

Utilities (ACT Retail Electricity – Transparency and Comparability Code) Determination 2021

Disallowable instrument DI2021–182

made under the

Utilities Act 2000, section 59 (Determined Codes) and s63 (Public Access)

EXPLANATORY STATEMENT

Purpose of the *Utilities (ACT Retail Electricity – Transparency and Comparability Code) Determination 2021*

The *Utilities (ACT Retail Electricity – Transparency and Comparability Code) Determination 2021* (Code) is an industry code determined by the Independent Competition and Regulatory Commission (ICRC) under the *Utilities Act 2000* (ACT) (Utilities Act).

The Code outlines the requirements for electricity retailers to:

- compare their prices to the *Utilities (Representative Consumption and Reference Price) Determination 2021* in advertising to small customers
- undertake a better offer check to identify if the retailer has a better offer for the small customer, give a message to small customers that they may have a better offer, and encourage the small customer to contact them
- 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.

There is also an obligation for retailers to give small customers the contact details of the Australian Government's price comparator website.

To minimise the costs of implementing the Code, the ICRC has decided to allow a transitional period for retailers to implement the obligation to identify if they have a better offer available for the small customer.

During the transitional period, retailers will have to provide a message to small customers on their bills, recommending the small customer contact the retailer to discuss the different plans that are available. The message must also provide the contact details of the Australian Government's price comparator website.

In the *Utilities (Improving Transparency and Comparability of Retail Electricity Offers) Ministerial Direction 2021*, the Minister gave a direction to the ICRC to determine an industry code to:

- compare the annual price of their offers to the reference bill to enable customers to more easily compare electricity offers; and
- regularly notify their customers if they have a better offer and ask customers to contact them for information.

Consultation on the new Code

Section 59 of the Utilities Act provides for industry codes to be determined by the ICRC. The ICRC may determine an industry code if:

- it has consulted with the Minister and the Minister responsible for technical regulation; and
- it is satisfied that the code is not inconsistent in material respects with another industry code or a technical code; and
- it finds it is necessary or convenient to determine the code.

In accordance with section 59 of the Utilities Act, the ICRC consulted with the Minister and is satisfied that the Code is not inconsistent in material respects with another industry code or a technical code and it is necessary to determine the Code.

Section 60 of the Utilities Act sets out the public consultation requirements for making an industry code.

In accordance with section 60 the Utilities Act, the ICRC has consulted with relevant parties on the new Code. Submissions received and the outcomes of the consultations are detailed in the ICRC's final decision on the ACT Retail Electricity (Transparency and Comparability) Code and report are available on the ICRC's website — www.icrc.act.gov.au.

The ICRC has had regard to the submissions received in response to the consultation process. Public access to the Code and the ICRC's report are available on the ICRC's website — www.icrc.act.gov.au. These documents are also available for inspection by members of the public between 9:00 am and 5:00 pm, Monday to Friday, at the commission's office. Hard copies can be made available on request.

Regulatory impact statement

A regulatory impact statement is not required as this instrument does not impose appreciable costs on the community or a part of the community — section 34 (1) of the *Legislation Act 2001* (ACT). Further, the ministerial direction does not operate to the disadvantage of anyone by adversely affecting their rights or imposing liabilities on the person — section 36 (1) of the *Legislation Act 2001* (ACT).

Human rights

There are no human rights implications arising from this instrument. The instrument does not engage any rights under the *Human Rights Act 2004* (ACT).