



20 January 2025

Economic Regulation Authority
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Perth BC WA 6849

www.erawa.com.au/consultation

Draft decision: Amendments to the code of conduct for gas marketing

Alinta Energy is pleased to provide comment on the amendments to the *Gas Marketing Code of Conduct 2022 (Code)* proposed in the ERA's Draft Decision.

Whilst acknowledging the proposed amendments are based on recommendations made by the Gas Marketing Code Consultative Committee in its Final Review Report¹, we observe that many are unnecessarily prescriptive and go significantly beyond those recommendations. In a market in which there is no evidence of any significant contravention of the Code, this is disappointing and contrary to the ERA's current regulatory market monitoring approach. Significant new obligations will add not only compliance and auditing costs for retailers, but additional monitoring costs for the ERA. Ultimately, these additional costs will be passed on to consumers.

The Draft Decision advises that the amendments will become effective on 1 July 2025. Because of the significant new obligations proposed and the expectation that the ERA's Final Decision will not be published until April, we urge the ERA to consider a delayed commencement date for at least Division 3A – Basic plan information documents.

Retailers must be given sufficient time from the Final Decision to not only construct a basic plan information document (**BPID**) for each generally available plan, but to update websites, amend processes and train staff, including for third parties who may provide website marketing services.

We consider a 1 January 2026 start date for Division 3A would give retailers satisfactory time to create and publish BPIDs in compliance with the amended Code.

The table below sets out our comments on the specific clauses of the consultation draft Amendment Code which we believe need further consideration.

Please contact us if you have any questions regarding this submission.

Yours sincerely

Catherine Rousch
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Alinta Energy

¹ Gas Marketing Code Consultative Committee, *2024 Final review report to the ERA*, August 2024

Alinta Energy comments on consultation draft Amendment Code	
Clause	Comments
Part 2 – Marketing	
6A. Term used: comparative marketing claim	<p>The word examples relevant to this clause should be removed as, by themselves, they do not provide any context.</p> <p>The example marketing claim ‘Gas is an efficient way to heat’ should be removed as it is not a comparison statement.</p> <p>Whilst these examples are not formally part of the Code, their purpose is to assist the reader to understand and interpret relevant clauses and it is therefore important that they provide clarity.</p>
6B. Standards of conduct for comparative marketing claims 6C. Comparative marketing claims that refer to cooking, space heating or water heating appliances 6D. Comparative marketing claims that refer to cooking, space heating or water heating 6E. Comparative marketing claims that refer to environmental sustainability or greenhouse gas emissions	<p>The Draft Decision advises that clause 6B is an ‘ancillary provision’, establishing that retailers have discretion regarding whether to make comparative claims, but also ensuring that any claims retailers do make include balanced and up-to-date information as set out in clauses 6C to 6E. We believe that, given these are considered to be supplementary obligations, they are excessively and unnecessarily prescriptive and will only serve to discourage retailers from making comparative claims.</p> <p>Retailers are licensed by the ERA to sell gas transported through distribution systems to small use customers. The proposed obligations require retailers to provide customers with detailed information that lies outside this core licensed activity of selling gas. Not only will retailers need to provide technical information about gas appliances (such as the Coefficient of Performance under clause 6C) and gas-related activities such as cooking (including the direct combustion products under clause 6D), but they will also need to provide technical information for the equivalent electrical appliances and activities for comparison purposes. These requirements introduce a whole new suite of accountabilities for retailers for which non-compliance could have significant consequences on their licences. For example, a retailer could be deemed non-compliant with their licence if they incorrectly calculate the estimated cost of use of an electrical appliance as required under clause 6C(4)(b).</p> <p>Unfortunately for customers, these overly prescriptive obligations will mean that instead of providing useful information about gas to customers, retailers will instead cease providing any information at all to avoid being considered non-compliant. This could particularly disadvantage customers who have no choice regarding whether they use gas or electrical appliances, such as renters and low-income households.</p>
9A. Meaning of gas plan, generally available plan, restricted plan and basic plan information document	<p>The definition of ‘restricted plan’ in subclause (3) needs to be clearer; ‘a small use customer who meets criteria set by the retailer that are not within the customer’s control’ is ambiguous.</p> <p>We suggest adopting the definition in the AER’s Retail Pricing Guidelines², which provides that restricted plans are not typically actively marketed.</p>
9G. Retailers must make basic plan information documents available to small use customers	<p>A retailer must make a BPID available within 5 days after the plan becomes available, or if any of the information included in the plan changes.</p> <p>We suggest amending this timeframe to 5 business days.</p>
9I. Retailers must ensure third party websites provide link to basic plan information documents	<p>It is unclear whether this clause applies specifically to third party price comparison websites, or to all third party sales websites including, for example, utilities connection services websites that are not specifically comparison websites.</p>

² Australian Energy Regulator, *AER Retail Pricing Information Guidelines*, version 5.0, April 2018, clauses 77 & 78

Alinta Energy comments on consultation draft Amendment Code	
Clause	Comments
Schedule 1 – Contents of basic plan information documents	
4. Charges	The requirement for a BPID to set out gas supply charges as fixed and usage components is inconsistent with subclause 14(3) of the Customer Contract Regulations ³ , which allow for a supply charge to be determined without reference to a fixed and usage component.
6. Fees not part of plan charges	This obligation is highly prescriptive and does not take into consideration that fees are not regulated but are instead set independently by each retailer. A better approach would be to require a BPID include the fees that are relevant to that particular plan.
Schedule 2 – Terms permitted and not permitted in basic plan information documents	
Table	Before prohibiting certain terminology from BPIDs, consideration should be given to the terms already used by retailers in customer contracts. Disallowing terminology from BPIDs that is currently applied and understood in customer contracts could be confusing for customers.

³ Energy Coordination (Customer Contracts) Regulations 2004