5 July 2019

Kate Symons
Acting Chair
Essential Services Commission
Level 37, 2 Lonsdale St
Melbourne, VIC, 3000

EnergyAustralia Pty Ltd
ABN 99 086 014 968

Level 33
385 Bourke Street
Melbourne Victoria 3000

Phone +61 3 8628 1000
Facsimile +61 3 8628 1050

enq@energyaustralia.com.au
energyaustralia.com.au

Lodged electronically: RetailEnergyReview@esc.vic.gov.au

Dear Ms Symons

ESC – Ensuring energy contracts are clear and fair – issues paper

EnergyAustralia is making changes so things are simpler and fairer for customers. We recognise that customers may have not always benefited from retailer practices resulting in adverse outcomes. As such, we are addressing some of the most common customer "pain points" and consider that this is a step in the right direction to deliver improved customer outcomes.

From 1 July 2019, our new product range means that customers will see:

- Usage and supply charges are fixed for at least 12 months for all new products (no changes to tariffs during a benefit period)
- No conditional discounts (i.e. removal of pay-on-time discounts)
- Reduction of the number of plans from five to an easier-to-understand three (including a 'no discount' plan)
- Guaranteed discounts applied to the entire energy bill (that is, usage and supply charges, not just usage charges)
- No mandatory conditions or exit fees

EnergyAustralia has made these changes to provide certainty to customers around what they can expect from their market plan when they are a customer with us.

EnergyAustralia welcomes the opportunity to make this submission to the Essential Services Commission's (ESC's) ensuring energy contracts are clear and fair issues paper. We agree that there is still room for improvement in retailer practices relating to market contracts.

In given effect to recommendation 4, we encourage the ESC to consider:

- Generally available market offer supply and usage tariffs to be fixed for least 12 months of a customer signing up.
- Certain conditional discounts to be banned.
- Disengaged customers to be rolled onto a like-for-like plan in the first instance.

Regulatory reform should provide fair and simple outcomes for customers. As such, we encourage the ESC to consider recommendation 4 and its subparts not in isolation but as a package. We note that the implementation of recommendation 3 (best-offer message, clear advice, bill change notifications, energy factsheets), the Victorian Default Offer and reference price only took effect from 1 July 2019. We are yet to see what outcome these reforms deliver. While the intention of these reforms is to make it easier for customers to navigate the energy retail market and understand what they can expect to pay, this is yet to be proven. We are already seeing some confusion around what we must inform customers. The ESC will need to provide some confidence that the next round of reforms is addressing the right issues so as not to deliver additional complexities or unintended consequences.

1. Fixing contract prices

Recommendation 4A: retailers to commit to fix any prices they are offering for a minimum of 12 months

EnergyAustralia agrees that the 'bait and switch' practice by some retailers has not delivered optimal outcomes for customers. Customers should not be in a scenario where the tariff that they thought they were going to get, changes shortly signing up to a new contract. As such, EnergyAustralia supports the ESC's intention to ensure individual customers have certainty that their energy prices will not change soon after signing up to a contract.

EnergyAustralia has already made the decision to introduce fixed energy pricing from 1 July 2019. Our new generally available market plans will have fixed usage and supply charges for at least 12 months. Our intention is for our customers, who sign up to one of our new generally available plans, to have the comfort of knowing that they will be on the same usage and same supply charge for at least 12 months. For example, if a customer signs on to a new generally available offer on 10 November 2019, they are guaranteed to receive the same supply and usage charge at a minimum until 10 November 2020. We consider this will provide the best outcome for our customers.

As such, in giving effect to recommendation 4A we encourage the ESC to consider Option 1. That is, requiring retailers to fix usage and supply charges of generally available market offers for at least 12 months of a customer signing up. However, in doing so, this requirement should only apply from the date an individual customer enters into a new contract. Retailers should not be prevented from updating price offers available to other customers in the market. In addition, fixed prices should only apply to general usage and supply charges. Prices such as fees and charges, demand charges, solar feed-in-tariffs, or network ancillary charges should not be fixed.

We note recommendation 4A allows for retailers to request an exemption from the ESC to address unforeseen changes in network costs. We support an exemption process for cost change events that are outside retailer's control or beyond what may have expected. For example:

- costs associated with government law, regulatory or taxation change events

- additional or changed obligations related to renewable/green energy or energy efficiency introduced both at the State or the Federal level beyond what was expected
- one-off AEMO charges
- force majeure and unforeseeable changes in circumstances falling outside of the normal retailer operations.

Recommendation 4B: disclosing the length of time offered prices will be available

The intention of recommendation 4B is to give customers certainty about how long their tariffs will remain unchanged. We consider that the intention of this recommendation has been met through the new obligations from 1 July 2019.

Retailers must make available to customers new Victorian Energy Factsheets for each plan. The energy factsheets will disclose if prices may vary and how and when customers will be notified of price variations. In addition, prior to a customer signing up to a new plan, obligations under the clear advice entitlement require retailers to inform the customer if any terms (including prices or benefits) are subject to change during the term of the contract.

Further, if the ESC requires general supply and usage tariffs to be fixed for 12 months, customers will have confidence that these will remain unchanged for a 12-month period.

Given the regulations that have come into effect from 1 July 2019, we encourage the ESC to review these against recommendation 4B. We do not consider that there is a gap resulting in a detrimental outcome for customers relating to this information provision that needs additional regulation.

2. Practices at the end of benefit and contract periods

Recommendation 4C: Rolling customers onto the nearest matching, generally available offer at the end of a contract or benefit period, unless the customer opts for another offer.

The ESC states that the intention of this recommendation is to give customers confidence that if they do not act at the end of a benefit or contract period they will not be on a significantly more expensive plan. We would suggest that the recommendation's intended outcome is for a customer to not be worse-off if they do not engage at the end their benefit or contract period. This has a broader consideration than price and provides greater protections for customers who cannot, or do not want to engage.

EnergyAustralia's current practice if a customer does not engage with us at the end of their benefit period, is for the customer to continue to receive the same benefits until such time they take a new market offer. We consider that this practice ensures that our customers, who do not engage, are protected from being put onto a significantly more expense or inappropriate offer.

The ESC outlines 2 options to implement this recommendation. Option 1 is for customers to be rolled onto the VDO. While the VDO is intended to be a safeguard price, we consider it may not mean the customer is actually better off as they will lose the benefits from their current market offer. Option 2 is for customers to be rolled onto the 'best-offer'. That is the cheapest generally available offer that does not require paid membership or affiliation. With the introduction of recommendation 3G, customers will receive a 'best-offer' message as a nudge to contact their retailer to ensure they are on the lowest cost plan. One of the concerns with the definition of 'best-offer' was that it is the lowest cost generally available plan – while not always being the most appropriate plan for the customer. We do not consider that rolling a customer onto the 'best-offer' would be the best outcome for customers. The clear advice entitlement, which was introduced to mitigate any risk of the 'best-offer' not being appropriate, would not be effective in the scenario of a customer not engaging. Ultimately, this means that the customer is could be worse-off on a 'best-offer'.

To ensure customers who do not engage at the end of the benefit or contract period are not worse off, the ESC should consider a hybrid solution. In the first instance the customer should be rolled onto a market offer with similar benefits. If the customer is ineligible for the similar market offer (i.e due to tariff changes) then the customer is rolled on to the VDO.

3. How discounts are presented

Recommendation 3A: Require retailers to market their offers in dollar terms, rather than as percentages or unanchored discounts.

We support the ESC's approach to give effect to recommendation 3A by amending the Energy Retail Code to require the Victorian Default Offer to be used as a reference price for discounts on electricity tariffs. We consider that this meets the intention the recommendation to make it easier for customers to compare offers.

We encourage the ESC to give effect to the Victorian Government's s13 Order in Council requirements largely as is. We have made the operational and marketing decisions to implement these requirements and significant changes or additional requirements to marketing could exacerbate customer confusion. For example, we support the continued flexibility that the reference price can be percentage or dollar terms and the reference price information in a disclaimer.

However, we would appreciate the ESC providing clarity and flexibility around certain aspects. The Order requires us to show how the offer compares to the reference price and what the difference is. We consider that the reference price should only apply to where we use a numerical discount. At the moment, it is not clear if the retailers are expected to apply this in proposition advertising such as 'get a guaranteed discount'. We would also encourage the ESC to consider requiring the reference price discount to be the most prominent discount in an advertisement if there are other conditional discounts. Further, the ESC should adopt a 'one-click' approach for advertising/marketing that has character limitations. For example, showing a discount on a digital banner has character limitations. By allowing retailers the flexibility to direct the customer to the retailer's website to read the disclaimer provides a better customer outcome.

4. Making discounts evergreen

Recommendation 4D: Conditional discounts or other benefit offered for paying on-time or on-line billing should be evergreen, so customers do not lose the discount or other benefit when the contract ends.

Recommendations 4E: Costs incurred by customers for failing to meet offer conditions are to be capped and not be higher than the reasonable cost to the retailer

From 1 July 2019, EnergyAustralia will no longer offer plans which have conditional discounts. That is, we have removed any requirements for a customer to take a certain action to receive a discount, such as pay-on-time discounts. We agree that conditional discounts can have a detrimental effect for those customers that do not meet the conditions and have eroded customer confidence that they are receiving value for money.

We would encourage the ESC to consider the pros and cons of banning certain conditional discounts altogether given they are not indicative of the best value for customers. Should the ESC consider banning certain conditional discount, retailers will need some incentive to encourage customers to pay on time, such as a late payment fee. This incentive would need to cover the cash flow of an overdue account. Retailers are required to cover the wholesale costs, metering services and administrative costs of an overdue account.

We note that the ESC states that that the implementation of this recommendation would end the practice of benefit periods. We consider that benefit periods are not the problem. It is the conditional discounts itself. EnergyAustralia's products have a 12-month fixed prices for general usage and supply charges. The 12-month fixed price is the benefit that the customer will receive. As such, by ending the practice of benefit periods our customers lose something that is beneficial to them. This is an unintended consequence. The ESC should address the real issue relating to retailer practices by considering banning certain conditional discounts. In this way, governments and the ESC can have confidence that customers are not adversely impacted by not meeting a condition.

Notwithstanding EnergyAustralia's views on conditional discounts, we do have concerns with how the ESC has defined the intended outcome. As outlined in the issues paper the ESC's intention is for a customer to receive the same conditional discount from when they first signed up with a retailer to the time they churn out (if they churn out). It is unreasonable that a retailer is expected to support a conditional discount for the whole life of energy supply. If the intention is to discourage retailers from offering conditional discounts we consider it is more effective to ban conditional discounts.

We also ask the ESC to clarify the term 'other benefit'. Is it the ESC's intention to also end the practice of incentives such as rewards, rebates or benefits such as movie tickets or physical items? We consider retailers should still be able to incentivise customers or offer value additions to targeted customer cohorts.

Regarding recommendation 4E, if the practice of conditional discounts remains we would encourage the ESC to engage with the AEMC's rule change to regulate conditional discounting. This will ensure consistency across the regulatory frameworks and reduce any complexities and inefficiencies for retailers having to comply with two different regulatory methodologies requirements.

If you would like to discuss this submission, please contact Carmel Forbes on [redacted].

Regards

Carmel Forbes

Industry Regulation Lead