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Department of Environment, Land, Water and Planning

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

Victorian Default Offer – Draft Orders Consultation Paper

We appreciate the opportunity to provide feedback on the draft Order in Council to implement the Victorian Default Offer (VDO).

Sumo is a stand-alone challenger energy and telco retailer based in Victoria. We commenced operations in July 2015 and now service 85,000 small electricity, gas and internet customers.

Timing / staging of VDO implementation

If the VDO is set too low, it will cause irreparable damage to the competitive energy retail landscape to the detriment of Victorian consumers in the medium to long term and will further entrench the dominance of the biggest three retailers. Specifically, retailers will exit the market, impacting jobs and investment, and consumers will experience higher prices over the medium to long term and will miss out on the benefits of innovation. We have written to the Energy Minister, the Treasurer and the Premier on these concerns at greater length.

Given the consequences of setting a VDO price that is too low, we implore the Government to stage its implementation, and take time to get the VDO price right. A staged implementation could take one or more of the following forms:

- delay implementation until 1 January 2020 – in addition to giving the Essential Services Commission and the Minister more time to properly assess retail costs, it also avoids the inevitable consequence of the Victorian Government needing to increase retail electricity prices after only six months of price regulation (noting that forward wholesale electricity prices for calendar year 2020 are now higher than the 2019 calendar year prices at the same time last year)
- apply a methodology for setting the VDO price that applies greater margin for error – the Australian Energy Regulator's approach in setting the Default Market Offer is an appropriate model in the first instance, given its simplicity and that it guarantees to deliver benefits to customers on standing offers
- impose VDO obligations on the 'Big 3' retailers only, or those exceeding a threshold number of customers (e.g. 1 million customers)
- apply the VDO to vulnerable customers only, for example concession cardholders

Information on customer bills

The proposal to require retailers to provide information on customer bills about how the customer may access the VDO from the retailer has some merit. However, making changes to customer bills takes time to implement. It is expected that the Order in Council will only be finalised by late May, leaving retailers around five weeks to implement the bill change. A change in this timeframe will be extremely challenging, particularly at a time when retailers are implementing the highly complex 'best offer' changes to the bill. Attempting to rush these changes in will risk causing errors in customer bills.

Reference price for discounts

The draft Order in Council proposes to require retailers to use the VDO as the reference price for discounted offers. This is a highly complex regulatory change, and requires significantly more time for

consultation to ensure it is not introduced in a way that confuses customers. Given the size of the impact, retailers will also need time to implement. This should not be rushed.

Requiring retailers to use the VDO as the reference price for discounts has the potential to confuse customers if implemented poorly:

- For example, although the drafting is not entirely clear, the draft Order in Council appears to require that a retailer that chooses to offer a discount or other benefit may only characterise that discount or benefit by reference to the VDO price. If so, this is highly problematic. If a retailer's base prices or tariffs are not identical to the VDO, then any discount off them cannot be characterised as a simple discount off the VDO price applied to an annual reference consumption without entirely misleading consumers. It would be preferable to require any retailer that offers a discount to also present a reference price discount for comparison purposes. This would be similar to, for instance, a mortgage comparison rate.
- The draft Order in Council applies the reference price requirement beyond just discounts, to 'other benefits'. It is not clear why this is the case or what it is intended to capture, but the category 'other benefits' is very broad and would potentially include all benefits offered to consumers (other than, presumably, the price itself). We understand the purpose of a reference price discount obligation to be to ensure customers have a means of understanding and comparing discount offers. This is important as discounts can have very different value depending on the underlying price or tariff. However, other benefits are not so difficult to compare. For instance, if a customer is offered a credit – say, \$50 – the benefit is clearly \$50. Extending the obligation to 'other benefits' is unnecessary and adds complexity, and should not be included.

The reference price regulatory change would also require retailers to fundamentally change their product offerings and to overhaul the way those offers are presented. This is not a change that can easily be made in the space of 5-6 weeks. We recommend the Department defer implementation of this requirement until at least January 2020 and consult further in the meantime.

Other matters

Sumo supports the matters raised by the Australian Energy Council in its submission.

Please contact me if you would like to discuss any aspect of this submission.

Yours sincerely

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