Centre for Theology and Ministry
29 College Crescent
Parkville Victoria 3052

Essential Services Commission
Level 37, 2 Lonsdale Street
Melbourne, Victoria, 3000
E-mail: RetailEnergyReview@esc.vic.gov.au

Submission from the Synod of Victoria and Tasmania, Uniting Church in Australia to the Essential Services Commission on Victorian Default Offer for domestic and small business electricity customers

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The Synod of Victoria and Tasmania, Uniting Church in Australia welcomes this opportunity to provide comment on the Essential Services Commission *Victorian Default Offer for domestic and small business electricity customers* Staff working paper.

The meetings of the church representatives of congregations across Victoria expressed concern at the privatisation of the electricity industry when it was happening, because of the risks posed to people already struggling to make ends meet and to keep the lights on. In 1994 the Synod meeting passed a resolution stating that the Synod should:

> *make strong representations to the Victorian Government that access to affordable water and fuel is a basic human right in Victorian society.*

This was followed in 1995 by a resolution that stated

> *(a) To express the Synod's opposition to further privatisation of Victoria's electricity, water and gas industries, because it does not believe it enhances community co-operation and equitable access to these essential services, and to advise the Victorian Government accordingly.*
>
> *(b) To request the Victorian and Australian Governments and opposition parties to each provide a clear statement on its policy position on the privatisation of public utilities.*

Privatisation has seen energy retailers seek to maximise profits at the expense of people on low income using a variety of techniques, including increasing charges over time for people who stay with the one provider and the offering of artificial discounts.

The Australian Competition and Consumer Commission concluded after their analysis of retail energy pricing that:[1]

[1] Australian Competition and Consumer Commission, 'Restoring electricity affordability and Australia's competitive advantage. Retail Electricity Pricing Inquiry – Final Report', June 2018, v,

Electricity retailers have also played a major role in poor outcomes for consumers. Retailers have made pricing structures confusing and have developed a practice of discounting which is opaque and not comparable across the market. Standing offers are priced excessively to facilitate this practice, leaving inactive customers paying far more than they need to for electricity. Pay on time discounts, which have emerged as a response to attempts to constrain late payment fees, are excessive and punitive for those customers who fail to pay bills on time.

The ACCC found that retail margins grew by 16% in real terms on average across the National Energy Market between 2007-2008 and 2017 – 2018.[2]

The ACCC reported on techniques electricity retailers used to undermine a genuine market on electricity prices:[3]

The dominant form of competition among retailers has been the advertisement of large headline 'discounts' which retailers have observed are an effective and simple way to connect with price conscious consumers. These discounts are highly problematic for several reasons. Each retailer sets its discounts with reference to its own independently set prices (usually standing offer prices) meaning that there is no easy way to compare the headline discount of one retailer to that of another. In many cases, consumers will be better off with offers that have lower discounts attached to them but which have a lower underlying tariff rate. A further problem with discounting is the common practice of the discount being conditional on the customer paying on time. These discounts are achieved only 56 per cent of the time for payment plan customers and only 42 per cent of the time for hardship customers (see figure F). Customers who do not pay on time are, in effect, paying very large late payment penalties, often amounting to hundreds of dollars per year.

These practices create significant confusion for consumers, causing some consumers to make decisions based on simple indicators (such as which headline discount is largest), to use third party comparator services (which add costs to the supply chain through the commissions they charge to retailers) or to disengage altogether.

The Synod supports the introduction of the Victorian Default Offer (VDO) by 1 July 2019 to try and cap how much people on low incomes can be charged by energy retailers. However, given the existing pattern of behaviour the Synod expects that electricity will seek to have the VDO set as high as possible. It is likely the VDO will become the highest price in the market, unless the electricity retailers can make a market offer at a higher price due to some additional service or feature being provided or they can deceive people into a higher price offer by the people in question not understanding the contract they are signing up to. Thus the Essential Services Commission must build into the setting of the VDO robust integrity checks and the ability to compel information to reduce the ability of electricity retailers to get the VDO set as high as possible. We note the recent

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https://www.accc.gov.au/system/files/Retail%20Electricity%20Pricing%20Inquiry%E2%80%94Final%20Report%20June%202018_Exec%20summary.pdf

[2] Australian Competition and Consumer Commission, 'Restoring electricity affordability and Australia's competitive advantage. Retail Electricity Pricing Inquiry – Final Report', June 2018, v, https://www.accc.gov.au/system/files/Retail%20Electricity%20Pricing%20Inquiry%E2%80%94Final%20Report%20June%202018_Exec%20summary.pdf

[3] Australian Competition and Consumer Commission, 'Restoring electricity affordability and Australia's competitive advantage. Retail Electricity Pricing Inquiry – Final Report', June 2018, xi - xii, https://www.accc.gov.au/system/files/Retail%20Electricity%20Pricing%20Inquiry%E2%80%94Final%20Report%20June%202018_Exec%20summary.pdf

concerns the ESC has raised with regards to the inaccurate data that AGL had been providing the ESC. We further share the ESC's concern, expressed in its letter to AGL on 14 September 2018, that AGL did not inform the ESC about deficiencies in their reporting systems at the time of the 2016-2017 audits. Further, AGL only notified the ESC about its reporting deficiencies in August 2018, despite having notified the Australian Energy Regulator months earlier in April 2018. This does not bode well for the ESC relying on electricity retailer supplied information if the ESC lacks adequate powers to compel accurate information and be able to test the integrity of the information provided.

The VDO does not overcome the equity market in the electricity market where wealthy people with higher credit ratings or greater usage of electricity are likely to be offered a lower market price for electricity than those on low incomes who are struggling to make ends meet.

Even the ACCC found that:[4]

> *Consumers facing particular hardship and socioeconomic barriers to effective engagement in the electricity market are unlikely to get all of the benefits that competition can offer in this market.*

The Australian Competition and Consumer Commission found that:[5]

> *The gap between the best and worst offers in the market has been widening, effectively acting as a tax on disengaged customers, whether a customer is disengaged by choice or because of the unnecessary complexity.*

The VDO is likely to go some way to closing that gap, provided that other supportive measures are introduced and avenues aggressive retailers might use to try and protect existing profit margins are closed off by government regulation and enforcement action.

There will be a risk that electricity retailers will effectively collude to red-line some people who they regard as low value, only offering them the VDO which may end up being the highest priced offer in the market. Such collusion can take place without direct communication between retailers, if they simply observe each other over time and adopt a collective strategy to red-line certain groups of people. Further, people on other market offers might be only offered the VDO when their market offer finishes, as a way of the retailers forcing people onto the higher cost offer (in this case the VDO).

An additional strategy that electricity retailers may adopt is to target customers they regard as low value with any fees or charges they are able to, if such an avenue is not locked down.

One solution to these problems would be for the Victorian Government to encourage and actively support the emergence of more social energy retailers, some of which even may be not-for-profit, that adopt values to provide a good deal to people on low incomes. An example of this kind of provider is Coop Energy in the UK, which has not been without its problems.

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[4] Australian Competition and Consumer Commission, 'Restoring electricity affordability and Australia's competitive advantage. Retail Electricity Pricing Inquiry – Final Report', June 2018, xii, https://www.accc.gov.au/system/files/Retail%20Electricity%20Pricing%20Inquiry%E2%80%94Final%20Report%20June%202018_Exec%20summary.pdf

[5] Australian Competition and Consumer Commission, 'Restoring electricity affordability and Australia's competitive advantage. Retail Electricity Pricing Inquiry – Final Report', June 2018, xi, https://www.accc.gov.au/system/files/Retail%20Electricity%20Pricing%20Inquiry%E2%80%94Final%20Report%20June%202018_Exec%20summary.pdf

The UK is moving to introduce something similar to the VDO for what appear to be the same market failings that have been experienced in the UK as have been problems in Australia. The main difference in the UK is the much greater proportion of people who remain on default offers.

There are those who have been using the UK as an example of what might happen in Victoria with the introduction of a VDO, so it is worth considering the UK experience.

The Office of Gas and Electricity Markets (Ofgem) has reported that half of people purchasing electricity are still on expensive default tariffs: [6]

> *Around 54% were on default tariffs for more than three years. These customers are typically paying more than they need to for their energy. The difference between the average standard variable tariff (SVT) price of the six large suppliers and the cheapest market tariff was on average £320 between June 2017 and June 2018.*

Ofgem reported that in 2018 there were now 5 million people in the UK on the safeguard tariff to protect them from "unjustified price increases".[7] In the UK the introduction of the safeguard tariff saw price dispersion narrow, which was mainly due to suppliers reducing higher prices to comply with the cap, while the market cheapest tariffs remained roughly at the same level and were offered in most cases by the smaller suppliers.[8]

There are around four million people on pre-payment meters in the UK, representing about 16% of customers. Competition has not worked well for these people, who have traditionally had less choice in the market, due to technical restrictions.[9] More than half the people in the lowest income decile have a pre-payment meter.[10] Only 32% of households using pre-payment meters had engaged in the electricity market in 2018.[11] The best deals in the electricity market are not available to these people. On 28 June 2018, the cheapest pre-payment meter deal in the market for a typical dual fuel customer would have an annual cost of £947, around £150 more than the best value offer for an equivalent customer paying by direct debit.[12]

Reforms in the UK have seen the market share of the big six energy firm's market share of domestic customers drop from 85% at the end of 2016 to 78% by the end of 2017, as smaller rivals lured customers away with cheaper deals.[13] In February 2018 the UK government introduced new legislation to force Ofgem to cap what she called "rip-off" prices until 2020, after which Ofgem

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[6] Ofgem, 'State of the energy market 2018 report', 4, https://www.ofgem.gov.uk/system/files/docs/2018/10/state_of_the_energy_market_report_2018.pdf
[7] Ofgem, 'State of the energy market 2018 report', 4, https://www.ofgem.gov.uk/system/files/docs/2018/10/state_of_the_energy_market_report_2018.pdf
[8] Ofgem, 'State of the energy market 2018 report', 33, https://www.ofgem.gov.uk/system/files/docs/2018/10/state_of_the_energy_market_report_2018.pdf
[9] Ofgem, 'State of the energy market 2018 report', 32, https://www.ofgem.gov.uk/system/files/docs/2018/10/state_of_the_energy_market_report_2018.pdf
[10] Ofgem, 'State of the energy market 2018 report', 67, https://www.ofgem.gov.uk/system/files/docs/2018/10/state_of_the_energy_market_report_2018.pdf
[11] Ofgem, 'State of the energy market 2018 report', 66, https://www.ofgem.gov.uk/system/files/docs/2018/10/state_of_the_energy_market_report_2018.pdf
[12] Ofgem, 'State of the energy market 2018 report', 67, https://www.ofgem.gov.uk/system/files/docs/2018/10/state_of_the_energy_market_report_2018.pdf
[13] GlobalData Energy, 'UK power market privatisation: Big Six under pressure', Power Technology, 3 August 2018, https://www.power-technology.com/comment/uk-power-market-transition-big-six-pressure/

would decide whether it should be extended on an annual basis until its expiry in 2023. Ofgem was working to have the capped price in place by the end of 2018.[14]

Six energy suppliers have monopolised the UK energy market since the gas and electricity networks were privatised, but over 60 smaller rivals have recently emerged as effective competition.[15]

In 2018 the big six electricity corporations in the UK had profit margins between -5% and 8% measured as earnings before interest and tax (EBIT) as a percentage of revenue.[16] By comparison, the ACCC reported that the retail net margin in Victoria was 11%, measured as EBITDA % of customers' total bills in 2015-2107[17], making Victoria one of the highest retail margins in the world.[18]

The big six electricity corporations held 99% of the domestic supply market in the final quarter of 2012.[19] Many of the small electricity retailers have created unique selling points by providing a niche service to the market, such as solely providing prepaid energy or only supplying 100% renewable energy to cater for greener consumer trends.

However, despite this shift in market distribution and people being willing to look for better deals, Ofgem reported that:[20]

> *Across 2016-17, energy bills accounted for 4.0% of total expenditure for the average household, compared to 4.4% the previous year. For the lowest-income households, the proportion spent on energy is twice as much, but fell by 1.3 percentage points since 2015-16. This improvement was primarily driven by lower energy consumption. However, recent energy price rises are likely to increase bills.*

Further:[21]

> *Private renters in England are consistently more likely to be in fuel poverty than other types of households. 19.4% of private renters in England are in fuel poverty, compared to an overall average of 11.1%. The higher rate of fuel poverty in the private rented sector compared to the social sector is partly driven by the relative energy performance of homes in each market. In 2016, 7% of privately rented homes were rated F or G (i.e. of lowest energy efficiency), compared to just 1% in the social sector.*

Fuel poverty in England is defined as if the household has higher than typical energy needs, and it would be left with a disposable income below the poverty line if it spent the required money to meet those needs.[22]

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[14] Ofgem, 'State of the energy market 2018 report', 3, https://www.ofgem.gov.uk/system/files/docs/2018/10/state_of_the_energy_market_report_2018.pdf
[15] GlobalData Energy, 'UK power market privatisation: Big Six under pressure', Power Technology, 3 August 2018, https://www.power-technology.com/comment/uk-power-market-transition-big-six-pressure/
[16] Ofgem, 'State of the energy market 2018 report', 27, https://www.ofgem.gov.uk/system/files/docs/2018/10/state_of_the_energy_market_report_2018.pdf
[17] Australian Competition and Consumer Commission, 'Restoring electricity affordability and Australia's competitive advantage. Retail Electricity Pricing Inquiry – Final Report', June 2018, 26.
[18] Australian Competition and Consumer Commission, 'Restoring electricity affordability and Australia's competitive advantage. Retail Electricity Pricing Inquiry – Final Report', June 2018, 146.
[19] GlobalData Energy, 'UK power market privatisation: Big Six under pressure', Power Technology, 3 August 2018, https://www.power-technology.com/comment/uk-power-market-transition-big-six-pressure/
[20] Ofgem, 'State of the energy market 2018 report', 5, https://www.ofgem.gov.uk/system/files/docs/2018/10/state_of_the_energy_market_report_2018.pdf
[21] Ofgem, 'State of the energy market 2018 report', 5, https://www.ofgem.gov.uk/system/files/docs/2018/10/state_of_the_energy_market_report_2018.pdf

By comparison, RMIT research commissioned by VCOSS found 7.3% of Victorian households have persistent bill payment difficulty and 1.8% of Victorian households are persistently unable to heat their homes.[23]

Dr Mark Zirnsak
Senior Social Justice Advocate
Phone: [redacted]
E-mail: [redacted]

[22] Ofgem, 'State of the energy market 2018 report', 62, https://www.ofgem.gov.uk/system/files/docs/2018/10/state_of_the_energy_market_report_2018.pdf
[23] VCOSS, 'Battling On. Persistent Energy Hardship', November 2018, 4.