer** must provide a **better offer message** on a bill or **bill summary** to a **small customer** at least once every three months or, where a **NERL retailer** and a **small customer** have agreed to a billing cycle that is longer than three months, once in each billing cycle.
- (2) A better offer message must:
- (a) if included on a bill, be on the front page of the bill
 - (b) be contained in a border
 - (c) be located adjacent to and no less prominently than the amount due.
- (3) If a **better offer check** conducted in accordance with clause 3.3 identifies a **retail electricity offer** that may be lower priced than the **small customer's** current **retail electricity contract**, the **better offer message** must:
- (a) contain a title using the exact words "We think you could save money on another plan"
 - (b) invite the **small customer** to contact the **NERL retailer** for more information and advice about whether there is a plan that may better suit their circumstances and contain clear and simple instructions on how to contact the **NERL retailer**
 - (c) explain that offers from all **NERL retailers** can be compared on the **price comparator website** and provide the name and web address of the **price comparator website**, including a hyperlink on electronic bills.
- (4) If a **better offer check** conducted in accordance with clause 3.3 does not identify a **retail electricity offer** that may be lower priced than the **small customer's** current **retail electricity contract**, the **better offer message** must:
- (a) contain a title using the exact words "Could you save money on another plan?"
 - (b) explain that offers from all **NERL retailers** can be compared on the **price comparator website** and provide the name and web address of the **price comparator website**, including a hyperlink on electronic bills.
- (5) Nothing in subclauses 3.4(3) and (4) otherwise limits a **NERL retailer** providing other information to **small customers** in a manner and form that promotes the objective of this Part.
- (6) Despite subclause 3.4(1), a **better offer message** on a **bill summary** is required to comply with subclause 3.4(2) only to the extent it is practicable to do so given the method by which a **bill summary** is communicated to the **small customer**.

3.5 Records of compliance

- (1) A **NERL retailer** must maintain records that are sufficient to evidence its compliance with this Part.
- (2) The **NERL retailer** must ensure that the records required to be maintained pursuant to subclause 3.5(1) are retained for at least six years.

PART 4 CUSTOMERS ENTITLED TO CLEAR ADVICE

4.1 Requirement

A **NERL retailer** is required to perform its obligations under this Part in a way that promotes the objective of this Part.

4.2 Objective

The objective of this Part is to give **small customers** an entitlement to clear, timely and reliable information, provided in a respectful manner, to assist the **small customer** to assess the suitability of, and select, a **retail electricity contract**.

4.3 Minimum standards for clear advice

- (1) Prior to obtaining a **small customer's explicit informed consent** to enter a **retail electricity contract**, a **NERL retailer** must communicate to the **small customer** in a readily understandable manner information about:
 - (a) any terms pursuant to which the amounts payable by the **small customer** may vary depending on the actions of the **small customer** (for example, any **conditional discounts**)
 - (b) any terms pursuant to which the amounts payable by the **small customer** may vary depending on the actions of the **NERL retailer** (for example, any terms pursuant to which the **NERL retailer** may make **price changes**, or any specific **price changes** that will apply to the **retail electricity contract**)
 - (c) any terms pursuant to which a **benefit change** may occur
 - (d) the **NERL retailer's** other **retail electricity offers** available to the **small customer** that the **NERL retailer** reasonably believes may be more suitable for the **small customer** having regard to any information the **NERL retailer** has about the **small customer** wherever it is practicable to do so
 - (e) if switching to the **retail electricity contract** involves moving the **small customer** to a new tariff structure, the cost impact that the new tariff structure may have for the **small customer**.
- (2) Subclause 4.3(1) does not apply to charges payable for distribution services other than **standard control services**.
- (3) The reference to 'any information the **NERL retailer** has' in subclause 4.3(1) includes any information the **small customer** provides during the communication required by subclause 4.3(1) or any other information that the **NERL retailer** has about the **small customer** that the **NERL retailer** considers relevant to providing the advice (for example, information about the rate at which electricity was supplied to the **small customer** in the past and the timing or pattern of that past supply).
- (4) In communicating the information required by subclause 4.3(1), the **NERL retailer** must do so in a manner that:
 - (a) insofar as possible, is done by reference to the **NERL retailer's** estimate of the dollar impact on the **small customer**
 - (b) emphasises any information that the **NERL retailer** reasonably believes may be relevant to that **small customer**.

4.4 Records of compliance

- (1) A **NERL retailer** must maintain records that are sufficient to evidence its compliance with this Part.
- (2) The **NERL retailer** must ensure that the records required to be maintained pursuant to subclause 4.4(1) are retained for at least six years.

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