

Victorian Government Interim Response

Bipartisan Independent Review of the Electricity
and Gas Retail Markets in Victoria

March 2018



Environment,
Land, Water
and Planning

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Introduction

In November 2016, the Andrews Labor Government launched the *Independent Review of the Electricity and Gas Retail Markets in Victoria* (the Review). The Review was in response to ongoing concerns about the impact of nation-wide rising energy costs and Victoria's competitive electricity and gas market not delivering on intended benefits for Victorian consumers.

The Panel, comprising Professor John Thwaites, Ms Patricia Faulkner AO and Mr Terry Mulder, undertook extensive consultation including releasing a discussion paper in January 2017 and receiving 25 written submissions, hosting a public forum held in February 2017 attended by 69 stakeholders, and holding targeted discussions with consumer representatives, network operators and energy retailers. The Review findings are underpinned by research and analysis on retailer marketing, prices and practices, consumer engagement in the market and what drives consumer choice and practices, and the experience of other jurisdictions.

The Panel delivered its final report in August 2017.¹ It found that despite more than 15 years of competition, Victoria's electricity and gas retail markets have not delivered the promised benefits to consumers, that Victorian householders are paying more than they should for energy, and that the retail charge component – the part of a customer's energy bill that covers the cost of billing and marketing – is a major factor in increasing energy costs.

The Review concluded that strong intervention is required to ensure better outcomes for consumers. In total, the Panel made 11 broad recommendations designed to place consumers back on a level playing field. The recommendations cover a range of themes including introducing a form of price regulation (called a 'Basic Service Offer') aimed at delivering 'no frills', affordable energy bills, improving transparency in energy retailer marketing, strengthening consumer protections, assisting vulnerable customers, enhancing the powers of the Essential Services Commission (ESC) to monitor and report on the competitiveness and efficiency of the Victorian retail energy market, and ensuring that customers have the best possible tariffs for their circumstances.

Andrews Labor Government Response to the Independent Review of the Electricity and Gas Retail Markets in Victoria

Making things fair – reducing power bills for Victorians

The Andrews Labor Government is getting on with the job of ensuring Victoria's retail energy markets deliver more affordable bills for consumers with the following actions:

- **Secured commitments from major energy retailers to do more to reduce the costs of energy for standing offer customers.** In response to the Government's challenge, Victoria's major energy retailers announced in November 2017 new rebates to reduce electricity costs for more than 285,000 customers who are on default deals also known as 'standing offers' or expired market offers – resulting in savings of between \$250 and \$450 per annum compared to what those customers would have paid in 2018 and savings of between \$254 and \$720 per annum if those customers are also eligible concession holders;
- **\$10.8 million dollars has been committed to implement the Victorian Government program, *Energy Affordability: Putting Consumers First* to progress a range of affordability projects;**
- **The Government's *Home Energy Assist* program will provide \$17 million to support 3,300 households become more energy efficient;**
- **The Government has listened to a range of energy sector and consumer stakeholders** about the Review's findings and recommendations through a stakeholder forum and individual discussions; and
- **The Government is already progressing nine of the 29 Review detailed recommendations.** These include the ESC implementing the outcomes of its review into improved assistance for hardship customers, the Department of Health and Human Services commencing a review of the Utility Relief Grants Scheme, and the Government supporting the pilot of a not-for-profit brokerage service for concession cardholders.

1. The final report of the Review Panel is available from: www.energy.vic.gov.au/about-energy/policy-and-strategy.

Responding to the Review

The Government will take the following immediate steps on the following key Review recommendations.

- **The Government will undertake further analysis of the application and scope of the Basic Service Offer and abolishing standing offers, or appropriate alternatives, and their effect on Victoria's energy sector** (Recommendations 1 and 2). This recognises immediate measures adopted by major retailers supplying over 90 per cent of Victoria's standing offer customers as of 1 January 2018 and gives the opportunity for the industry to clearly demonstrate that the market is working in the best interests of consumers. The Government will consult further with stakeholders regarding the design of a Basic Service Offer and any alternatives to a Basic Service Offer (BSO).
- **The Government supports the remaining Review recommendations and will consult further with stakeholders regarding their implementation.**
- **Retailers will be required to make prices comparable by publishing a comparison rate and to market prices using a standardised approach.** The Government will request the ESC to commence a review of its regulatory codes and implement the Review recommendations aimed at improving energy retailer marketing and billing practices, including the marketing of energy retail offers in a standardised format that incorporates annual energy costs for standardised customer usage profiles. These initiatives should commence for Recommendations 3A to 3H, on 1 July 2019.
- **The Government will commission the ESC to monitor and report on the competitiveness of the energy retail market.** The Government will commission the ESC to monitor and report on the competitiveness and efficiency of the Victorian energy retail market (Recommendation 8A). In giving effect to this recommendation the ESC will also be asked to develop a methodology for a 'reference BSO price' for electricity and gas offers for residential and small business customers.
- **The Government will also request the ESC to review its regulatory codes, including the Energy Retail Code, to ensure a focus on customer outcomes** (Recommendation 9A). The review will account for new business models of service provision. This broader review will follow the ESC's work on giving effect to Recommendations 3A to 3H and will be completed by 31 December 2019.

A final response to the Review will be released in mid-2018, drawing on the outcomes of the further consultation and the work of the ESC.

	Review Recommendation	Government Position	Government Action
1 & 2	Basic Service Offer and abolish standing offers	Under consideration	The Government will consult with stakeholders regarding the design of a BSO and BSO alternatives and will make a decision later in 2018 In the meantime, Government expects retailers to demonstrate their understanding that electricity and gas are essential services, and to reflect this in their pricing and practices
3	Marketing information on prices to be easily comparable	Supported	The Government will require the ESC to complete a review of relevant codes by 1 October 2018 to give effect to Recommendation 3G from 1 July 2019 The Government will require the ESC to complete a review of relevant codes by 30 January 2019 to give effect to Recommendations 3A to 3F and 3H from 1 July 2019
4	Contract periods, practices and variations to be clear and fair	Supported	The Government will consult with stakeholders regarding implementation of these recommendations, with a final response to be delivered in mid-2018

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	Review Recommendation	Government Position	Government Action
5	Promoting access to smart meter data to assist customers to manage bills and increase energy efficiency	Supported	The Government is already progressing Recommendation 5
6	Protecting low income and vulnerable customers	Supported	<p>The Government provides in-principle support to Recommendation 6</p> <p>The Government has commenced a review of the Utility Relief Grants Scheme (Recommendation 6D) and aims to complete this review by mid-2018. The implementation of other recommendations will inform consideration of any future review of energy support schemes for concession cardholders (Recommendation 6C)</p> <p>The Government is already progressing other parts of Recommendation 6</p>
7	Brokerage and collective bargaining on behalf of low income and vulnerable customers	Supported	The Government is already progressing a pilot of a not-for-profit brokerage service to be rolled-out from mid-2018
8	Monitoring the market	Supported	The Government will immediately commission the ESC to monitor and report on the competitiveness and efficiency of the Victorian energy retail market, completing its review by 31 December 2019
9	An energy market code based around the consumer	Supported	The Government will request the ESC to give effect to Recommendation 9A to review its regulatory codes, with the review to be completed by 31 December 2019
10	Full coverage of new energy services	Supported	The Government has already committed to extending the powers of Energy and Water Ombudsman (Victoria) (EWOV)
11	Energy Market Structure	Supported	The Government will continue to work through the COAG Energy Council to ensure that national markets continue to deliver in the long-term interests of consumers

Recommendations relating to Price Regulation (Recommendations 1 and 2)

One of the key recommendations of the Review is that all retailers should be required to provide a Basic Service Offer, regulated by the ESC and that, consequently, standing offer contracts should be abolished.

The Review's proposed BSO would be a 'no frills', unconditional offer, available if requested by a customer. The ESC would regulate the price and terms and conditions of this offer, and retailers would remain able to offer alternatives to this BSO in the competitive market, including by offering lower or higher priced offers based on innovation or services valued by customers.

A BSO is intended to provide a clear price signal to the market about the reasonable price of energy for a no-frills service, and allow consumers to compare the BSO with the value of other offers in the market, delivering significant benefits.

The Government acknowledges that further analysis is required regarding the scope and application of the BSO and its effect on Victoria's energy sector. The Government will consult further with stakeholders regarding:

- how a regulated BSO or its alternatives, should be implemented in the future;
- whether there are alternative mechanisms to address the concerns of the Review, including to ensure customers have access to a basic retail energy product at a reasonable price and clear information about the reasonable price of energy; and
- any amendments to energy regulatory frameworks that should be established to support the introduction of a BSO or its alternatives in an expedited manner if required.

As part of the implementation of Recommendation 8A (that the ESC monitor and report on the competitiveness and efficiency of the Victorian energy retail market), the Government will immediately request the ESC to develop, in consultation with stakeholders, a methodology for a 'reference BSO price' for electricity and gas offers for residential and small business customers. As intended by the Review, the pricing methodology would include an allowance for a maximum retail profit margin but would not include customer acquisition and retention costs or 'headroom'. The pricing methodology would inform the ESC's consideration of the efficiency of the market and Government's consideration of the recommendation for a BSO.

Recommendations relating to customer empowerment and clearer marketing (Recommendations 3 to 5)

The Review found that some retailer practices should be improved, including: the marketing of offers based on discounts, the lack of understandable and comparable information on marketing materials and energy bills, and the current ability of retailers to change energy prices with little or no notice.

The Government is already progressing Review Recommendations 3I, 3J and 5A, which are:

- *Recommendation 3I: The Victorian Government's consumer engagement program to continue to focus on improving consumer awareness of the competitive market.*
- *Recommendation 3J: The Victorian Government's program to continue and promote the Victorian Energy Compare website and use of smart meter data.*
- *Recommendation 5A: Promoting access to smart meter data to assist customers to manage bills and increase energy efficiency.*

The Government's independent energy price comparator tool, Victorian Energy Compare (VEC), helps Victorian consumers to compare electricity, gas and solar offers from all energy retailers. More than 500,000 Victorians have visited this website since its launch in October 2015. 7 out of 10 users of the VEC website can save money by switching retail offers, with typical savings of \$330 on annual household energy bills in the first year.

Through the \$10.8 million *Energy Affordability – Putting Consumers First* program, the Government will conduct an extensive energy sector consumer awareness campaign, which will include raising awareness of the VEC tool. It will also include \$1.8 million to undertake an energy data-hub concept study exploring issues relating to consumers', and authorised consumer agents', access to electricity data and to establish the most effective model for implementing an energy data-hub that benefits Victorian energy consumers. \$1 million has also been allocated to further support realisation of the benefits of Victoria's smart meters.

While action is already underway addressing these recommendations, the Government will adopt the following approach to the other elements of Recommendations 3 to 5:

- *Recommendations 3A to 3H*

Recommendations 3A to 3H propose changes to the information provided by energy companies to customers, including marketing material and bills. These recommendations respond to the Review findings that energy retailer marketing practices, including the use of discounts, make it difficult for energy consumers to make informed decisions.

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Importantly, the Review recommends that retailers be required to market their offers in dollar terms rather than as percentages or unanchored discounts, and that marketing of prices should appear in a standardised format and display the actual annual cost for 3 to 4 standardised customer usage profiles developed by the ESC.

A comparison rate allows customers to compare market offers based on their annual cost. A comparison rate will make it simpler for customers to compare multiple retail offers with complex or confusing features, increasing their opportunity to get the best deal.

The Government will request the ESC to review the Energy Retail Code so as to give effect to Recommendations 3A to 3F and 3H with priority given to recommendation 3G (*Marketing information on prices to be easily comparable*). The ESC will be required to consult with Government and stakeholders, and to complete and publish the review, including relevant Code changes for Recommendation 3G by 1 October 2018 and for Recommendations 3A to 3F and 3H by 30 January 2019. Unless otherwise determined by the Government, changes made by the ESC to the Code relating to marketing and billing information (Recommendations 3A to 3H, including 3G) are expected to come into effect on 1 July 2019.

- *Recommendations 4A to 4E*

The Government will consult further with stakeholders, on the implementation of Recommendations 4A to 4E (Contract periods, practices and variations to be clear and fair). These recommendations respond to concerns that customers on 'market' offers are paying higher prices for energy than they should because of opaque and varying processes at the end of benefits period, and contract and behavioural barriers to consumer engagement with the market. The recommendations include that retailers commit to fix any prices they are offering for a market contract for a minimum of 12 months.

Recommendations in relation to low-income and vulnerable consumers (Recommendations 6 and 7)

A key principle underpinning the Review recommendations is that energy is an essential service. The Panel noted that, as an essential service, 'consumers must purchase energy and must participate in the retail market even if they are not interested in the product and regardless of continued price rises. Energy must be accessible, affordable and reliable for all.' The Panel expressly noted that low-income and vulnerable households must have access to affordable energy and may find navigating the complexities of the retail energy market particularly difficult.

The Government has already implemented measures to better protect consumers, including:

- increasing the wrongful disconnection compensation payment to \$500 per day off supply;
- ensuring customers are appropriately compensated for loss of an essential service; and
- removing barriers to customers changing retailers by prohibiting early termination fees except where these are linked to a genuine fixed price, fixed term contract.

The Government also offers a comprehensive program of concessions and benefits to eligible cardholders to assist low-income Victorians with energy bills. This includes an Annual Electricity Concession, a Winter Gas Concession, a Service to Property Charge Concession, a Life Support Concession, and an Excess Electricity Concession.

The Government will be commissioning an Energy Brokerage Service pilot, to be rolled out from mid-2018. This pilot service will provide support for up to 10,000 vulnerable households to select energy contracts that best suit their needs.

Additionally, \$17 million has been committed to the Home Energy Assist program, funding 3,300 Victorian homes to become more energy efficient.

As part of Home Energy Assist, the following new programs are helping to reduce the energy costs of Victorians most in need:

- *Affordable Retrofits* will support Victorian concession cardholders with home energy retrofits, appliance replacements, solar panels and energy advice;
- *Victorian Healthy Homes* will upgrade the homes of vulnerable Victorians with complex healthcare needs and low incomes; and
- *EnergySmart Public Housing* will replace inefficient electric water heaters and electric heaters and deliver tailored upgrades to public housing properties.

The Government will also reach customers who need assistance in engaging with the Government's independent Victorian Energy Compare (VEC) price comparison service. This will include a partnership with a consumer advocacy organisation to train frontline energy service delivery agents to ensure they have up-to-date energy information and can use VEC with their clients.

This means the Government is well underway in progressing the following Review recommendations:

- *Recommendation 6A: The Victorian Government to provide assistance to vulnerable and disadvantaged consumers to help raise their awareness and understanding of the energy market and with managing their bills.*
- *Recommendation 6B: The Victorian Government to support programs that help low income and vulnerable households reduce their energy consumption.*
- *Recommendation 7A: The Victorian Government support the pilot of a not-for-profit brokerage service for concession cardholders.*

The Government will explore implementing a group purchasing/single buyer scheme (Recommendation 7B) informed by the outcomes of the Energy Brokerage Service pilot (Recommendation 7A). The advice of stakeholders will be sought on how these recommendations are best implemented during the consultation process, noting that similar arrangements have been implemented or are contemplated in other jurisdictions.

In addition, the Essential Services Commission has made amendments to the Energy Retail Code (to commence on 1 January 2019) aimed at providing new protections for customers who are at risk of falling into debt and being disconnected. The new protections are a response to changes to Victoria's energy industry legislation which gave the Commission a new objective, which is, "to promote protections for customers, including in relation to assisting customers who are facing payment difficulties" and are recommendations from the Commission's inquiry *Supporting Customers, Avoiding Labels*, commissioned by the Government. This responds to the following Review recommendations:

Recommendation 6E: The ESC to implement the outcomes of its review into improving outcomes for hardship customers.

The Government also gives in-principle support to the recommendations to investigate energy support schemes for concession cardholders (Recommendation 6C) as well as reviewing the administration of the Utility Relief Grants Scheme (Recommendation 6D). The Government has commenced a review of the Utility Relief Grants Scheme and aims to complete this review by mid-2018. The implementation of other recommendations will inform consideration of any future review of energy support schemes for concession cardholders.

Recommendations in relation to marketing monitoring and oversight (Recommendation 8 to 11)

In 2016, the Government strengthened the enforcement powers of the ESC and required it to report publicly on the performance of each energy retailer. Each year, the ESC publishes a Victorian Energy Market Report (the VEMR). The VEMR reports on matters such as enforcement action taken by the ESC, the extent of retailer compliance with regulatory obligations, and retailer performance against performance indicators that have been determined by the ESC. In addition, the report also includes information on standing and market offers and other features of the competitive energy market.

The ESC is required to report on these matters annually by the *Essential Services Commission Act 2001*, the *Electricity Industry Act 2000* and the *Gas Industry Act 2001*. The ESC is also required to publish quarterly updates in relation to the VEMR.

These reporting requirements are intended to deliver greater transparency and to help stakeholders and consumers understand how the market is performing overall and make more informed choices.

The Review recommends that the ESC, in addition, should be required to monitor and report on the competitiveness and efficiency of the Victorian energy retail market and be granted further information-gathering powers (Recommendation 8A).

The Review also recommends that the ESC review its regulatory codes so that they focus on customer outcomes and can account for new business models of service provision (Recommendation 9A). These recommendations will improve consumer confidence in the operation of the market and their engagement with it.

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Accordingly, the Government will request the ESC to give effect to Recommendation 8A by:

- developing a pricing methodology for a 'reference BSO Price' in consultation with stakeholders that could be published from 1 July 2018; and
- developing a framework for assessing the competitiveness and efficiency of the Victorian energy retail market and to complete and publish its review by 31 December 2019.

Further, the Government will request the ESC give effect to Recommendation 9A by reviewing its regulatory codes, including the Energy Retail Code, to ensure a focus on customer outcomes and to account for new business models of service provision. This broader review will follow the ESC's work on implementing Recommendations 3A to 3H and will be completed by 31 December 2019.

The Government has already committed to extending the powers of the Energy and Water Ombudsman (Victoria) (EWOV) to cover 'embedded electricity networks' – addressing, in part, Recommendation 10A that the powers of EWOV be expanded to cover emerging energy businesses, products and services. It will look to further expand EWOV's powers to capture emerging businesses, products and services as they arise.

In response to Recommendation 11A, the Government will continue to work through the COAG Energy Council to ensure that national energy markets continue to deliver in the long-term interests of consumers.

