

3 April 2018

Department of Environment, Land, Water and Planning
Victoria State Government

By email: EnergyMarket.Review@delwp.vic.gov.au.

Dear Sir / Madam,

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

Simply Energy welcomes the opportunity to provide a response to the Government's ongoing consideration of electricity and gas retail market competition and regulation.

As an active market participant, with a proven record of offering consumers better retail energy choices, Simply Energy remains committed to working with the Government to ensure consumers can access the lowest priced services that meet their needs during this period of energy transition.

With that commitment in mind, and Simply Energy looking to continue to expand its retail presence in Victoria and Australia, we remain concerned that forms of re-regulation will not only be counterproductive, but fail to address the significant market and policy trends beyond the control of individual retailers.

Re-regulation of prices, whether in the form of a Basic Service Offer (BSO) or some other arrangement, is likely to undermine the efficient service provided by highly competitive retailers, reduce the innovation and pricing options for customers, and is likely to distort decisions across the market, rather than target the subset of customers who are facing genuine hardship.

As a tier 2 retailer that prides itself on competing against the vertically integrated tier 1 retailers, Simply Energy is especially concerned about its business viability should a BSO be introduced. Specifically, not permitting retailers to recover all their costs will threaten financial viability and therefore lead to a direct reduction of competition in the market. This is also likely to have flow on impacts in the wholesale market we do not believe have been considered. Given wholesale costs (along with network costs) are a significant component of retail electricity bills, a failure to deeply assess such impacts while focusing instead on costs to acquire and costs to serve should be a concern.

Finally, Simply Energy, as part of the wider ENGIE group, has insight into experiences of retail price regulation in a range of jurisdictions, in Australia and elsewhere. Those insights do not conclude that retail regulation provides lowest possible prices. Thus, Simply Energy would caution that re-regulation may ultimately see many consumers pay more.

As such, and consistent with Simply Energy's support for increased transparency and competition, we believe the appropriate implementation of the recommendations 3-11 from the Victorian Energy Market Review will meet the Government's objectives of putting downward pressure on energy prices without the need for specific re-regulation.

Retail re-regulation does not support the existing energy framework

The long-term benefits to consumers of a sustainable and competitive market significantly outweigh any purported short-term benefits of a BSO. We are concerned that the introduction of a BSO which only focuses on the retail end of the supply chain, will reduce competition across the supply chain, will reduce choice for consumers, reduce innovation and result in lost value.

Simply Energy instead remains supportive of: (a) ongoing regulatory changes which better manage the retail and consumer relationships; (b) ongoing monitoring of the retail market by the Australian Consumer and Competition Commission, as required; and (c) resolving the policy uncertainty that pervades the energy sector in both electricity generation investment and sourcing gas.

As such, progressing re-regulation should be abandoned as it ignores the superior outcomes delivered by competitive markets and suggests the Essential Services Commission (ESC) and Government are directly responsible for pricing, when key pricing inputs, wholesale, network, and environmental costs, are outside the control of the Government or the ESC.

Regulatory changes to better manage the retail and consumer relationship

Simply Energy believes the Government has a leading role in identifying market inefficiencies and proposing rule changes consistent with the framework supporting the National Retail Rules. Recent rules changes and measures proposed in recommendations 3-11 should have the effect of supporting the relationship between retailers and consumers. This includes by increasing consumer information and overall transparency. Some relevant examples are set out below.

- A rule change to advise consumers who are outside of benefit periods of this fact (Minister for the Environment and Energy, 2017). Retailers responded to this measure by developing offers in response to the increased interest in switching or finding a better deal from customers who had received the advice (Samson, 2018).
- Further to the rule change, there is a proposal to require retailers to advise customers ten days in advance of a price change which fits neatly with recommendation 4B. Additional sub-points of recommendation 4 from the Report have been addressed by the end-of-benefit-period notification requirements in NECF jurisdictions. It follows that their adoption would provide similar results.
- The components of recommendation 3 made in the Report are not identical to the requirements of other states, however the policy intent largely aligns with the proposed amendments to the Retail Pricing and Information Guideline. The resultant changes will increase transparency and raise consumer awareness of both their current offer and other available offers by bringing them to the consumers' attention more prominently.

Simply Energy's view is that market forces combined with appropriate measures, such as those identified by Government above, should provide clear price signals to consumers and is in the long-term interests of consumers which is less likely to be the case for prices set by regulation and based on assumptions modelled outside the market.

To that end, Simply Energy believes ongoing rule and regulatory refinement by Government within the context of deregulated prices and strong competition will best serve the long-term interests of consumers.

Australian Consumer and Competition Commission monitoring

The Australian Consumer and Competition Commission (ACCC) is currently undertaking a comprehensive evaluation of market pricing interactions across the entire energy value chain. The final report has not been completed, but is due mid-2018.

This report forms part of the ACCC's mandate within the energy sector. The ACCC, with the Australian Energy Regulator, play a strong role in monitoring and enforcing action against retailers and generators who do not comply with relevant rules.

Simply Energy believes the regulatory roles played by these agencies should give the Government confidence that the market is functioning appropriately and that where concerns arise, action will be taken.

Resolving policy uncertainty

There is a well-founded view that the policy uncertainty of the past 10 years, notably in relation to carbon, has not supported steady investment in the infrastructure and assets required to best meet consumer's needs.

Even today, ongoing debates around renewable energy targets, gas exploration, system security and reliability, carbon emissions policy, and the proposed National Energy Guarantee demonstrate the significant uncertainty faced by market participants.

Simply Energy supports action on resolving these issues where they are within the Government's sphere of influence, however does not believe the Government is better placed to manage the retailer and consumer relationships at this time, or ensure that consumers receive the most competitive and sustainable prices.

The BSO would likely have a number of disadvantages

Simply Energy is certain that the introduction of a BSO would: (a) reduce competition as a number of retailers enter financial distress; (b) significantly reduce customer choices and innovation; and (c) likely increase total costs of delivered energy to consumers.

Retailers in financial distress

Independent analysis conducted indicates that the introduction of a BSO would potentially result in a number of tier 2 and 3 retailers exiting the Victorian market, which would substantially decrease competition. The customers who no longer have a retailer would be absorbed through the appropriate retailer of last resort (large vertically integrated) retailers. The large retailers are on average priced higher than second and third tier retailers at present. The sudden vacuum of competitors is likely to have an upward effect on pricing.

Significantly reduce customer choices and innovation

Consumers engage with energy providers in different ways. For example, a customer may choose a retailer because they offer an energy tracker application that can be linked to complementary technologies that help the customer monitor and manage their usage. The customer may prefer to choose a retailer that offers their preferred method of contact, such as online chat or 24 hour contact centre availability. Other customers look for complementary products like energy efficiency guidance, battery storage or solar panels. Some prefer to choose providers based on their existing product relationships.

The approach to the BSO appears to assume that all consumers have identical needs and decision making processes. The introduction of a single price offering stifles innovation in energy storage technology and development of mechanisms that allow for management of generation requirements to meet fluctuating demand. These technologies can provide real benefits to customers in terms of price and control, and we note that the rollout of these technologies is enabled through flexible regulatory frameworks that encourage innovation (ACCC, 2017). The BSO puts Victoria at risk of falling behind other states, despite having invested in the advanced metering infrastructure that facilitates these technologies.

Increased costs of total delivered energy

Although not currently the focus of discussion, retail competition is enabled by and impacts wholesale market outcomes as retailers compete for contracts and take market positions. To focus on costs to acquire and service without considering how a less dynamic and less competitive retail market may undermine wholesale market competition is concerning. Total delivered costs of supply to consumers are lowest when all elements of the market face strong incentives. To assume that the market will continue to function as is under a BSO may be misguided.

Alternatives to a BSO to improve information and increase transparency

Simply Energy understands that the Government is duty bound to continue to consider options to improve the retail experience. Completing implementation of recommendations 3-11 and assessing outcomes would be an acceptable approach. Should the Government wish to consider broader options, Simply Energy has identified a number of options for consideration.

Simply Energy has developed the options below on the principle that providing information to customers that is simple and straightforward to access and use is an important step towards consumer empowerment, and transparency in the market. While there is a lot of information currently available, what appears to be missing is the knowledge of how to utilise it in a clear and simple manner. We note that this is in part being addressed through implementing some of recommendations 3 – 11.

Simply Energy suggests all the options below will increase transparency, improve market efficiency, will be easy or relatively easy to implement, and can be progressed in the short term.

Option: 'Top 5' price rankings

The Government seek agreement from a relevant industry body to run quarterly public advertisements in a relevant publication which displays a 'top 5' price ranking for defined customer segments based on Victorian Energy Compare (VEC) data. This could have an immediate downward effect on price, as all retailers would want to appear in the advertisement given its prominence. Government could co-brand the advertisement with the relevant industry body to increase its legitimacy and appeal to consumers. A three-year trial of this approach may be worth considering.

Option: Proactive information around better offers

Victorian retailers be asked to prominently identify information available to consumers on other offers that may be beneficial to the consumer in routine communications. For example, rather than simply mentioning VEC on e-billing, a link could be provided to take consumers directly to the relevant page.

Such an option retains market based pricing but achieves greater consumer awareness, and could be relatively easy to implement. As a general concept, it would appear that the Consumer Policy Research Centre report *Five preconditions of effective consumer engagement* (Solomon & Martin-Hobbs, 2018) supports such improvements to availability and presentation of information because "Consumers need to have the capacity to make informed decisions about the available products and to switch between providers when better deals are available to them".

Option: Customer satisfaction rating for VEC

An independent customer satisfaction rating for each retailer on VEC might allow consumers greater transparency regarding the likely service they will receive, and allow consumers to engage at a price and/or service level. This is not something that a BSO can support, as there is no scope to differentiate based on service.

Option: Commercial comparator transparency

Simply Energy notes that retailers are not the only parties involved in a consumer's retail decisions. Comparators play an important role for segments of the market. Thus, the introduction of a requirement for all commercial comparator services to present offers from all retailers and provide an explanation of the basis on which potential offers are presented would lead to greater transparency of the market and comparator behaviours. This would increase consumer confidence in the market as the information customers need to make a final decision would be clearly set out, and lends itself to monitoring comparator behaviours (AEMC, 2017).

This may lead to greater consumer engagement and create a standard of behaviour for energy comparators, with the added advantage of creating downward pressure on pricing. Consumers would have better visibility of the offers that are best for them and on what basis this has been assessed. Such measures have been implemented in other jurisdictions to serve this purpose with relative success. (Competition and Markets Authority (UK), 2017).

Option: Unbundled pricing

To be compatible with the policy approach of marketing to consumers in dollar terms, it needs to be possible to demonstrate the benefits of different retail offers in a manner consumers can understand. This could be achieved by 'unbundling' the tariff components into separate costs, much like is presented on water billing.

If retailers separated out the items that make up 'service to property' and energy charges on billing, the cost of getting the energy to the property is better reflected in an 'unbundled' manner to customers, so customers can see what they are really paying for.

As an illustrative example, this approach would present information around network pass through costs, wholesale costs, and green scheme costs transparently as separate items (this is similar to how energy cost information is presented to large commercial and industrial customers). This would result in clearer representation of retail costs and would give the consumer an understanding of how their network tariff impacts their bill and how they could make potential savings.

This would enable customers to consider other potential network tariffs more suited to their needs. For example, a consumer with peak and off-peak capability but with no actual usage occurring on their off-peak tariff would potentially be better served by a time-of-use tariff: if this were made more transparent to consumers, they would be more likely to change their network tariff.

Furthermore, if network charges are shown separately as a pass-through, there is only a need to discuss the cost of energy with consumers, making the whole comparison process less complex and simultaneously reducing overall price dispersion.

On the contrary, this may further confuse customers and increase complexity given it differs from existing practice.

Option: Most competitive network offers

Instead of unbundled pricing, a requirement for retailers to check that customers are on the best available network tariff at specific decision points may be desirable.

Such an assessment could be triggered by upon request or when any aspect of the customer relationship is updated. For example, this could be specific to customers who require further assistance as they may be facing payment difficulties and triggered by the identification of the need for assistance, or for relevant or all customers annually.

Conclusion

Retailers strive to retain their consumers rather than lose them to competitors. While downward pricing pressures of a competitive market, coupled with genuine attempts to provide consumers with alternatives best meets consumers' needs. Introducing a BSO would skew any future competition between participants and removes the ability of consumers to engage in a manner that is consistent with their actual behavioural responses or values, as it leaves the consumer with no actual choice.

As such, actions to enhance the competitive dynamic, promote transparency, resolve energy policy uncertainty, and support the retailer and consumer relationship are all worthy Government objectives and should be progressed accordingly. The same cannot be said of price re-regulation which is likely to have deleterious effects on the market and consumers.

As a result, Simply Energy urges the Government to seriously consider completing implementation of recommendations 3-11 and pausing to monitor outcomes, or at the very least, examining alternatives to the BSO such as those highlighted above.

Simply Energy welcomes further discussion in relation to this submission and the alternative reform options outlined. To arrange a discussion or if you have any questions, in the first instance, please contact Mr James Barton, General Manager, Retail Regulation, on, telephone, 8807 1171.

Yours sincerely,



Carly Wishart
Chief Executive Officer
Simply Energy

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Appendix: Comparison of alternatives

Alternate options:	Assessment criteria				
Summary	Effect on increased transparency (H/ M/ L)	Effect on downward Price pressure (H/ M/ L)	Implementation complexity (Difficult/ Moderate/ Easy)	Benefits realisation timeframe (Short/ Medium/ Long)	Is customer pricing market based (Y/N)
<p>'Top 5' price rankings</p> <p>Adverts designed to reach inert consumers by making information about current best offers effortless and based on impartial service</p>	H	H	Easy	Short	Yes
<p>Proactive information around better offers</p> <p>Increase market based pressure to keep energy prices low</p> <ul style="list-style-type: none"> • show better offers which may be better for the customer on relevant collateral (billing etc) • show the retailers current 'best available' offer on relevant collateral (billing etc) 	M	H	Easy	Short	Yes
<p>Customer Satisfaction Rating for VEC</p> <p>Victorian Energy Compare to show a customer service score against each retailer as service can be a driver separate to pricing</p>	M	L	Easy	Short	N/A
<p>Commercial Comparator Transparency</p> <p>Require comparator services to present offers from all retailers and provide an explanation of the basis on which offers are listed</p>	M - H	M - H	Easy	Short	Yes

<p>Unbundled pricing</p> <p>'Unbundled' pricing for the distribution tariff component</p> <ul style="list-style-type: none"> • makes charges more transparent • makes comparison more viable in real terms • aligns invoices to other utilities 	H	M	Moderate	Medium	Yes
<p>Most competitive network offers</p> <p>Retailers to check that customers are on the best available network tariff at specific decision points, for example:</p> <ul style="list-style-type: none"> • if a customer is experiencing payment difficulty • after three invoices have been issued to the customer 	H	M	Moderate	Medium	Yes