

1 May 2019

Ms Sarah Sheppard
Director, Energy Consumer and Affordability Policy
Department of Environment, Land, Water and Planning
Level 5, 222 Lonsdale Street
Melbourne VIC 3000

Via email: retailmarket.reform@delwp.vic.gov.au

Dear Ms Sheppard

Re: Victorian Default Offer – Default Orders Consultation Paper

Simply Energy welcomes the opportunity to provide feedback on the Victorian Default Offer (VDO) Draft Orders Consultation Paper.

Simply Energy is a leading second-tier energy retailer with over 690,000 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 supports the development of effective tools to facilitate consumer engagement and participation in the market.

Retail competition has provided Victorian electricity consumers more choice than ever before. However, the relatively higher costs faced by some customers on standing offers has become a policy concern requiring government action. On this basis, Simply Energy understands that the Victorian Government has introduced the VDO to ensure all Victorians have access to electricity on terms it determines are fair and efficient.

Having said that, Simply Energy recommends that the Department of Environment, Land, Water and Planning (DELWP) should look to make some minor amendments to the draft Order in Council giving effect to the VDO. In setting out the reasons for Simply Energy's recommendation, the following submission assesses:

- the objectives of the VDO;
- the scope and application of the VDO; and
- the transitional requirements applicable to the VDO reference price.

VDO objective

Simply Energy considers that the objective of the VDO under clause 3 of the Order is a clear and appropriate reflection of how a default market price should operate. In saying that, Simply Energy considers that prohibiting headroom is inconsistent with this overarching objective. Rather than offering a safeguard, the proposed VDO price setting methodology under clause 11 is effectively creating a market price cap.

As Simply Energy has previously emphasised, stringent price regulation is not without risk and could lead to a reduction in competition across the Victorian electricity sector. KPMG echoed this sentiment in its 2017 review of energy markets where it was observed that:

[J]urisdictions that have re-introduced stronger controls on tariffs in response to concerns about the retail market, whether price controls or non-price tariff regulation, have typically experienced a fall in diversity of offers and activity. The impact on price has varied between customer types. Introducing more restrictive regulations are likely to benefit some customers to the detriment of others.¹

In view of this, Simply Energy recommends that the Victorian Government should consider re-drafting clause 11 of the Order to direct the Essential Services Commission (**ESC**) to develop the VDO as a safeguard for disengaged electricity consumers rather as a quasi-market pricing intervention tool. While there may be a reluctance to provide for headroom, Simply Energy strongly believes that the VDO price setting approach must at very least allow for a reasonable service innovation allowance.

It needs to be recognised that much of the service and product innovation that is currently being implemented across the market is yet to provide commercially-proven returns. Retailers have chosen to invest in service and product innovation to assist electricity customers lower their energy costs and ensure the long-term viability of Australia's energy grid. However, retailers will not be able to support such innovation on an ongoing basis if their margins are constrained.

Scope and application of the VDO

In addition to the potential reduction of service innovation, retail margins could also be constrained further by the requirement to make the VDO available to all residential and small business customers based on a flat network tariff structure. For this reason, there needs to either be a requirement for future VDO pricing to include flexible and demand tariff structures. Alternatively, the Victorian Government needs to ensure that network distribution companies are required to transfer any customer who signs up to the VDO to a flat tariff.

Reference price requirements

In terms of pricing transparency, Simply Energy acknowledges that the intent of VDO reference price is to provide consumers with greater ability to compare discounted offers across the market. However, given the time constraints on retailers to make required system and marketing changes ahead of 1 July 2019, Simply Energy considers that the Victorian Government should not rush the implementation of the reference price.

Simply Energy considers that the ESC as the body responsible for the administration of the Retail Energy Code is in the best position to work with industry to develop and implement the VDO reference price. In view of this, Simply Energy recommends that transitional requirements under clause 14 be removed from the Order to allow a single and consistent reference price to be adopted.

Simply Energy's primary concern is that if the ESC's approach differs from the transitional arrangements under the Order, then additional system and marketing changes may be required. Indeed, the scope of the transitional requirements that extend the reference price to the advertising of any plan with a 'benefit' is too broad. Simply Energy considers that the reference price requirements should be restricted to on-going financial discounting, rather than capturing offers that include sign-up credits and non-financial discounts, such as movie tickets.

¹ KPMG, *Energy retail markets: An international review*, April 2017, p. 8.

It also needs to be acknowledged that Victorian retailers already have requirements to reference their best offers on bills and provide customers with clear advice about energy offers from 1 July 2019. As a result, there are already significant changes taking place to the ways electricity offers are communicated to Victorian consumers. If the VDO is the best offer available to a particular customer, then retailers need to make customers aware of its availability. However, where a retailer's market offer is cheaper than the VDO, then it could become confusing for a customer to see a further reference to the availability of the VDO.

To avoid this confusion, Simply Energy recommends that clauses 7(2) and 7(3) of the Order be amended to require retailers to prominently make reference to the VDO on their websites, including an explanation about what the VDO is, and how it operates.

Concluding remarks

In closing, Simply Energy looks forward to continuing to work actively with DELWP in rolling out the VDO and receiving confirmation of the VDO prices to apply from 1 July 2019.

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] or at [REDACTED].

Yours sincerely

A handwritten signature in blue ink, appearing to read 'James Barton', with a horizontal line underneath.

James Barton
General Manager, Regulation
Simply Energy