

Stakeholder submissions on draft decision 2 (consolidated)

We received 14 submissions on our draft decision 'Helping customers Engage in the Market', which was released on 18 December 2018.

Feedback was provided by 10 retailers (including one confidential submission), three consumer groups and the Energy and Water Ombudsman (Victoria).

The parties who made non-confidential submissions can be found on the pages below:

Submission provided by	Page number
AGL	3
Amaysim	12
Consumer Action Law Centre	14
Consumer Policy Research Centre	22
EnergyAustralia	24
ERM Power	27
Energy and Water Ombudsman	29
Momentum Energy	33
Onsite Energy Solutions	35
Origin Energy	38
Powershop	40

Red Energy and Lumo Energy	43
Simply Energy	48
Victorian Council of Social Service	50



AGL Energy Limited
ABN: 74 115 061 375
t: 02 9921 2999
f: 02 9921 2552
agl.com.au

Essential Services Commission

Submitted electronically: retailenergyreview@esc.vic.gov.au

4 February 2019

Essential services Commission – Draft Decision - Helping customers engage confidently in the retail energy market

AGL welcomes the opportunity to make a submission in response to the Essential Services Commission of Victoria (Commission) draft decision on implementing recommendations 3A – 3E (Draft Decision) of the Independent Review of Electricity and Gas Retail Markets (Thwaites review).

AGL is broadly supportive of the purpose of recommendations 3A-3E from the Thwaites review to improve transparency in the market and assist customers. We support and encourage the Commission to undertake full alignment with the Australian Energy Regulator (AER's) Retail Pricing Information Guideline (RPIG) to achieve these outcomes.

AGL's key concerns are around the timing of the process and expected implementation date, as well as the lack of details contained within the Draft Decisions. The implementation for this round of changes is 1 July 2019 and is based on the Commission issuing a Final Decision on 30 January 2019 (in line with the Terms of Reference).

We note that the Commission has not released their Final Decision and in late December 2018 issued a revised program of work that will result in a Final Decision being made in late April 2019. We support the Commission in taking additional time to conduct further consultation to ensure they make an informed Final Decision but strongly encourage the Commission to seek a change for the implementation date that accommodates the new timeframes and processes.

Firstly, without draft Code changes it is difficult to provide robust or meaningful feedback on the Draft Decision. Drafting of Code changes can have significant impacts on how retailers operationalise requirements and the final outcomes. We note also that draft decisions 2, 4, 5, 6 and 7 refer to a separate consultation process making our ability to provide feedback limited.

Additionally, we welcome the commitment by Department of Environment, Land, Water and Planning (DEWLP) to develop Victoria Energy Compare (VEC) functionality for producing fact sheets, noting the time needed to upgrade VEC. However, given the reliance on the DEWLP upgrade of VEC, we strongly encourage the Commission to change the implementation date to be two months from the completion of upgrades to VEC to ensure there is time for testing and integration into retailer systems and processes.



Additional comments are provided in the attachment for the Commission's consideration. Should you have any questions in relation to this submission, please contact Kathryn Burela on [REDACTED].

Yours sincerely

Elizabeth Molyneux

General Manager Energy Markets Regulation



The below table summarises AGL’s position on the key draft decisions. We are unable to further comment on the decisions in grey as they are subject to a separate technical consultation.

Draft Decision	AGL high-level comment
DD1 – new Victorian energy fact sheet (VEFS) to replace PPIS.	AGL supports full alignment with the AER RPIG requirements, including language and references such as “Basic Product Information Disclosure” for consistency.
DD2 – Form and content of VEFS to be based on RPIG BPID	This draft decision is subject to a separate technical consultation. AGL supports in principle if there is full alignment with AER RPIG requirements.
DD3 – VEFS to include a comparison mechanism (typical customer usage profiles based on BPID)	Supported if fully aligned with AER RPIG requirements.
DD4 – typical customer usage profiles that align with AER equivalents.	This draft decision is subject to a separate technical consultation. AGL supports in principle if there is full alignment with AER RPIG requirements.
DD5 – VEFS availability to customers. All marketed offers must point to existence of corresponding factsheet and on most mediums but not VEC website.	This draft decision is subject to a separate technical consultation. AGL supports in principle if there is full alignment with AER RPIG requirements which would also include VEC functionality for customers to find factsheets through the website.
DD6 – Fact sheets to be referenced in marketing material. Retailers or agents marketing energy plans that reference prices, discounts or value of existing or potential plans must clearly have specific statement.	This draft decision is subject to a separate technical consultation. AGL supports in principle if there is full alignment with AER RPIG requirements.
DD7 – consultation on technical matters (for draft decisions 2, 4, 5 and 6).	AGL do not support the separation of these matters while continuing ahead with the release of a draft decision and commitment to a 1 July implementation date. Stakeholders require detail and direction to be included in a draft decision to be able to assess and provide comment on potential impacts of approach.
DD8 – customer meter read provisions to align with final AEMC Rule change	Supported if fully aligned to exclude smart meters. AGL provided substantial detail to the AEMC on why smart meters should be excluded. This was ultimately accepted by the AEMC.
DD9 – commencement date of marketing and info disclosure code amendments for 1 July 2019	Not supported. The Terms of Reference required a final decision by 30 January 2019. The Commission has taken extra time to consider this decision and conduct technical consultation. We consider that it is reasonable to therefore provide additional time to industry to implement and note the ability to deliver is heavily reliant on DEWLP timing on updating VEC and then retailer time to integrate with the new system requirements. Based on the EME experience, this should be 2 months from VEC upgrade completion.
DD10 – commencement of customer read estimates amendments for 1 July 2019	Supported if aligned with comments in DD8.

Timeframes

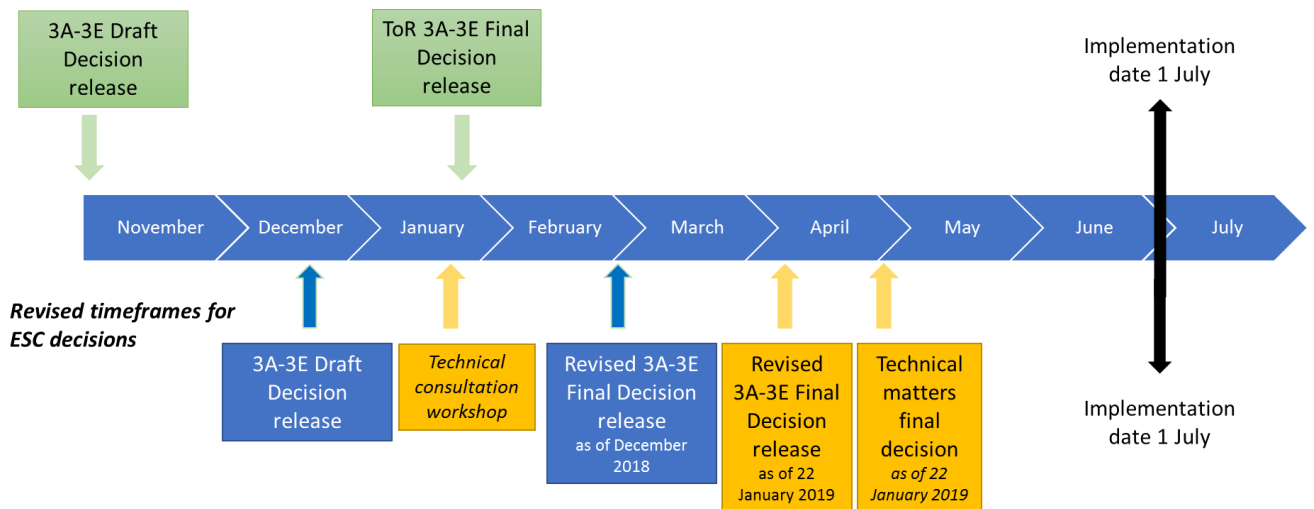
AGL supports the implementation of self-service meter reads for 1 July 2019 (draft decisions 8 and 10) if the changes mirror the Australian Energy Market Commission’s (AEMC) final rule change and continues to exclude all smart meters. AGL provided substantial detail to the AEMC on why smart meters should be excluded and these points were ultimately accepted by the AEMC in their final decision. We are happy to share this information with the Commission should it be required.

We remain highly concerned however, with the continued commitment by the Commission to draft decision 9 of a 1 July implementation date for the remaining matters within the Draft Decision.

As the below figure shows, the original timeframes for a 1 July 2019 implementation is based on a Final Decision by the Commission on 30 January 2019 (in line with the Terms of Reference). We are glad that the Commission is taking additional time to conduct consultation on important matters and to consider the final decision, however industry should be given similar consideration of timeframes regarding the implementation date.

Figure 1

Original timeframe for ESC decisions



We note that the above diagram does not include timeframes for DEWLP to make the required changes to VEC as AGL does not have that information. However, we assume that the VEC changes cannot be made until the Commission’s final decision in April. We understand that the EnergyMadeEasy (EME) changes took approximately 6 months to be completed. We provide further comment on this process below on technical matters.

We note that the language in the Draft Decision supports adopting or using the AER’s research, objectives and principles in the RPIG, but nuances in wording can also impact delivery. While the Commission has stated in forums that alignment with RPIG and VEC upgrades should improve retailer implementation timeframes, there still needs to be time for testing and system integration



with these new obligations. It is also highly dependent on how much the Commission decides to differ from the RPIG and what level of testing and engagement retailers get through DEWLP upgrades.

An additional level of complexity that must be considered in this timing is the development of the Victorian Default Offer (VDO). While we are yet to see the legislative changes of the VDO, we understand the Government's intention is that the VDO will be the reference for all market offer discounts.¹ This introduces a new layer of input in designing the revised Victorian Energy Fact Sheets that was not part of the EME Basic Product Information Disclosure (BPID) revisions. The final VDO will not be known until 3 May 2018 and DEWLP will need to capture this along with other changes to VEC to comply with the AER RPIG. Retailers will have to adjust their Standing Offers to align to the VDO and allow for referencing of market offers against the VDO. Again, this cannot commence until 3 May, when the Commission issues the final VDO.

AGL does not consider that the long-term interests of consumers are served by remaining tied to a 1 July implementation date. As we highlight in the technical comments below, the lessons learned from the EME experience demonstrates the need for two months for testing and integrating final VEC requirements into retailer systems. If the current 1 July 2019 implementation date is maintained, then all changes to VEC would need to be completed by the start of May 2019.

We therefore strongly encourage that the Commission make the Minister aware of the risks to consumers with a continued commitment of a 1 July implementation date. We recommend the Commission seeks an extension to the Terms of Reference for the implementation date to allow for DEWLP to undertake the administrative changes, incorporate the VDO requirements and allow transition for retailers.

Code changes

The absence of the Energy Retail Code (Code) changes in the Draft Decision makes it difficult to provide robust submissions based on impact analysis. The wording of Code changes greatly impacts the meaning and effect of the requirements and as such are an integral part of the consultation process. We note that the draft Code changes for implementing Thwaites 3F-3H were amended in the final decision following stakeholder feedback on concerns of misleading statements on the best offer box.

Stakeholders should be given a minimum four weeks to consult on the draft Code changes to test the impacts or likely impacts of implementation and mitigate unforeseen consequences, such as the example above.

We also encourage the Commission to use informal channels of consultation to test the proposed Code changes prior to public release. AGL would welcome the opportunity to assist the Commission

¹ DEWLP industry forum presentation, 21 December 2018 (slide 8).



with reviewing informally on a confidential basis and providing feedback on likely impacts on proposed Code changes. We understand our role in such situations is to assist the Commission to make Code changes that are effective and meet their objectives. AGL has recently provided business expertise and advice to the AEMC and the AER and this has resulted in positive final decisions.

In terms of coding for the provision of fact sheets, we encourage the Commission to incorporate simplified changes on retailer obligations that still deliver positive consumer outcomes. We recommend the Commission require in the Code that retailers need to provide energy fact sheets but leave it up to DEWLP to mirror the RPIG requirements. This reduces the complexity of the Code drafting while also minimising the need for revisions to the Code as RPIG obligations are amended.

New factsheets

The purpose of energy factsheets is to provide basic information to consumers on the key elements of an energy plan for simple comparison. The AER's RPIG has been broadly accepted by stakeholders as achieving this goal.² We also consider the RPIG is the appropriate method to assist customers and improve the quality of information disclosure.

Language

AGL supports full and proper alignment with the RPIG Basic Product Information Disclosure (BPID) requirements, including naming and language conventions. This extends to the required information and language requirements, as alignment ensures consistent outcomes for consumers. The importance of language changes and alignment were highlighted by consumer groups in the AER RPIG consultation process, with the Energy Consumers Australia (ECA) noting:

*We welcome the commitment to the common lexicon of terminology for energy offers. This is critical particularly with technical terms such as “controlled load” and “off-peak”.*³

Additionally, the Public Interest Advocacy Centre (PIAC) stated:

*PIAC also supports the AER's proposal to introduce new requirements for consistent energy plan terminology in the BPID and CS. PIAC concurs with other stakeholders that technical jargon and inconsistent language create a barrier for consumers to meaningfully compare between different retail offers. By requiring consistent definition of terms like ‘general usage’ and ‘Separately metered usage’, the AER will help to address this problem.*⁴

Language alignment also benefits retailers as it helps promote national operations as opposed to a two-system approach which helps develop consistent information, marketing and website detail for our customers.

² See for example [Energy Water Ombudsman Queensland \(EWOQ\) submission](#) to AER Draft Decision on RPIG

³ [ECA submission to AER Draft Decision on RPIG](#) page 2

⁴ [PIAC submission to AER Draft Decision on RPIG](#) page 2



Finding factsheets

As noted above, we support alignment with the RPIG on the proposed matters. This includes requirements for providing factsheets on retailer and third-party websites and the use of plan ID's, such as are generated by EME currently. We caution against the use of plan names as these tend to remain static and the rates or product details are what varies. This can ultimately be confusing for our customers.

We also consider these factsheets should be made available on the VEC website as they are used as a tool for comparison, and VEC is naturally a place that a consumer may seek them out.

While we recognise the Commission's view that VEC is a superior tool for customers, customers will become familiar with the factsheet and should be able to search for them through the VEC website. This is more important as VEC becomes more widely used by consumers through promotions by the Commission and the Victorian government (such as the ongoing \$50 bonus). To this end, we consider that the VEC functionality should be upgraded to allow customers to search for individual plan IDs.

Comparison mechanism

AGL supports Draft Decision 3 on including a comparison mechanism where it is fully aligned with the RPIG BPID requirements. AGL assisted the AER in conducting research and testing formats that best assisted customers. The final comparison requirements in the BPID is a direct reflection of the findings through that joint work as being the most effective for assisting customers compare apples with apples.

We note that in the technical workshop hosted on 22 January that the Commission raised the question of small business fact sheets with participants. We echo both ACIL Allen's comments on the day, as well as the AER's draft Guideline decision in stating that a comparison mechanism is not appropriate for small business fact sheets. On the inclusion of small business energy plan comparison mechanisms, the AER stated that it is 'not currently feasible to provide comparison pricing for small business tariffs' and did not include it in the final Guideline.⁵ The final Guideline states that the comparison pricing table is not be required for

- Small business customer plans
- Residential customer plans with demand charges
- Plans where customer usage data is required to price the plan.⁶

AGL strongly encourages the Commission to mirror this approach.

Effective date

During the technical workshop hosted on 22 January, the Commission asked participants to comment on the effective date of BPIDs and whether an expiry date should be included. The

⁵ [RPIG draft notice](#), page 15-16.

⁶ [RPIG draft guideline](#), page 21

Commission staff representatives at the workshop noted that there may be consumer detriment in not knowing whether the particular offer they are seeking is still available.

We refer to stakeholder comments on the Draft Decision of 3F-3H and the matter of the validity period of 13 days for the best offer. In particular, stakeholders stated that

Commercial incentives were in place to mitigate the risks... specifically that if a retailer was no longer able to offer the customer the deal that was presented on the bill, it was in their interests to offer the customer an alternative, similarly good offer from their current product suite, lest they lose the customer to a competitor.⁷

This position remains relevant to the question of the inclusion of an expiry date of factsheets. We note that this position was ultimately accepted by the Commission in October 2018 stating:

Having balanced the various considerations, we have decided to remove this requirement and rely upon the incentives for retailers to deliver positive customer outcomes. In instances where the named plan is no longer available, we would expect the retailer to offer the customer a plan that delivers features that are as close as possible to those that the customer would have been provided under the named plan in the best offer message.⁸

We would therefore continue to encourage the Commission to maintain this position in relation to expiry dates on factsheets.

Marketing Code of Conduct

AGL recommends that the Commission remove the Victorian Marketing Code of Conduct (Marketing Code). The Marketing Code has not been reviewed in 10 years and largely replicates obligations that exist in other pieces of legislation such as the Competition and Consumer Act (CCA), the Spam Act, and the Energy Retail Code.⁹

The intention of the Marketing Code is to promote honesty and fairness in the market with the disclosure of information in a particular way, however we note that alignment with the RPIG requirements will achieve this outcome and subsequently makes elements of the Marketing Code redundant.

The Marketing Code was developed with the aim of protecting consumers and promoting consumer confidence. However, this role has since been taken up through the Thwaites reform, and will also become part of delivering the election promises (such as banning door to door sales).

We therefore recommend the Marketing Code be removed.

⁷ [Commission Final Decision for Thwaites recommendations 3F-3H](#), page 67

⁸ [Commission Final Decision for Thwaites recommendations 3F-3H](#), page 67

⁹ Such as requirements on misleading information, product knowledge for clear advice and explicit informed consent requirements.

Technical matters

AGL will provide further comment on the following (and other) technical matters as that consultation process continues but below are some of the key lessons learned from the AER EME upgrade process that we encourage the Commission and DEWLP to take into consideration.

	Learning for Victoria
<ul style="list-style-type: none"> • [Redacted] 	<ul style="list-style-type: none"> • Any changes to the rules at the back end of VEC need to be sign-posted well in advance, so retailers can prepare their input files accordingly. • Preferably – avoid peak times like price change for making these kinds of changes.
<ul style="list-style-type: none"> • [Redacted] 	<ul style="list-style-type: none"> • Have a sandbox, and beta test environment for retailers to get familiar with any new functionality and find the bugs ahead of going live. • We recommend a few weeks of engagement for this to occur.
<ul style="list-style-type: none"> • [Redacted] 	<ul style="list-style-type: none"> • DEWLP should seek to align the timing of VEC website backend changes with front end customer facing factsheet information.
<ul style="list-style-type: none"> • [Redacted] 	<ul style="list-style-type: none"> • Learn from EME – having the system changes completed two months before the compliance deadline is crucial to the smooth operation of the process and allows for testing in both a test and live environment (and to minimise the impacts to customers).

We also encourage DEWLP to ensure that the Victorian Retailer Portal user manual is updated and provided to retailers within the 2-month lead time mentioned above. This document is incredibly useful for retailers as it provides information on all the rules surrounding each field of the fact sheet (for example, what values are mandatory, field length restrictions, any logic that is triggered by the field). Without enough time to build in and test, retailers will not be able to correctly fill in the data or may have to guess allowable values. This could adversely impact customers who may then receive incomplete or incorrect information through the factsheets.

Essential Services Commission
Level 37, 2 Lonsdale Street Melbourne
Victoria 3000

05 February 2019

Email: retailenergyreview@esc.vic.gov.au

Dear ESC

We refer to the "Helping customers engage confidently in the retail energy market: Draft decision" (**Draft Decision**) and invitation to provide feedback on the decision.

We have reviewed the Draft Decision and ask that the Commission consider the following comments regarding Draft Decisions 1 to 4:

1. In regard to implementing new Victorian energy fact sheets that are similar to the AER's energy fact sheets (**AER Fact Sheets**), we ask the Commission to consider allowing increased flexibility within that template structure. In this regard, we note that the AER Fact Sheet template restricts retailers' ability to adhere to the template structure when attempting to introduce innovative energy products to market. To that end, we ask for the Commission to consider:
 - a. allowing retailers' the ability to create their own subheadings. For example, under the "Fees and Charges" section in the AER Fact Sheets, we would like the ability to label the kind of fees incurred. Presently, the template requires retailers adopt prescribed default subheadings, or alternatively revert to using "other" if a default subheading is not suitable.
 - b. giving increased flexibility to display plan costs. For example, the current template does not allow retailers to display plan costs without reference to discounts. For retailers who wish to create product constructs without pay-on-time discounts or other promotional discounts, this imposes restrictions and the potential for customer confusion.
 - c. giving increased flexibility to allow retailers to remove or add plan and eligibility features as required;
 - d. allowing retailers to customize the bill feature section relevant to the product construct.

2. In regard to including a comparison tool, we ask that the Commission consider allowing flexibility in the chosen algorithm so as to allow retailers with products that do not adopt typical industry pricing constructs to use the tool.
3. While we appreciate that there will always be new and innovative plan and product implementations by retailers that may not be catered for in current or new fact sheet constructs, we would urge the commission to put formalised procedures in place to allow retailers the ability to request changes to the fact sheet construct in either ad-hoc or time frame-based periods (eg quarterly). As it currently stands there is an apparent disconnect between the Commission (who make the rule) and the DELWP who manage the fact sheets and the Victorian energy compare website, where the Commission refer retailers to the DELWP, and the DELWP decline to assist as they can't adjust the sheet construct in general. As such the common process of 'shoehorning' a new and innovative energy plan into an old or outdated construct becomes the norm. This ultimately results in consumers failing to be presented with all applicable plans that may best suite their energy needs.

Yours Sincerely



Chad Heining
Compliance and Regulatory Manager



Level 6, 179 Queen Street
Melbourne, VIC 3000

info@consumeraction.org.au
consumeraction.org.au
T 03 9670 5088
F 03 9629 6898

4 February 2019

By email: retailenergyreview@esc.vic.gov.au

Sugi Sivarajan and Aaron Yuen
Project Manager, Regulatory Reform and Senior Regulatory Manager
Essential Services Commission

Dear Sugi and Aaron

Helping customers engage confidently in the retail energy market draft decision

The Consumer Action Law Centre (**Consumer Action**) welcomes the opportunity to comment on the Essential Services Commission's (ESC) *Helping customers engage confidently in the retail energy market* Draft Decision (**Draft Decision**).

We support changes to regulation that will facilitate simple ways of resolving issues with estimated billing. While we support making consistent factsheets for energy offers that are easier to comprehend for all Victorian households, we consider such changes are unlikely to have much impact on consumer engagement in the retail energy market.

The ESC must ensure work undertaken in this area is alive to the need for factsheets to complement more impactful policy changes like the implementation of the Victorian Default Offer and the prohibition of excessively inflated consequences for not meeting conditional discounting requirements. These and many other changes are more likely to result in Victorian households getting better outcomes in the essential energy services market.

Our comments are detailed more fully below.

About Consumer Action

Consumer Action is an independent, not-for profit consumer organisation with deep expertise in consumer and consumer credit laws, policy and direct knowledge of people's experience of modern markets. We work for a just marketplace, where people have power and business plays fair. We make life easier for people experiencing vulnerability and disadvantage in Australia, through financial counselling, legal advice, legal representation, policy work and campaigns. Based in Melbourne, our direct services assist Victorians and our advocacy supports a just market place for all Australians.

Policy principles or objectives relevant to this consultation

- Energy is an essential service. All households must have access to a guaranteed fair price.
- It should be easy for Victorian households to engage in energy retail markets to make effective decisions.
- Retailers should not make excessive margins off the provision of essential energy services.
- Businesses in the energy market must deliver on promises so households can have confidence when engaging and be able to trust the essential energy services market.
- Energy retailers must work with their customers to overcome issues arising from estimated billing.
- Energy retailers have a social responsibility to ensure that Victorian households can overcome difficulty paying for essential energy services.

Consumer Action's recommendations based on these principles or objectives

- The ESC proceeds with the proposal to implement an entitlement for Victorian households to have an estimated bill adjusted by providing a self-read of their meter.
- Implementation of the VDO be prioritised by the ESC and be complemented by policy to ensure those who need its protection get that protection. This must go beyond information provision.
- That recommendation four of the Thwaites review be implemented sooner than mid 2020 (the implementation timeline currently proposed).
- The ESC ensures the Final Decision on factsheets and signposting to factsheets does not further complicate the process of selecting an optimal energy offer for Victorian households.
- The ESC mandate that factsheets are prominently displayed by third party comparison services.
- The ESC recommends that the Victorian Government tasks the regulator with producing a ensuring compliance with a mandatory code of conduct for comparators of traditional and new energy products and services.
- The layout of the factsheet better signpost consequences of not meeting conditions or benefit periods ceasing.
- The factsheet clearly signposts the availability of the Victorian Default Offer and Victoria Energy Compare as better alternatives for decision making.
- The graphic design of the factsheet should align with Victoria Energy Compare.
- The factsheet clearly signposts the availability of the Victorian Default Offer and Victoria Energy Compare as better alternatives for decision making.
- Victoria Energy Compare is acknowledged as the best way to assess the most suitable energy offer for a Victorian Household at present and that this is reflected in the decisions made around factsheets.
- The ESC mandate that marketing materials use standard statements to signpost the availability of transparent information which is reliable for Victorian households' decision making.
- The ESC consider that standardised statements should point to the best source of information, not just the availability of factsheets.
- That the Government and ESC investigate the use of technology to assist consumers make optimal choices.
- The ESC takes appropriate enforcement action to deter energy retailers from misleading Victorian households.



Comments on the draft decision

Meter Reads

Consumer Action supports Victoria aligning with the Australian Energy Market Commission's rule change so that all Victorian households have an entitlement to have an estimated bill adjusted by providing a self-read of their meter. A self-read is practical and is likely to realise better outcomes in a timelier way for households that query an estimated bill after experiencing bill shock. This may result in less billing disputes and complaints lodged with the Energy and Water Ombudsman Victoria (**EWOV**). High billing disputes have recently topped the list of complaints at EWOV.¹

Consumer Action recommends that:

- The ESC proceeds with the proposal to implement an entitlement for Victorian households to have an estimated bill adjusted by providing a self-read of their meter.

Prioritise the development and implementation of other policy

As stated in our recent Victorian Default Offer submission:

Consumer Action has long pointed to those on evergreen market offers where benefits have expired as the cohort of Victorian Households most likely to be suffering detriment as a result of the deregulation of energy retail pricing. Frustratingly there is little information available about how many people are in this cohort but the AEMC's 2017 reporting of 47 per cent of households who had not switched in five years may give an indication of the risk posed by these offers given most benefit periods are 24 months or less.²

Artificially inflated base rates or standing offers to allow for higher headline discounts are also of concern. The ACCC found that many miss out on these artificial discounts, including a cohort of households who would be most impacted by greater energy costs and are disproportionately penalised when they miss out on 'discounts' 59 per cent of the time.³

Paying a day late on a bill should not incur a penalty of more than half a thousand dollars. Consumer Action has seen billing where such a scenario arose for a single mum trying to make ends meet. We can also still see offers on Victoria Energy Compare that would enable the same scenario to arise from retailers who are still spruiking big discounts in advertising campaigns.

Information provision has failed to address these now well recognised issues [emphasis added]. The Victorian Government must start work on a mechanism to ensure the mess left from deregulated pricing is cleaned up fast. Academic research has found that even in the most favourable conditions consumers

¹ EWOV, 2018. *EWOV 2018 Annual Report*, p.28.

² AEMC, 2017. *2017 AEMC Retail Energy Competition Review*, p.4.

³ ACCC, 2018. *Restoring electricity affordability and Australia's competitive advantage; retail electricity pricing inquiry – final report*, p.264.

are unlikely to switch energy retail providers.⁴ It can also be observed that even with a \$50 incentive and accompanying promotional campaign pushing a possible saving of hundreds of dollars for looking at switching through the Victorian Energy Compare website, not all Victorian households have done so.⁵

The ESC should implement the changes mentioned in this Draft Decision and quickly proceed with implementing the Victorian Default Offer and recommendation four of the Thwaites review which address some of the above issues. Victorian households need more than information provision to better navigate the essential energy services market which is currently unnecessarily complex.

Consumer Action recommends that:

- Implementation of the VDO be prioritised by the ESC and be complemented by policy to ensure those who need its protection get that protection. This must go beyond information provision.
- That recommendation four of the Thwaites review be implemented sooner than mid 2020 (the implementation timeline currently proposed).

Avoid confusion for Victorian households wherever possible

The draft decision states that the new energy factsheet aims to assist consumers to make effective decisions when comparing energy plans.⁶ Currently less than half of Victorian households think they obtained value for money from their electricity company in the last 6 months⁷ and only a third said they are confident that the market is working in their long-term interests.⁸ Trust is important when making effective decisions⁹ and these statistics show strong intervention is needed for Victorian households to be able to trust the energy market to act in their interests.

Consistent factsheets on energy offers make sense on face value but the sheer complexity of comparing the thousands of market offers that may be available across separate documents and hosted on different websites is not a simple or practical task.

Consumer Action supports the development of consistent factsheets but seeks to highlight that behavioural research has questioned whether they will often be used by consumers at all.¹⁰ The ESC must therefore

⁴ Deller, David et al. *Switching Energy Suppliers: It's Not All About The Money*, Centre for Competition Policy, University of East Anglia, 2017, p. 1. Available at: <http://competitionpolicy.ac.uk/documents/8158338/17199160/CCP+WP+17-5+complete.pdf/fdaaed88-56e5-44f9-98db-6cf161bfb0d4>

⁵ Consumer Action, 2019. *Victorian Default Offer for domestic and small business electricity customers staff working paper*. Available at: <https://policy.consumeraction.org.au/2019/01/30/victorian-default-offer-for-small-electricity-customers-esc-staff-working-paper/>

⁶ ESC, 2018. *Helping customers engage confidently in the retail energy market, draft decision*, p.16.

⁷ Essential Research, 2018. *Energy Consumers Australia, Energy Consumers Australia Energy Consumer Sentiment Survey December 2018*. Retrieved 28 January 2019 from <https://energyconsumersaustralia.com.au/wp-content/uploads/Energy-Consumer-Sentiment-Survey-Report-December-2018.pdf> p.14.

⁸ *Ibid*, p.20

⁹ Consumer Action, 2016. *Power Transformed; unlocking effective competition and trust in the transforming energy market*.

¹⁰ The Behavioural Insights Team, 2018. *Final Report, BIT review of Basic Plan Information Document (BPID)*. Retrieved 31 January 2019 from:

ensure that regulations mean factsheets are there whenever needed but that this information provision does not unnecessarily get in the way of a Victorian household easily making an effective decision about an energy offer.

Every extra step in making a decision can mean more complexity in the practical process, thus creating more hesitation and the likelihood that a decision isn't made. Academic research has shown that such hesitation often leads to a decision not being made about energy offers even in favourable circumstances.¹¹ As discussed below, regulations about where the factsheets appear and how marketing points to them must consider this risk.

Consumer Action recommends that:

- The ESC ensures the Final Decision on factsheets and signposting to factsheets does not further complicate the process of selecting an optimal energy offer for Victorian households.

Third party comparison websites

Third party comparison services often don't operate in Victorian households' interests. These services add excessive acquisition fees to energy costs¹² and have been shown to not place households on the best offer for their needs.¹³ Comparison services should be able to be trusted to be working in the interests of their customers while providing a simple way to make an effective decision. Multiple reports suggest that as a whole this industry is failing to do so.¹⁴

We support requiring third party services to prominently display consistent factsheets within one click of an offer. However, much more must be done to ensure third party services act in the interests of Victorian Households. The ESC must recommend to the Victorian Government that the regulator is tasked with formulating a mandatory code of conduct with supporting enforcement tools that covers all comparisons for energy, be it traditional or new energy products and services. At the very least, such a code should require compliance with the standards set out in ACCC's guidance for comparator websites and services.¹⁵

https://www.aer.gov.au/system/files/Review%20of%20Basic%20Plan%20Information%20Document%20-%20Final%20Report%20-%20April%202018_o.pdf

¹¹ Deller, David et al. *Switching Energy Suppliers: It's Not All About The Money*, Centre for Competition Policy, University of East Anglia, 2017, p. 1. Available at:

<http://competitionpolicy.ac.uk/documents/8158338/17199160/CCP+WP+17-5+complete.pdf/fdaaed88-56e5-44f9-98db-6cf161bfbd4>

¹² ACCC, 2018. *Restoring electricity affordability and Australia's competitive advantage; retail electricity pricing inquiry – final report*, p.231.

¹³ Mountain, B, 2019. *New regulations expose energy price gouging through 'free' comparison sites*. Retrieved 31 January, 2019 from: <https://theconversation.com/new-regulations-expose-energy-price-gouging-through-free-comparison-sites-109420>

¹⁴ Faulkner, Mulder and Thwaites, 2017. *Independent review of the electricity & gas retail markets in Victoria*. And ACCC, 2018. *Restoring electricity affordability and Australia's competitive advantage; retail electricity pricing inquiry – final report*.

¹⁵ ACCC, 2015. *Comparator websites: A guide for comparator website operators and suppliers*. Retrieved 4 February 2019 from: <https://www.accc.gov.au/publications/comparator-websites-a-guide-for-comparator-website-operators-and-suppliers>

Consumer Action recommends that:

- The ESC mandate that factsheets are prominently displayed by third party comparison services.
- The ESC recommends that the Victorian Government tasks the regulator with producing a ensuring compliance with a mandatory code of conduct for comparators of traditional and new energy products and services.

Diverging from the Australian Energy Regulator (AER) Basic Plan Information Document (BPID)

Simplicity is key to enabling households to make effective decisions about the pricing structure of their energy supply. The AER's BPID is a good starting point for the layout of the proposed factsheets but the ESC must take opportunities to improve the factsheets so they are more comprehensible. For instance, information about benefit periods could be better sign posted and some language could be simplified for easier comprehension.

The potential consequences of conditional discounting—that is, that failure to comply with the condition will result in a large financial penalty—must be signposted as a priority on the factsheets until a point in time where recommendation four of the Independent Review of the Electricity and Gas Retail Markets in Victoria (**Thwaites review**) is implemented and has addressed the concerns with conditional discounting that we highlighted earlier in this submission.

Also, a regulated fair Victorian Default Offer will give Victorian households the 'choice not to choose' from 1 July 2019. The factsheet must prioritise clearly and simply signposting the availability of trustworthy, reliable comparison of all public offers on Victoria Energy Compare and that households can opt to 'choose not to choose' and still receive a fair price by asking for the Victorian Default Offer.

The graphic design of the factsheet should also align with Victoria Energy Compare to limit confusion.

Consumer Action recommends that:

- The layout of the factsheet better signpost consequences of not meeting conditions or benefit periods ceasing.
- The factsheet clearly signposts the availability of the Victorian Default Offer and Victoria Energy Compare as better alternatives for decision making.
- The graphic design of the factsheet should align with Victoria Energy Compare.

Potential confusion - Victoria Energy Compare figures or multiple factsheets?

The profiles in the factsheet are a tool to aid understanding and effective decision making. They will rarely ever be an accurate reflection of any households' actual costs, so time and resources should not be allocated to over-developing the profiles.

Confusion may arise where the factsheet has one number and Victoria Energy Compare states another. Policy development should ensure that Victorian households utilise Victoria Energy Compare as opposed to comparing factsheet profiles wherever possible. Victoria Energy Compare is more likely to be accurate and produce a better outcome for a household than the impossible task of comparing all relevant factsheets.

Results from Victoria Energy Compare are transparently displayed. It is the most trustworthy tool for assessing the options available to a household.

The ESC must ensure that the requirements associated with this Draft Decision focus on Victorian households making effective decisions, whether that is to find the best market offer or to rely on the Victorian Default Offer. If someone wants to access the optimal offer for their circumstances it makes sense that they access Victorian Energy Compare to be confident in their decision. If they face barriers accessing this website, then other complementary measures must be developed to ensure the best outcomes for all Victorian households accessing essential energy services. The Brotherhood of Saint Laurence trial of an energy brokerage service or the Victorian Default Offer could be considered two complementary measures.

Consumer Action recommends that:

- The factsheet clearly signposts the availability of the Victorian Default Offer and Victoria Energy Compare as better alternatives for decision making.
- Victoria Energy Compare is acknowledged as the best way to assess the most suitable energy offer for a Victorian Household at present and that this is reflected in the decisions made around factsheets.

Marketing materials

We support the ESC mandating that marketing materials about energy offers signpost the availability of transparent information which is reliable for decision making. The ESC must ensure the standardised statements for doing so do not simply point to the factsheets but instead to the best place for a Victorian household to easily make an effective decision. Currently in most circumstances this place is likely Victorian Energy Compare.

An example of a simple standardised statement could be:

Receive a \$50 rebate when comparing whether this is the best deal for you at Victoria Energy Compare[hyperlinked].

It may also be desirable to signpost the availability of the Victorian Default Offer. For example:

A guaranteed fair price is also now available to all—ask for the Victorian Default Offer

Consumer Action recommends that:

- The ESC mandate that marketing materials use standard statements to signpost the availability of transparent information which is reliable for Victorian households' decision making.
- The ESC consider that standardised statements should point to the best source of information, not just the availability of factsheets.

Utilise smart meters to improve mechanisms for households to make effective decisions

As the transition to new technology and the use of smart meter data continues in the energy market, the consistent factsheets proposed in this draft decision may become obsolete. Consideration must be given to more preferred ways for households to make effective decisions through the use of technology. As stated in our recent submission in relation to the Victorian Default Offer:

Initiatives like green button and consumer friendly mechanisms to enable comparison should be thoroughly investigated by Government in an attempt to advance efficiencies in competitive markets. Such measures are ideal when compared to the poor value for money advertising that people cannot opt out of paying for.¹⁶

Consumer Action recommends that:

- That the Government and ESC investigate the use of technology to assist consumers make optimal choices.

Enforcement in response to misleading marketing must be effective

It should be easy for Victorian households to engage in energy retail markets to make effective decisions. Where energy businesses mislead Victorian households, the ESC must ensure that enforcement action is taken to deter such practices. The ESC must also make sure it has the tools available to take such action if needed, and advise government if the regulatory toolkit is lacking.

Consumer Action recommends that:

- The ESC takes appropriate enforcement action to deter energy retailers from misleading Victorian households.

Please contact Jake Lilley on [REDACTED] if you have any questions about this submission.

Yours Sincerely,

CONSUMER ACTION LAW CENTRE



Gerard Brody
Chief Executive Officer



Jake Lilley
Policy Officer

¹⁶ Consumer Action, 2019. *Victorian Default Offer for domestic and small business electricity customers staff working paper*. Available at: <https://policy.consumeraction.org.au/2019/01/30/victorian-default-offer-for-small-electricity-customers-esc-staff-working-paper/>

Submission to ESC's Helping customers engage confidently in the retail energy market: Draft Decision

5th February 2019

Essential Services Commission
Level 27, 2 Lonsdale Street
Melbourne, Victoria 3000

Dear Secretariat,

The Consumer Policy Research Centre (CPRC) welcomes the opportunity to provide a submission on the ESC's new requirements for energy bills.

CPRC is an independent, non-profit, consumer think-tank established by the Victorian Government in 2016, CPRC undertakes consumer research independently and in partnership with others to inform evidence-based policy and business practice change. Our vision is to deliver a fair outcome for all consumers. We work closely with policymakers, regulators, academia, industry & the community sector to develop, translate and promote evidence-based research to inform practice and policy change.

Unique Plan ID

CPRC strongly encourages the Commission to introduce unique plan IDs on consumer factsheets and that this unique plan ID be recognised by call-centre staff. We note that Vic Energy Compare already generates a unique offer ID code for each energy tariff that is submitted to the website by each retailer. However, we are aware that when consumers refer to the VEC unique plan ID, retailer call centre staff may not recognise the plan ID, or cannot identify this plan ID in their system database. Inclusion of this unique plan ID on factsheets and bills would enable consumers to easily sign up to the offers identified on the Victorian Energy Compare website, especially where a tariff has a similar name to a multitude of other tariffs, or where the underlying cost of the tariff has changed while retaining the same tariff name.

We would encourage the ESC to require this unique plan ID be clearly presented on any materials wherever the tariff is advertised or outlined – including third-party websites – to reduce the confusion that consumers encounter when switching providers. Consistency across different mediums will avoid unnecessary complexity and consumer confusion about which tariff they are on, and which tariff they are switching to.¹ The ability of consumers to easily switch to plans they have identified through a comparison process is essential to build trust and engage confidently in the energy market and comparison websites.

Though out of scope of the ESC's immediate work program, the inclusion of a unique plan ID on the bill consistent with VEC may enable the Department to deliver on other recommendations in the *Independent Review into the Electricity and Gas Retail Markets in Victoria*, such as recommendation 3J:

¹ CPRC, *Five Preconditions of Effective Consumer engagement*, March 2018.

The Victorian Government's program to continue to enhance and promote the Victorian Energy Compare website and use of smart meter data.

If Victorians can access their consumption data, overlaid with their tariff (**via the unique plan ID**) on *Victorian Energy Compare*, this may provide a simple, efficient and effective way to enable consumers to compare their current tariff plan and its cost (not currently comparable) with new market offers, reducing any ambiguity and guesswork currently required. We note that the VEC tool enables consumers to estimate their current cost, rather than identifying their current plan and actual cost.

Moreover, clear plan identifiers will be a necessary requirement for the forthcoming Consumer Data Right (CDR) reforms – in which energy is likely to be the next sector these reforms will be applied to. Data portability to enable more accurate comparison and facilitate switching is essential to improve consumer outcomes as part of this process. Key data to enable a consumer to compare products and services in the energy sector includes: “information about the user of product” (i.e. National Metering Identifier), “information about use of product” (i.e. consumption data), “information about a product” (i.e. current retail tariff and product information). Together, these three pieces of data enable effective comparison of current plan with alternative plans.

Comprehension testing

Much like the AER's process with the BPID and the ESC's approach to the best available offer, CPRC would encourage the ESC to test consumers' comprehension of the factsheets. One study found a negative relationship between self-assessed understanding of telecommunications agreements and actual understanding of the agreement.² Consumer testing can help to identify where designs are more effective ahead of widespread rollout.

Awareness

If consumers are not aware of factsheets, it is unlikely they will seek these out as a tool for decision-making. CPRC suggests the ESC refer to any data the AER collects on the number of consumers accessing fact sheets. This data can then be used to inform a consumer information campaign to promote the availability of the factsheets to aid consumer choice.

If you have any queries about this submission, please don't hesitate to contact Ben Martin Hobbs on [REDACTED]

Yours sincerely,



Lauren Solomon

**Chief Executive Officer
Consumer Policy Research Centre**

² Paul Harrison, Laura Hill, and Charles Gray, 'Confident, but Confounded: Consumer Comprehension of Telecommunications Agreements' (Sydney: Australian Communications Consumer Action Network, 2016).

5 February 2019

Dr Ron Ben-David
Chair
Essential Services Commission
Level 37, 2 Lonsdale St
Melbourne, VIC, 3000

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

Dear Dr Ben-David



EnergyAustralia

LIGHT THE WAY

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

ESC – Helping customers engage confidently – draft decision

EnergyAustralia welcomes the opportunity to make this submission to the Essential Services Commission's (ESC's) draft decision to help customers engage confidently in the retail energy market.

We are one of Australia's largest energy companies, providing gas and electricity to around 2.6 million household and business customer accounts in New South Wales, Victoria, Queensland, South Australia and the Australian Capital Territory. In Victoria, we provide gas and electricity to around 20 percent of households.

We also service 15 per cent of small business electricity needs and 19 per cent of their gas needs. We are the only major vertically integrated energy retailer based in Victoria. We have 2000 employees at the Yallourn power station and mine in the Latrobe Valley and contact centre and head office staff located in metropolitan and CBD locations.

EnergyAustralia supports the ESC's objective to streamline the current information disclosure requirements through a new Victorian energy factsheet. We see real benefits to customers in increasing transparency of retail market offers so customers can assess and compare offers with confidence.

We also support the Department of Energy, Land, Water and Planning (DELWP) having the responsibility for creating the new energy factsheets via the Victorian Energy Compare website. The success of the new energy factsheets will be highly dependent on the functionality and visibility of Victorian Energy Compare. Accordingly, we encourage the ESC to work closely with DELWP to ensure it has the information needed, in a timely manner, to deliver these requirements.

1. Implementation

In order to ensure the ESC's objectives are achieved and that customers can realise the benefits of the proposal it is imperative that the ESC consult on the draft Code amendments. The draft decision does not provide sufficient guidance on what will be required of retailers and where responsibilities will land. This is a concern for EnergyAustralia as the ESC proposes that the final decision and Code amendments will be made in March 2019. Given the potential complexities that could arise from

translating the draft decision into Code there is a risk of unintended consequences or impracticalities if due consideration isn't given.

Additionally, the new Victorian energy factsheets are proposed to commence from 1 July 2019. A number of other regulatory changes are also to take effect from 1 July 2019 (including the Victorian Default Offer, the 'best offer' and clear advice entitlement and bill change notices). This amount of regulatory change has real impacts on training our front of house staff to be able to explain these new changes and our IT system changes which require planning, coding and scheduling.

As such, we encourage the ESC to consider a transitional arrangement of 3 to 4 months from 1 July 2019 so retailers, and DELWP, have sufficient time to implement the changes effectively and provide time for comprehensive user testing.

In addition, third party providers may need additional time to manage these new requirements for multiple retailers.

2. Victorian energy factsheet

We support the new Victorian energy factsheets replacing the price and product information statements. EnergyAustralia considers the AER's basic plan information document summarises important contract information in a clear and simple manner and we welcome the adoption of this format in Victoria.

We also recommend the ESC remove the need for retailers to provide an offer summary. We consider that the new energy factsheets meet this requirement and will provide a better customer experience than the current offer summary documents. We agree with the ESC that current information requirements contained in Division 10 of the Code are sufficient and the AER's more detailed product information tool is not required.

Aligning customer usage profiles

The ESC is proposing to include a comparison mechanism in the new factsheets. This will align with the AER's methodology for calculating typical usage profiles. EnergyAustralia supports this approach. However, we consider that the factsheets should only be available for residential customers. Given the vast differences in small business and their usage profiles it would be challenging to include a comparison tool for small business, particularly as the AER does not currently produce usage profiles for small business.

Identifying factsheets

Noting that Victorian Energy Compare already creates unique offer IDs for each plan, we support the continued use of unique offer IDs. We do not support the use of plan names as a unique identifier as we have plans with the same name but different distribution tariffs.

Uploading information to Victorian Energy Compare

EnergyAustralia supports harmonisation with the national framework and is comfortable with offers being uploaded into the retailer portal of Victorian Energy Compare within two days of being published.

3. Consultation on technical matters

We encourage the ESV to work with DELWP to ensure the practical solutions are found for technical and early identification of potential implementation issues. We support the retailer portal being the most appropriate avenue for retailers to submit plan details and Victorian Energy Compare having the function to extract these as a PDF in the appropriate format.

Victorian Energy Compare should also hold the URL for each plan in the retailer portal. This means retailers can access the relevant plans or bulk download them from the retailer portal. EnergyAustralia does not support retailers having to host the PDF and - given the amount of system changes required to implement other retail energy market obligations by 1 July 2019 - we would not be able to achieve this by the same date.

4. Customer own meter read provisions

EnergyAustralia supports the proposal to adopt the AEMC's recent rule determination for estimated meter reads. Any provisions introduced by the ESC should continue to only apply to accumulation meters (i.e. Type 6 electricity meters and gas meters). Asking customers to provide meter reads for interval electricity meters introduces complexity. For example, a customer can retrieve index reads only from their smart or interval meter by pressing a button on the outside of the meter. The meter then cycles through as many as 6 screens. There is a risk that the customer may provide the wrong date without realising it.

Many meters are readily accessible, but we have had recent incidents where customers have gone to look inside their meter boxes, or behind the meter board and sent us photos showing dangerous wiring. Due to safety concerns for the customer, EnergyAustralia's policy is not to request or recommend customers to access their meter. We leave it open to customers to access their meter if they are comfortable to do so, but we are careful not to normalise or suggest this in a way that might encourage them to take unsafe actions.

5. Summary

EnergyAustralia supports the ESC's intention to improve the ability of customers to identify and compare all available market offers. We are encouraged by the ESC's approach to align the new Victorian energy factsheets with the national framework. We also recommend that the ESC continue to consult and provide industry with more guidance on the design and practical implications of the new factsheets.

EnergyAustralia would be happy to meet with the ESC to discuss how this new obligation can best deliver the intentions of the ESC.

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

Regards

Sarah Ogilvie

Industry Regulation Leader



ERM Power Retail Pty Ltd
Level 3, 90 Collins Street
Melbourne VIC 3000
ABN 87 126 175 460

13 23 76
ermpower.com.au

Tuesday, 5 February 2019

Ms. Sugi Sivarajan
Essential Services Commission
Level 37, 2 Lonsdale Street
Melbourne, Victoria 3000

By email: RetailEnergyReview@esc.vic.gov.au

Dear Ms Sivarajan

RE: “Helping customers engage confidently in the retail energy market” Draft Decision.

ERM Power Retail Pty Ltd (ERM Power) welcomes the opportunity to respond to the Essential Services Commission’s Draft Decision on “Helping customers engage confidently in the retail energy market”.

About ERM Power Retail

ERM Power Retail Pty Ltd, which trades as ERM Power, is a subsidiary of ERM Power Limited, an Australian energy company operating electricity sales, generation and energy solutions businesses. Since launching in 2007, ERM Power has grown to become the second largest electricity provider to commercial businesses and industrials in Australia by load¹, with operations in every state and the Australian Capital Territory. ERM Power has increasing success in the small business market. www.ermpower.com.au

General Comments

ERM Power has welcomed a large number of the recommendations stemming from the Independent Review into the Electricity and Gas Retail Markets. We recognise the importance of providing simplicity, consistency and transparency in the presentation of retail offers to promote customer engagement and competition in the energy retail sector.

ERM Power generally supports enhancing the manner in which prices and product information is presented to customers. In looking to implement the recommendations from the Review, we acknowledge that the ESC has rationally proposed to follow the approach of the Australian Energy Regulator (AER), given the AER’s considerable work undertaken in this area and the positive outcome from the Basic Plan Information Document (BPID) implementation. This approach will promote efficiencies and consistency of compliance to minimize the implementation costs to retailers.

The ESC plans to introduce a new Victorian energy fact sheet with the form and content consistent with the requirements of the Australian Energy Regulator’s (AER) energy fact sheet (BPID). We strongly recommend the

¹ Based on ERM Power analysis of latest published financial information.



ESC follows the AER's lead in limiting the extension of obligations for small business to those that are single site customers and only to offers that are generally available (but excluding default offers that are created for the purpose of fulfilling FRMP obligations).

As a leading provider to large and multi-site customers we are familiar with the vastly different manner in which multi-site small business customers contract for energy. These customers are contracted via sophisticated negotiation processes using third party brokers, direct submissions to tender requirements, and other means. Multi-site customers do not utilise Victorian Energy Compare to source and compare offers and in fact the system is not capable of providing a search function for this customer group. For clarity in the regulations, we strongly recommend that the ESC should explicitly exclude multi-site business customers from the price fact sheet obligations, given this customer group typically does not benefit from the use of energy price fact sheets.

In the creation of the BPID, we note that the AER has sensibly recognised the unworkability of the Comparison Pricing Table for small business customers, due to the difficulties in segmenting this group and the likelihood of misleading customers through generalisations about usage estimates. These difficulties will be even more prevalent in the Victorian market where many small business customers are on flexible pricing. We urge the ESC to take a similar approach to that of the AER and exclude the comparison mechanism for small business customers.

The concept of generally available offers.

In deciding on the scope of applicable offers that will require the new Victorian energy fact sheet, the concept of 'generally available' will be important. The greater the content of Victorian Energy Compare to contain bespoke and limited offers, the less likely useful comparisons can be made, and the less likely Victorian Energy Compare will be embraced as the leading search tool by consumers. It is our view that customers should not need to delve through countless offers, to determine eligibility by having to read through the information content.

Although we largely support consistency across the jurisdictions, we caution the ESC in adopting the AER's approach to offer exclusion, which is for the comparator to contain all offers bar a small discrete list, specified as 'restricted'. It is unacceptable to widen the concept of 'generally available' offers to account for all offers with the exception of a discrete list. This has made a customer's task of finding a relevant offer very difficult. Further, it is extremely unlikely that businesses will be willing to inefficiently trawl through numerous offers that they are not eligible for. They are more likely to seek a point of comparison in a generic offer and then be encouraged to engage with the retailer for any other offers tailored to their needs.

As mentioned above for business customers, the use of bespoke offers is common for multi-site customers, or those that engage brokers. Such offers are not typically in Victorian Energy Compare and the requirements around Victorian energy fact sheets should explicitly omit multi-site business customers.

Please contact me if you would like to discuss this submission further.

Yours sincerely,

[signed]

Libby Hawker
Senior Manager Regulatory Affairs

5 February 2019

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

By email: RetailEnergyReview@esc.vic.gov.au

Dear Dr Ben-David

Re: Draft decision – Helping customers engage confidently in the retail energy market

Thank you for the opportunity to comment on the Essential Services Commission's (ESC) *Draft decision – Helping customers engage confidently in the retail energy market (Draft Decision)*.

The Energy and Water Ombudsman (Victoria) (EWOV) is an industry-based external dispute resolution scheme that helps Victorian energy or water customers by receiving, investigating and resolving complaints about their company. Under EWOV's Charter, we resolve complaints on a 'fair and reasonable' basis and aim to reduce the occurrence of complaints¹. We are guided by the principles in the Commonwealth Government's Benchmarks for Industry-based Customer Dispute Resolution². It is in this context that our comments are made.

As the Draft Decision highlights, the 2017 *Independent Review into the Electricity and Gas Retail Markets in Victoria (Independent Review)* found that Victorians were paying 'unusually high' electricity prices compared to other jurisdictions. EWOV's own data tends to support this assessment. We can confirm that for the 2017-18 financial year, high billing complaints were the most common form of complaint received by our service (87% of these relating to electricity and gas), closely followed by disconnection/restriction for debt, (97% of these related to electricity or gas); and debt collection/credit default listing (96% about electricity or gas).

The average residential arrears in the complaints we investigated was \$2,698, with 473 residential customers holding arrears of over \$3,000; some as high as \$10,000. A significant number of customers presented with limited capacity to reduce their consumption or increase their capacity to pay. From our conversations with them, we often learnt that they were carrying debts across multiple utilities. In many

¹ See Clause 5.1 of EWOV's Charter: <https://www.ewov.com.au/files/ewov-charter.pdf>

² See EWOV's website: <https://www.ewov.com.au/about/who-we-are/our-principles>

cases, it was also evident that utility debt was part of a much more complex financial situation they were facing.

The Draft Decision outlines the ESC's intended approach towards implementing Recommendations 3C, 3D and 3E of the Independent Review, in addition to implementing an Australian Energy Market Commission (**AEMC**) rule change enabling consumers to submit their own estimated meter reads. The intention of the reforms is to provide consumers with the tools and capability to more effectively navigate the retail energy market, which should in turn result in more consumers signing up to better value energy plans - and avoiding high bills.

This should ultimately assist with a reduction in customer complaints to EWOV.

We have provided a brief response to the Draft Decision below.

Draft decision 1: A new Victorian energy fact sheet

EWOV supports the introduction of a new Victorian energy fact sheet to replace the existing price and product information statements (**PPIS**), as this will assist consumers when comparing and assessing energy plans.

We also support leveraging work that was undertaken by the Australian Energy Regulator (**AER**) during the 2017-18 development of their Retail Pricing and Information Guidelines (**RPIG**) to inform the development of the Victorian energy fact sheet.

Draft decision 2: Form and content of the new Victorian energy fact sheet

Again, EWOV is supportive of leveraging work that was undertaken by the Australian Energy Regulator (**AER**) during the 2017-18 development of their Retail Pricing and Information Guidelines (**RPIG**) to inform the development of the Victorian energy fact sheet. Not only will this reduce unnecessary 'double handling' in the development of the Victorian energy fact sheet, but it will provide retailers and consumers with consistency across the NEM – which is useful for building consumer confidence in the market and in assisting retailers to implement fact sheets in different jurisdictions.

EWOV is aware that the AER commissioned extensive consumer testing, and engaged the services of a behavioural consultant when developing the 2017-18 RPIG – which was developed for the same purpose as the ESC now proposes to introduce the Victorian energy fact sheet. Delivering easy to read, widely accessible documents was front of mind throughout that process. Victorian customers will undoubtedly benefit if the ESC adopts a similar 'less is more' approach to form and content when devising the Victorian energy fact sheet.

Draft decision 3: Victorian energy fact sheet to include a comparison mechanism

EWOV supports this Draft decision, for the reasons outlined above in our response to Draft decision 2.

Draft decision 4: Incorporation of typical customer usage profiles that align with AER equivalents

EWOV supports this Draft decision, for the reasons outlined above in our response to Draft decision 2.

Draft decision 5: Making the Victorian energy fact sheet available to customers

EWOV is supportive of the Victorian energy fact sheet being made available to customers through the avenues identified in Draft decision 5, as the more widely known the fact sheets are the more likely they will be used by customers when making purchasing decisions in the retail energy market.

In an ideal world, over time the Victorian energy fact sheet will become a trusted source of pricing information which customers routinely refer to when assessing offers in the market. This would enable more customers to make beneficial choices regarding their energy supply, and therefore reduce complaints to EWOV. If energy price fact sheets are to play this role, however, retailers will need to promote them emphatically and ensure they are highly accessible. Without active promotion, dissemination and ubiquitous availability the potential of Victorian energy price fact sheets to improve consumer experiences, (and reduce complaints), is unlikely to be realised.

Draft decision 6: Fact sheets to be referenced in marketing material

EWOV supports this Draft decision, for the reasons outlined above in our response to Draft decision 5.

Draft decision 7: Consultation on technical matters

EWOV supports this Draft decision, with the expectation (as stated above) that the work done by the AER when developing their RPIG will heavily inform development of the Victorian energy fact sheet. EWOV has engaged with the technical consultation, expressing the view that a user-friendly document accessible to a wide audience and expressed in jargon free terms would benefit consumers. These principles informed the AER RPIG development process, and delivered beneficial reforms.

Draft decision 8: Meter read provisions

EWOV supports the ESC's Draft decision to align the Energy Retail Code with the AEMC's final rule on estimated meter reads, as a way to allow customers the right to provide read estimates (provided they do so in accordance with reasonable instructions and in a timely fashion). Providing simple to follow directions instructing consumers on how they can accurately provide self-read estimates would be a useful adjunct to this reform, and would be a reasonably simple consumer information piece to compile.

Draft decision 9: Commencement date of marketing and information disclosure code amendments

EWOV supports the proposed timeline, noting that this brings implementation of the reforms into alignment with the ESC's implementation of reforms regarding recommendations 3B, 3F, 3G and 3H which were decided last October.

While this timeline is challenging, it is not unachievable.

Draft decision 10: Commencement date of customer read estimate code amendments

Again, EWOV supports the proposed timeline.

We trust these comments are useful. Should you like any further information or have any queries, please contact Zac Gillam, Senior Policy and Stakeholder Engagement Officer, on [REDACTED].

Yours sincerely



Cynthia Gebert
Energy and Water Ombudsman (Victoria)

5 February 2019

Essential Services Commission
Level 37, 2 Lonsdale Street
Melbourne, Victoria 3000

Submission by email: RetailEnergyReview@esc.vic.gov.au

Submission - Helping customers engage confidently in the retail energy market

Thank you for the opportunity to provide a submission in response to the Rule Change, Helping customers engage confidently in the retail energy market.

Momentum Energy is a 100% Australian-owned and operated energy retailer. We pride ourselves on competitive pricing, innovation and outstanding customer service. We retail electricity in Victoria, New South Wales, South Australia, Queensland, the ACT, and on the Bass Strait Islands. We offer competitive rates to both residential and business customers along with a range of innovative energy products and services. We also retail natural gas to Victorian customers.

Momentum Energy is owned by Hydro Tasmania, Australia's largest producer of renewable energy.

Marketing and Information Disclosure

Momentum welcomes the move by the ESC to streamline the current information disclosure requirements, and to harmonise where possible with the recent changes made by the Australian Energy Regulator (AER) to the Retail Pricing Information Guideline. We support the diversion from the AER to have only one fact sheet, the Victorian Energy Price Fact Sheet acknowledging that information in the Detailed Pricing Information Document is captured elsewhere and avoiding information overload for customers. However, we note that given the level of detail provided in the draft decision, it is pertinent to flesh out how the changes will play out in practice given the different instruments under each jurisdiction and how matters external to retailer processes are managed.

We welcome the opportunity to further consult on this matter in the near future and highlight that implementation timeframes should appropriately reflect this, given the significant regulatory changes occurring on July 1.

Estimated Meter Reads

Momentum supports the decision to extend the NECF self read requirements to Victoria. We stress that processes for this have been set up to conform to this decision so any similar provisions in Victoria, must be identical to avoid duplicated processes.

We also stress that it is the responsibility of the ESC to publicise the fact that this will not apply to customers with AMI meters. A failure to do so will see an increase in calls from customers simply wishing to dispute their bills, and will increase retailer costs to serve.

If you require any further information with regard to these issues, please contact me on

[REDACTED]

Yours sincerely

Melissa McAuliffe
Regulatory Advisor
Momentum Energy

Onsite Energy Solutions Pty Ltd
ABN 92 164 385 693
Suite 21, 45-49 Bourke St
Melbourne VIC 3000
www.onsiteenergy.solutions

Contact: Bryn Dellar
[REDACTED]

Essential Services Commission of Victoria
Level 37, 2 Lonsdale Street
Melbourne VIC 3000

By email:
retailenergyreview@esc.vic.gov.au

Onsite Energy Solutions Pty Ltd – submission due 5th February 2019
Helping customers engage confidently in the retail energy market

To Whom It May Concern,

Please find attached OES's submission in relation to the ESC's draft decision on helping customers engage confidently in the retail energy market.

Please do not hesitate to contact me [REDACTED] should you require any further information or clarification.

Yours faithfully,



Ronald (Bryn) Dellar
Chief Executive Officer / Executive Chairman
Onsite Energy Solutions Pty Ltd

Attachment:

OES' submission: Helping customers engage confidently in the retail energy market

Context for OES submission:

As a new market entrant, OES currently operates with a restricted licence to service a limited number of small-scale customers in Victoria.

Draft decision 1: A new Victorian energy fact sheet

OES supports the Commission's decision to implement a Victorian energy fact sheet to provide transparency and consistency to customers to help assess and compare energy plans offered by retailers. However, the Commission should be careful to ensure that its regulations do not inadvertently curtail tariff innovation.

Draft decision 2: Form and content of new Victorian energy fact sheet

OES supports the Commission's decision to ensure consistency for customers and improve market efficiency by basing the form and content of the Victorian energy fact sheet on the Australian Energy Regulators' (AER) energy fact sheet.

Draft decision 3: Victorian energy fact sheet to include a comparison mechanism

OES supports the Commission's decision to require a comparison tool that uses typical customer usage profiles to estimate annual costs under the plan to help consumers compare alternatives. However, this requirement should only apply to (traditional) tariff plans for residential type customers where there is a cost uncertainty to customers (e.g. tariff plans based on cents per of future actual kWh energy consumption by the customer).

For tariff plans that offer a fixed monthly price (such as OES), regardless of the customer's future energy consumption, comparisons to a variety of "typical" customer usage profiles to estimate annual costs would be meaningless and potentially confusing for customers.

Draft decision 4: Incorporation of typical customer usage profiles that align with AER methodology

Where the provision of typical customer usage profile is appropriate and meaningful to customers, OES supports the Commission's decision to align with the AER methodology.

**Draft decision 5: Making the Victorian energy fact sheet available to customers &
Draft decision 6: Standardised format for referencing fact sheets in marketing material**

The Commission should limit the obligation regarding the provisioning and referencing to a Victorian energy fact sheet at the marketing stage to generally available retail electricity plans.

OES' tariff offers will be specifically and uniquely developed for individual customer sites and tailored to the specific circumstances of that customer and their need(s), therefore, it will not be possible for OES to publish a generic energy fact sheet plan as part of general marketing activities (prior to developing a unique tariff offer for a customer).

For the avoidance of doubt, OES supports a requirement for a Victorian Energy fact sheet in the standardised format to be provided after/when a tailored or unique electricity tariff offer is made to a customer.

Draft decision 7: Consultation on technical matters

OES looks forward to making a further submission to the Commission when it releases its Consultation on technical matters in relation to draft decisions 2, 5 and 6, and the development of the methodology for the usage profiles in draft decision 4.

Noting our response to draft decision 3, OES generally supports the methodology to develop usage profiles as outlined by ACIL Allen Consulting at the ESC's workshop held on Tuesday 22nd January 2019.

Draft decision 8: Meter read provisions

OES supports the Commission's decision align the Energy Retail Code with the AEMC's final rule on estimated meter reads for customers with accumulation meters.



5 February 2019

Dr Ron Ben-David
Essential Services Commission
Level 27, 2 Lonsdale Street
Melbourne Victoria 3000

Lodged by email: RetailEnergyReview@esc.vic.gov.au

Dear Dr Ben-David,

Re: Helping customers engage confidently in the retail energy market—Draft Decision

Origin Energy (Origin) welcomes this opportunity to respond to the Essential Service Commission of Victoria's (the Commission) Draft Decision on recommendations 3B, 3C, 3D and 3F of the *Independent Review into the Electricity and Gas Retail Markets in Victoria (Independent Review)*¹ and its draft decision on estimated meter reads.

Victorian Energy Fact Sheet

Origin strongly supports the Commission's decision to create a new Victorian Energy Price Fact Sheet (VEFS) that aligns with the Australian Energy Regulator's (AER) Retail Price Information Guideline (RPIG). Energy price fact sheets play an important role in assisting customers to engage in the market by providing information in a comprehensible manner. The AER's Basic Plan Information Document (BPID) includes price estimates based on independently developed consumption profiles, as well as enough contractual information for a customer to make an informed decision. Origin supported the development of these new BPIDs and we agree that there is merit in the Commission mirroring their content as much as possible for Victorian consumers.

To facilitate an efficient introduction of the BPID, the AER took responsibility for building necessary system changes into Energy Made Easy (EME) to produce the new fact sheets on behalf of retailers. This meant that retailers did not have to individually allocate resources to building their own systems. It also ensured that the energy price facts sheets were identical in their format across the industry. Origin believes that it would be preferable for the Commission and the Department of Environment, Land, Water and Planning (DELWP) to follow the AER and build its own solution into Victorian Energy Compare (VEC) rather than requiring retailers to develop their own fact sheets. This will lower implementation costs across the industry and will be a far more effective manner of delivering this change in a short timeframe.

Once the Commission provides draft changes to the Energy Retail Code, Origin will be able to provide further content and feedback on whether the proposed changes are appropriately harmonised with the RPIG. In drafting the Code, the Commission should be mindful of not creating obligations on retailers where they depend on the VEC to meet these obligations. For instance, if the VEC had an issue with its systems and retailers could not upload new VEFS for several days, then retailers should not be held responsible for this under the Energy Retail Code. To address this issue, the Commission ought to create overarching obligations in the Energy Retail Code (such as retailers only being permitted to use VEFS created by the VEC) whilst leaving specific details about the content of the VEFS for a separate Guideline. A Guideline is more flexible than the Energy Retail Code and will permit changes to occur as the functionality of the VEC improves over time. Further, if the AER makes updates to the

¹ John Thwaites, Patricia Faulkner and Terry Mulder, *Independent review into the electricity and gas retail markets in Victoria*, Final Report, August 2017.

RPIG which changes retailer practices and processes, the Commission can mirror these more efficiently in a Guideline than the Energy Retail Code.

Implementation

Origin appreciates that the Victorian Government has asked the Commission to implement these reforms by 1 July 2019. At the same time, it is better not to force through changes too quickly because they may cause a negative customer experience and increase costs for the Department and retailers.

Origin believes that the Commission should follow the AER's lead and undertake a three-step phased implementation approach. As the Commission is aware, there is a range of regulatory changes being bedded down by 1 July in Victoria, including the Victorian Default Offer, recommendations 3G-H of the Independent Review, and a flexible feed-in-tariff. It would be prudent to phase in the changes to VEC and retailer practices over six months. The first step of a phased approach could commence with all retailers publishing their current 'Generally Available Offers' (GAO) in the new format by 1 July 2019. The benefit of this is that it gives all parties time to learn how to use the new VEC system of uploading offers. It also enables DELWP to receive any feedback on how the changes to the new system are proceeding. Customers will immediately benefit by having access to new price fact sheets that include price estimates for each plan.

The second step involves transitioning to the new definition of GAO, which will lead to additional offers being uploaded on the VEC. Retailers ought to be able to comply with this by 1 October 2019. The final step, which involves third party comparators and agents, could be implemented by 1 January 2020. This provides retailers with additional time to ensure that our agreements and processes with third parties are compliant.

Estimated meter reads

The Commission has made a draft decision to mirror the Australian Energy Market Commission's (AEMC) recent rule on estimated meter reads. Origin supports Victoria aligning directly with this rule change.

Closing

Should you have any questions or wish to discuss this information further, please contact Timothy Wilson on [REDACTED].

Yours sincerely



Keith Robertson
General Manager, Regulatory Policy
(02) 9503 5674 Keith.Robertson@Originenergy.com.au



05 February 2019

Essential Services Commission
 Level 27, 2 Lonsdale Street
 Melbourne, Victoria 3000

Dear Essential Services Commission

Draft Decision: Helping customers engage confidently in the retail energy market

Powershop Australia Pty Ltd (**Powershop**) thanks the Essential Services Commission (**ESC**) for the opportunity to provide comments on the ESC’s draft decision, *Helping customers engage confidently in the retail energy market*.

Powershop supports the approach of the ESC to harmonise these new obligations with those in the National Energy Customer Framework (**NECF**) provided it enhances customer experience and is cost effective to implement. Our response to the draft decisions are set out in the table below.

Draft decision	Powershop Response
<p>Draft decision 1:</p> <p>A new Victorian energy plan fact sheet will replace the existing price and product information statements and offer summaries.</p>	<p>Powershop supports this draft decision in its intent to harmonise with the NECF, but strongly encourage the ESC to consider the consequences of ‘partial harmonisation’.</p> <p>That is, the ESC cannot achieve harmonisation until it permits retailers to generate price sheets through the Australian Energy Regulator’s (AER) Energy Made Easy (EME) retailer portal or the Department of Energy, Land, Water and Planning (DELWP)’s Victorian Energy Compare (VCE) portal is developed sufficiently. Adopting the proposed complicated comparison table would only achieve partial harmonisation of price sheets.</p>
<p>Draft Decision 2:</p> <p>The form and content of the fact sheet will be based on the requirements of the Australian Energy Regulator’s (AER) energy fact sheets, drawing on the research undertaken to support document design.</p>	<p>Powershop supports this draft decision.</p>
<p>Draft Decision 3:</p> <p>The Victorian energy fact sheet will include a comparison tool that uses typical customer usage profiles to estimate annual costs under the plan to help consumers compare alternatives.</p>	<p>Powershop supports this draft decision however questions the usefulness to customers who do not provide actual data to the EME website.</p>

<p>Draft Decision 4:</p> <p>The typical customer usage profiles that will be used in the Victorian energy fact sheet will align the AER's methodology for calculating typical usage profiles.</p>	<p>Powershop supports this draft decision provided that the number of gas mains connections is factored into customer's usage profiles.</p>
<p>Draft Decision 5:</p> <p>The Victorian energy fact sheet must be made available to customers:</p> <ul style="list-style-type: none"> • on request by a customer (electronically or postage) • on retailers' website • on third party comparator websites • as an initial step in any online search or sign up process • for any telemarketing activity. <p>These rules are aligned with equivalent rules within the national framework.</p>	<p>Powershop supports this draft decision.</p>
<p>Draft Decision 6:</p> <p>If a retailer or its agent markets energy plans, using mass or social media channels including magazines, the internet, newspaper or billboards that reference prices, discounts, or the value of existing or potential plans, the following statement must be made in clear and easily readable text:</p> <p>'[Fact sheet(s) for plan(s) available at [insert link to the retailer/agent website where the fact sheet is located]'</p> <p>In circumstances where character limitations prevent the prescribed text (above) to be included, a retailer must include the text in a prominent location on the first webpage linked to the advertisement.</p> <p>These rules are aligned with equivalent rules within the national framework.</p>	<p>Powershop supports this draft decision.</p>
<p>Draft Decision 7:</p> <p>We will initiate a separate technical consultation on the code amendments required to give effect to draft decisions 2, 5 and 6, and to develop the methodology for the usage profiles in draft decision 4.</p>	<p>Powershop supports this draft decision.</p>
<p>Draft Decision 8:</p> <p>The Energy Retail Code is to be aligned with the Australian Energy Market Commission's (AEMC) final determination on estimated meter reads.</p>	<p>Powershop supports this draft decision.</p>
<p>Draft Decision 9:</p> <p>The anticipated commencement date for the new marketing and information disclosure code amendments is 1 July 2019.</p>	<p>Powershop's support for a commencement date of 1 July 2019 for the new price sheets is dependent on the completion of the VEC in a timely manner and the outcomes from the technical delivery workshops with the department.</p>



POWERSHOP
A better power company

Draft Decision 10: The new customer read estimate requirement is to take effect from 1 July 2019.	Given Powershop's customer-centric model, we already allow customers to enter their own meter read via the Powershop app. Powershop does not support the ESC in "expanding and refining our retailer reporting requirements".
--	--

To better manage the implementation of the changes detailed in this submission, Powershop would suggest a go-live date of 1 January 2020 given:

- industry still needs to participate in, and assess the outcomes from the DELWP's technical delivery requirements for the new Victorian energy fact sheets;
- DELWP confirming that VEC has been developed to produce the required Victorian energy fact sheets accurately and in a timely manner; and
- confirmation the significant work required to:
 - implement the obligations arising from Recommendations 3G – 3H;
 - amend solar FIT obligations; and
 - manage the introduction of the Victorian Default Offer.

If you have any queries or would like to discuss any aspect of this submission, please do not hesitate to contact me.

Yours sincerely,

Haideen Jones
Operations Manager
Powershop Australia Pty Ltd



PO Box 4136
East Richmond VIC 3121
T 131 806
F 1300 661 086
W redenergy.com.au

PO Box 632
Collins St West VIC 8007
T 1300 115 866
F 1300 136 891
W lumoenergy.com.au



5 February 2019

Dr Ron Ben-David
Chairperson
Essential Services Commission
Level 37, 2 Lonsdale St
Melbourne VIC 3000

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

Dear Dr Ben-David,

Re. Draft Decision - Helping customers engage confidently in the retail energy market

Red Energy and Lumo Energy (Red and Lumo) welcome the opportunity to respond to the Essential Services Commission's (the Commission's) Draft Decision, *Helping customers engage confidently in the retail energy market*.

In principle, Red and Lumo support the Commission's proposal to align retailers' obligations when marketing their offers with those under the Australian Energy Regulator's (AER's) Retail Pricing Information Guideline (RPIG). This will extend a recently established framework and promote national consistency, thereby reducing compliance costs for retailers who operate across numerous jurisdictions. At the consultation workshop on 22 January, the Commission advised that the Department of Energy, Land, Water and Planning (DELWP) would provide the functionality through Victorian Energy Compare, we provide this submission on the basis of this advice.

However, the Victorian model differs from the national framework in that retailers and third parties will have an obligation to host Basic Product Information Documents (BPIDs) that are generated by Victorian Energy Compare. This means the Commission must address two critically important issues if it plans to implement these measures from 1 July:

- The readiness of Victorian Energy Compare to generate and then provide BPIDs to retailers and third parties without error. This includes an appropriate interface between Victorian Energy Compare and retailers.
- The precise nature of retailers' and third parties' obligations under the Energy Retail Code (ERC).

The Commission must delay commencement if DELWP cannot provide assurances about the readiness of Victorian Energy Compare. Given the current pipeline of regulatory initiatives and their system implications, it is simply not feasible for retailers to build the capability to produce BPIDs by 1 July.

Retailers are concentrating on implementing numerous measures, the most significant of which are the Victorian Default Offer and the Commission's Final Decision to implement Recommendations 3F to H of the *Independent Review into the Electricity and Gas Retail Markets in Victoria* (the Thwaites Review). In our case, we would require between 9 and 12 months from the Commission's final decision to develop this capability. It would also generate considerable costs.

Both of these factors are relevant to how the Commission should implement its Decision. We share the views of the Australian Energy Council that any changes to the ERC should be simple obligations for retailers to display and provide the BPID that Victorian Energy Compare generates, rather than prescribing the form and content of what retailers must give to their customers. Otherwise, retailers and third parties are subject to risks that they cannot possibly manage, namely, the ongoing technical capability of Victorian Energy Compare to produce BPIDs and transfer them to retailers in their complete form.

Looking ahead, this approach provides the Commission with flexibility to amend BPIDs if further research indicates that consumers prefer different content or in a different form to help them compare competitive retail offers.

Our support for the Draft Decision is also subject to the proviso that the Commission adopt the same provisions and obligations - in terms of when retailers and third parties must notify and provide BPIDs to consumers, for example - as those under the RPIG. We cannot realistically assess the implications on our systems and processes until we see the proposed amendments.

Therefore, we look forward to further opportunities to comment on a second Draft Decision and specific amendments to the ERC as the Commission continues its consultation.

In terms of the content of BPIDs, we acknowledge this reflects the AER's extensive behavioural research and will therefore offer valuable information to consumers wanting to compare retail offers across retailers. However, the Commission and AER must both recognise that this is a relatively new regulatory initiative and its benefits haven't yet been fully established. Furthermore, the consumption levels underpinning the estimates of annual costs for households of different sizes are not perfect proxies for many Victorian households. Consumption patterns vary substantially over time and within the prescribed groups (for example, depending on seasonal factors and incomes levels respectively).

The Commission and DELWP should take steps to ensure that Victorian consumers who access BPIDs through Victorian Energy Compare understand that the annual estimates in the comparison tables are based on 'typical' consumption and household types. As a consequence, they are only a guide as to what they might pay.

Finally, the Commission needs to consider the practicalities of implementation, given the relatively short time for implementation between its final decision and 1 July, and irrespective of Victorian Energy Compare's technical readiness and the form of the ERC changes.

The Commission will be aware that Energy Made Easy generates and hosts BPIDs, whereas it proposes that retailers and third parties host these documents for Victorian offers. This will necessitate some system changes and will be challenging for some third parties (and probably for some retailers).

One option might be for the Commission to delay or at least stagger implementation. We note the AER adopted this approach to the new RPIG provisions, mandating that retailers comply with the new provisions from 1 October 2018 and that third parties comply from 1 January 2019.

Another option is for the Commission to allow third parties (who will be obligated to provide BPIDs or display links to BPIDs on their websites) to be able to refer consumers to a retailer or display a link to the BPID on a retailer's website. This would avoid them having to make significant system changes.

Regardless of which option the Commission chooses, our concern is that consumers could receive misleading or incomplete information and retailers could be exposed to unreasonable compliance risks under a more rushed approach.

Response to specific questions

The following are our responses to the questions that Commission posed at its technical consultation workshop on 22 January.

1. Should fact sheets be available for small business and residential customers?

The AER's policy decision was to exclude the comparison table on BPIDs for retail offers to small business consumers and for more complex residential offers, such as those based on maximum demand network charges. The Commission should adopt the same position.

BPIDs are intended to assist consumers to make informed decisions by providing an estimate of what they could pay under different offers. However, annual estimates that are based on some average are not suitable for the broader small business cohort, which differs substantially in terms of the profile of its energy usage (timing and intensity) and exposure to economic conditions.

Similarly, the annual costs paid by consumers who face complex tariffs is driven by the timing of their usage and this could vary significantly between different consumers and over time. It is highly unlikely that simple cost estimates based on assumed energy use in different time periods will align with the choices that these consumers make to either use or not use energy during defined peak periods. In both cases, annual estimates based on a typical profile would mislead consumers, eroding trust in both the competitive market and the government comparator tools.

The AER will address this by enhancing the functionality of Energy Made Easy in the coming months, and DELWP and the Commission should do the same with Victorian Energy Compare. The flexibility to revise BPIDs to improve their value to consumers would be a further benefit of simply prescribing in the ERC that retailers and third parties reference the BPIDs that Victorian Energy Compares creates.

Regulators should develop these tools incrementally as they better understand the nature and extent of any problems that consumers face when they participate in the market and have the capability to address them in an efficient and effective way, rather than exacerbating those problems.

2. *What search mechanisms might a consumer use to identify and locate the factsheet that is applicable to them?*

In our experience, customers - existing and prospective - generally refer to the name and features of a plan when discussing our retail offers, rather than unique plan IDs. This reflects the relatively small number of generally available offers we have in the market. The forthcoming clear advice entitlement will also ensure that all retailers clearly explain the important aspects of a range of their offers so consumers can make informed decisions.

3. *When should retailers upload plan information into VEC and when should their factsheets be publicly available?*

The Commission should adopt the same timeframes and obligations for uploading and making plans available as in the RPIG.

4. *Should there be a date reference (either offer start or expiry date) included in the factsheet?*

The Commission should align with the RPIG on this point. There is no need to mandate an expiry date as retailers have a strong incentive and obligations under Australian Consumer Law to ensure that customers fully understand the terms and conditions, including the availability of their offers.

Estimated reads

We also support the Commission's decision to align with the national framework and establish a Victorian framework that allow consumers to request an adjusted bill after they received as estimated bill (subject to certain conditions).

However, the Commission should be aware that some Victorian consumers have entered into contracts that include an agreement to receive estimated bills under certain circumstances. Some retailers offer bill smoothing and monthly fixed price products, for example. These contracts align with consumers' needs and preferences for how they will pay for their energy usage

Therefore, we recommend that the Commission not apply this rule where consumers have explicitly agreed to receive estimated bills in a market retail contract.

The Commission should also consider a limit on how many customer self reads can occur. Estimated reads tend to signify an underlying problem (of unsafe or limited access, for example) that prevents an actual read and allowing a customer to provide a self-read might prolong the issue.

Retailers will use the opportunity to work with the customer to resolve the underlying issue but a limit on the number of self-reads will hasten this.

Network and wholesale bill recalculation

The obligation to change a customer's bill should also be reflected in the network and wholesale markets, and in the metering data files that AEMO uses for settlement. In our view, the new rule means that a customer self read is of a higher standard than an estimated read and this be reflected in the rules and the metering data files. This shouldn't be onerous to implement as there are already existing transactions in place in most markets to allow retailers to pass customer self reads to distribution businesses.

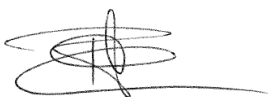
We consider this could also become a problem when customers request data under the Consumer Data Right, depending on the final legislation and the manner in which energy market data is designated. There will be a mismatch between an energy bill and the metering data that a customer or an authorised data recipient will receive if they request it from the distributor or AEMO, unless they are reconciled in some way.

About Red and Lumo

We are 100% Australian owned subsidiaries of Snowy Hydro Limited. Collectively, we retail gas and electricity in Victoria, New South Wales, South Australia and Queensland to over 1 million customers.

Red and Lumo thank the Commission for the opportunity to respond to the Draft Decision. Should you wish to discuss aspects or have any further enquiries regarding this submission, please call Geoff Hargreaves, Regulatory Manager on [REDACTED].

Yours sincerely

A handwritten signature in black ink, appearing to be "Ramy Soussou", written in a cursive style.

Ramy Soussou
General Manager Regulatory Affairs & Stakeholder Relations
Red Energy Pty Ltd
Lumo Energy Australia Pty Ltd

5 February 2019

Mr Aaron Yuen
Senior Regulatory Manager
Essential Services Commission
Level 37, 2 Lonsdale Street
Melbourne VIC 3000

Via email: RetailEnergyReview@esc.vic.gov.au

Dear Mr Yuen,

Re: Helping customers engage confidently in the retail energy market

Simply Energy welcomes the opportunity to provide feedback on the Essential Services Commission's (ESC) Draft Decision on Helping Customers Engage Confidently in the Retail Energy Market.

Simply Energy is a leading second-tier energy retailer with over 670,000 customer accounts across Victoria, New South Wales, South Australia, Queensland and Western Australia. As a leading second-tier retailer focused on continual growth and development, Simply Energy actively supports open market competition and energy affordability.

With this in mind, Simply Energy has no concerns with the ESC's proposal to develop standard customer usage profiles, and to replicate the estimated meter read obligations under the National Energy Retail Rules.

In saying that, Simply Energy considers that further work needs to be done to ensure the smooth rollout of the new energy fact sheets across Victoria. The following submission, therefore, focuses on the ESC's implementation of the energy fact sheets with specific regard being given to:

- the scope and application of the fact sheets; and
- the need for the ESC to undertake further consultation on the underlying regulatory framework and associated transitional processes.

Scope of the requirements

Simply Energy supports the ESC's proposal to harmonise the Victorian consumer disclosure requirements with the national framework. Aligning these requirements will ensure energy consumers across the National Electricity Market have access to consistent comparison information no matter where they live.

Simply Energy's preference is for the Victorian Energy Fact Sheets to be developed directly through Victorian Energy Compare. Like the national Energy Made Easy platform, this would provide retailers with a cost-effective means of providing energy consumers access to consistent comparison information on energy offers available in their local service area. Centralised provision of the Victorian Energy Fact Sheets by Victorian Energy Compare is superior in cost and consistency of customer information, and lower risk, than requiring each retailer to develop systems and processes to generate Victorian Energy Fact Sheets.

If this approach is adopted, Simply Energy considers that the Energy Retail Code should expressly exempt retailers from liability where Victorian Energy Compare is off-line or non-functional. Retailers should not be held accountable for technical processes that are outside their reasonable control.

Simply Energy also considers that the Energy Retail Code should only set out the overarching requirements for retailers to publish Victorian Energy Fact Sheets, with the technical detail included in a subordinate guideline. Including technical detail in a subordinate guideline rather than the Energy Retail Code itself will facilitate less cumbersome and more timely updating of technical requirements identified as the implementation progresses.

Transitional processes

In addition to providing clarity around the scope of the requisite requirements, it should be kept in mind that in the lead up to 1 July 2019 retailers already have a number of significant regulatory changes to implement. Two of the major changes will be the introduction of the Victorian Default Offer, and the requirement to provide customers with clear advice around their best offer.

Simply Energy considers that it is important that retailers get these changes operating smoothly before looking to develop changes to their energy fact sheets. Simply Energy, therefore, considers that retailers should be given a three to six-month transitional timeframe from 1 July 2019 to facilitate the implementation of the new Victorian Energy Fact Sheets. This is, however, contingent on Victoria Energy Compare having the technical capabilities to develop the required energy factsheets on or before 1 July 2019.

Closing remarks

Simply Energy encourages the ESC to work collaboratively with industry participants to develop a staged implementation approach. The best outcomes for consumers can only be achieved if the ESC and industry work in collaboration to rollout these changes in a timely manner that factors in sufficient time for system testing.

In facilitating this end, Simply Energy is strongly of the view that the ESC should publish a further draft decision paper that outlines the proposed regulatory requirements that will underpin the rollout of Victorian Energy Fact Sheets. It is only through understanding these requirements in sufficient detail that retailers will be able to plan the processes to ensure the smooth rollout of the new energy fact sheets across Victoria.

Simply Energy welcomes further discussion in relation to this submission. To arrange a discussion or if you have any questions please contact Anthony O'Connell, Senior Regulatory and Compliance Officer, on, telephone, [REDACTED].

Yours sincerely



James Barton
General Manager, Regulation
Simply Energy

Better energy deal information

Response to Essential Services Commission draft decision on a new energy fact sheet



The Victorian Council of Social Service (VCOSS) welcomes consultation by the Essential Services Commission (ESC) on a new fact sheet for energy deals, and a customer entitlement to their own meter reads if they receive an estimated energy bill.

New energy fact sheet

The new Victorian energy fact sheet will replace existing price and product information statements and offer summaries. We support it being available to people:

- on request to an energy retailer
- on energy retailers' websites
- on third-party energy comparator websites
- as an initial step in any online search or sign-up process for energy deals
- as part of any telemarketing activity for energy retailers.

We also support making fact sheets available through the Victorian Energy Compare (VEC) website, and requiring retailers and their agents to state in their marketing that fact sheets are available on their websites.

Subject to the comments below, we support the ESC basing the fact sheet on those developed by the Australian Energy Regulator (AER) for use in other National Electricity Market jurisdictions.

Price comparison tool

The ESC proposes the fact sheet includes a price comparison tool estimating the annual price of the energy deal for several household types, such as households with one, two to three, or four or more people. The household profiles will be based on AER methodology. This reform helps people consider and compare the estimated price they will pay for energy, especially when considering discount deals that do not indicate the final price.

While we support the price comparison tool, a more useful estimate would be based on a person's actual energy usage. The fact sheet should show this estimate where the retailer has information about the customer's usage history, or the fact sheet is generated through the VEC website and a person has entered data about their actual energy usage.

Other energy deal information

Based on the AER fact sheets, the ESC also proposes the fact sheet include information on:

- energy plan features
- fees and charges
- discounts
- pricing (i.e. usage charges, supply charges and solar feed-in tariffs)

- contract details
- retailer's contact details.

VCOSS suggests some minor modifications to the fact sheet based on the AER's model.

The 'Plan features' section should note any discounts, and whether they depend on on-time payment or some other action.

The 'Discounts' section should specify the length of the benefit or discount period and avoid using inaccessible language (such as 'benefit period') wherever possible, for instance, by stating 'Discounts only apply for 24 months' rather than 'Discounts only apply during the benefit period.' It should also clearly state if the discount does not apply to the daily supply charge.

The 'Contract details' section should be renamed 'Offer details'. Rather than stating when the offer is effective from, it is more important to include information on when the offer ends. People may feel frustrated and deceived if they contact a retailer in good faith about an energy deal but are told the offer has ended. This is particularly the case if they have spent significant time searching for and comparing offers, organising their day to make the call, and perhaps facing long call centre wait times. Other industries with pricing complexity and volatility, such as insurance, are able to specify offer or quote end dates.

Some retailers will be able to offer customers an equivalent deal if an offer has ended. However, this relies on some degree of customer self-advocacy and extra work to ensure the substitute offer is comparable and acceptable. In some cases, people may be lured into a 'bait and switch', meaning they are attracted by a good value but soon to be expired offer, and persuaded to take up a more expensive one.

Specifying the offer end date also limits retailers' ability to refuse an offer to 'low value' customers when they make enquiries.

Customers' own meter reads

We support customers being entitled to provide their own meter read when receiving an estimated bill, consistent with national reforms. This helps avoid high, unaffordable bills based on inaccurate estimates, and reduces complaints to the Energy and Water Ombudsman Victoria (EWOV). In the first half of 2018 alone, EWOV received more than 400 cases about estimated energy and water bills.¹

Currently, estimated bills can be based on historical metering data, average energy use by a comparable customer, or the customer's own meter reading. However, retailers are not required to accept a customer's reading as the basis for the bill estimate. The proposed change would mean customers receiving an estimated electricity or gas bill would be entitled to request an adjusted bill based on their own meter read. The energy retailer would be able to reject the customer estimate if it is not provided in accordance with retailer instructions or was received after the bill due date.

VCOSS welcomes each of the reforms proposed by the ESC and their implementation by 1 July 2019.

¹ Energy and Water Ombudsman Victoria, 'Hot topics: Estimated meter reads (July 2018)', <https://www.ewov.com.au/resources/hot-topics/estimated-meter-reads-july-2018>.