21 January 2020

Essential Service Commission
Level 37, 2 Lonsdale Street
Melbourne VIC 3000

Submitted online at enagage.vic.gov.au

Re: Ensuring energy contracts are clear and fair draft decision

1st Energy thanks the Essential Services Commission (ESC) for the opportunity to provide comments on the 'Ensuring energy contracts are clear and fair – draft decision' (the Draft Decision).

1st Energy is a non-integrated, second-tier electricity retailer for residential and SME customers. Founded in April 2015, 1st Energy operates throughout the eastern states of Australia including New South Wales, Queensland, Tasmania and Victoria.

In principle, we're supportive of the intent behind the draft decision and changes that contribute to an energy market that supports and promotes competition, provides energy at a fair and reasonable cost; underpinned by sound Regulatory Impact Analysis.

As our regulator the ESC can exercise considerable powers by which laws are translated into notable changes to the market and our community. The Draft Decision notes that positive changes are now observed in the Victorian market following on from the major reforms implemented on 01 July 2019. Retailer practices and offerings have evolved since the recommendations were made and we will continue to respond to the regulatory environment and market signals. It's understood that markets function more effectively when supported by an underlying sense of trust, and trust is built over time. 1st Energy encourages the ESC to consider allowing more time for the outcomes of the 01 July 2019 reforms to be fully understood and quantified before imposing further reform which is likely to result in a cost impost to customers.

In reviewing the Draft Decision 1st Energy is generally supportive of draft decisions 1, 2, 3 and 4 to the extent that there is a consistent national approach and alignment to the Default Market Offer.

Our first concern centres around the introduction of fixed price periods. We consider fixed price periods are not required given the certainty of the Victorian Default Offer (VDO) and the best offer messaging obligations. This is further supported by the market shifting away from exit fees and the ability for a customer to swiftly choose a new retailer when their current retailer doesn't meet their needs. Given the strong signals in the market assisting customers to engage the decision to impose a price increase on a customer is not taken lightly as no retailer wants to lose a valuable customer. 1st Energy is supportive of providing a fixed price product in conjunction with variable price products allowing the customer to choose

Moreover, the introduction of a fixed price period presents an increased risk premium for retailers. In developing an energy hedging strategy, each retailer will protect the themselves against unfavorable market movements, whether up or down, and manage to a specified set of risk metrics. Even with well-defined risk metrics events such as the Reliability and Emergency Reserve Trader (RERT) cost are unpredictable and beyond a retailers control in an imperfect market. Retailers need the ability to pass unpredictable costs onto a customer or will factor in a risk premium to upfront costs thereby reducing the scope of savings available to customers in the market. 1st Energy asks that it be made clear in draft decision 5 that a VDO price variation event would be triggered in the scenario such as a RERT.

Draft decision 17 reduces the allowable back-billing period to four months. Before amending the allowable back-billing period 1st Energy requests the ESC understand the quantity, intervals and reasons for why back-billing occurs. If the back-billing is occurring due to non-retailer error, then it seems flawed that rule is imposed on retailers when the event is beyond our control. A more preferred outcome would be to amend the back-billing period to four months only when the error is a direct fault or omission of the retailer.

With respect to capping pay-on-time discounts 1st Energy is supportive of a pay-on-time discount that reflects the reasonable costs incurred by each retailer, provides the customer an incentive to switch retailers and to pay their bills on time. We strongly assert the proposed amount of 3.74% is insufficient. For small retailers cashflow is imperative and we rely upon reasonable incentives to encourage on time payment. Furthermore, smaller retailers are unable to access funding at levels in line with the proposed methodology and in the absence of a detailed review to quantify reasonable costs, we propose that the ESC consider major bank overdraft rates as an alternative methodology that reflects a broader range of energy retailers potential cost of capital. A methodology utilised for monopolistic state-owned water companies is not analogous to a competitive energy market with participants of all shapes and sizes.

Pay-on-time discounts not only cover the reasonable costs a retailer incurs but also encourage customers to participate actively in the market. They act as an incentive for a customer to pay their bill on time and setting the amount too low is tantamount to driving this behaviour.

With the requirement to reference market rates against the VDO it seems unnecessary to cap pay-on-time discounts beyond the requirement for retailers to set them at a reasonable level. Perversely, the capping will result in legitimate pay-on-time discounts decreasing and customers losing out.

Finally, with regards to draft decision 15, 1st Energy requests that this requirement is limited to customers entered in the retailer's hardship program providing an appropriately targeted benefit.

In summary, 1st Energy believes the reforms implemented to date are building trust in the energy market and further reforms at this time are unnecessary. We encourage the ESC to consider a detailed review once enough time has transpired for market observations and customer outcomes to be assessed.

1st Energy thanks the ESC for the opportunity to provide a submission. For any queries regarding this response, please contact Aneta Graham, Head of Regulatory and Compliance, [redacted]

Yours sincerely

Liam Foden
Managing Director
1st Energy Pty Ltd