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## **Submission from the Synod of Victoria and Tasmania, Uniting Church in Australia to the Department of Environment, Land, Water and Planning on Victorian Default Offer – Draft Orders**

**1 May 2019**

The Synod of Victoria and Tasmania, Uniting Church in Australia welcomes this opportunity to provide comment on the Department of Environment, Land, Water and Planning (DELWP) consultation paper on the Victorian Default Offer – Draft Orders.

The meetings of the church representatives of congregations across Victoria expressed concern at the privatisation of the electricity industry when it was happening, because of the risks posed to people already struggling to make ends meet and to keep the lights on. In 1994 the Synod meeting of approximately 400 representatives of congregations passed a resolution stating that the Synod should:

*make strong representations to the Victorian Government that access to affordable water and fuel is a basic human right in Victorian society.*

This was followed in 1995 by a resolution from the Synod meeting that stated

- (a) To express the Synod's opposition to further privatisation of Victoria's electricity, water and gas industries, because it does not believe it enhances community co-operation and equitable access to these essential services, and to advise the Victorian Government accordingly.*
- (b) To request the Victorian and Australian Governments and opposition parties to each provide a clear statement on its policy position on the privatisation of public utilities.*

Privatisation has seen energy retailers seek to maximise profits at the expense of people on low income using a variety of techniques, including increasing charges over time for people who stay with the one provider and the offering of artificial discounts.

The Australian Competition and Consumer Commission concluded after their analysis of retail energy pricing that:<sup>1</sup>

*Electricity retailers have also played a major role in poor outcomes for consumers. Retailers have made pricing structures confusing and have developed a practice of discounting which*

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<sup>1</sup> Australian Competition and Consumer Commission, 'Restoring electricity affordability and Australia's competitive advantage. Retail Electricity Pricing Inquiry – Final Report', June 2018, v, [https://www.accc.gov.au/system/files/Retail%20Electricity%20Pricing%20Inquiry%E2%80%94Final%20Report%20June%202018\\_Exec%20summary.pdf](https://www.accc.gov.au/system/files/Retail%20Electricity%20Pricing%20Inquiry%E2%80%94Final%20Report%20June%202018_Exec%20summary.pdf)

*is opaque and not comparable across the market. Standing offers are priced excessively to facilitate this practice, leaving inactive customers paying far more than they need to for electricity. Pay on time discounts, which have emerged as a response to attempts to constrain late payment fees, are excessive and punitive for those customers who fail to pay bills on time.*

The ACCC found that retail margins grew by 16% in real terms on average across the National Energy Market between 2007-2008 and 2017 – 2018.<sup>2</sup>

The ACCC reported on techniques electricity retailers used to undermine a genuine market on electricity prices:<sup>3</sup>

*The dominant form of competition among retailers has been the advertisement of large headline ‘discounts’ which retailers have observed are an effective and simple way to connect with price conscious consumers. These discounts are highly problematic for several reasons. Each retailer sets its discounts with reference to its own independently set prices (usually standing offer prices) meaning that there is no easy way to compare the headline discount of one retailer to that of another. In many cases, consumers will be better off with offers that have lower discounts attached to them but which have a lower underlying tariff rate. A further problem with discounting is the common practice of the discount being conditional on the customer paying on time. These discounts are achieved only 56 per cent of the time for payment plan customers and only 42 per cent of the time for hardship customers (see figure F). Customers who do not pay on time are, in effect, paying very large late payment penalties, often amounting to hundreds of dollars per year.*

*These practices create significant confusion for consumers, causing some consumers to make decisions based on simple indicators (such as which headline discount is largest), to use third party comparator services (which add costs to the supply chain through the commissions they charge to retailers) or to disengage altogether.*

The Synod supports the introduction of the Victorian Default Offer (VDO) by 1 July 2019 to try and cap how much people on low incomes can be charged by energy retailers. However, given the existing pattern of behaviour the Synod expects that electricity will seek to have the VDO set as high as possible. It is likely the VDO will become the highest price in the market, unless the electricity retailers can make a market offer at a higher price due to some additional service or feature being provided or they can deceive people into a higher price offer by the people in question not understanding the contract they are signing up to.

The ACCC found that:<sup>4</sup>

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<sup>2</sup> Australian Competition and Consumer Commission, ‘Restoring electricity affordability and Australia’s competitive advantage. Retail Electricity Pricing Inquiry – Final Report’, June 2018, v, [https://www.accc.gov.au/system/files/Retail%20Electricity%20Pricing%20Inquiry%E2%80%94Final%20Report%20June%202018\\_Exec%20summary.pdf](https://www.accc.gov.au/system/files/Retail%20Electricity%20Pricing%20Inquiry%E2%80%94Final%20Report%20June%202018_Exec%20summary.pdf)

<sup>3</sup> Australian Competition and Consumer Commission, ‘Restoring electricity affordability and Australia’s competitive advantage. Retail Electricity Pricing Inquiry – Final Report’, June 2018, xi - xii, [https://www.accc.gov.au/system/files/Retail%20Electricity%20Pricing%20Inquiry%E2%80%94Final%20Report%20June%202018\\_Exec%20summary.pdf](https://www.accc.gov.au/system/files/Retail%20Electricity%20Pricing%20Inquiry%E2%80%94Final%20Report%20June%202018_Exec%20summary.pdf)

<sup>4</sup> Australian Competition and Consumer Commission, ‘Restoring electricity affordability and Australia’s competitive advantage. Retail Electricity Pricing Inquiry – Final Report’, June 2018, xii, [https://www.accc.gov.au/system/files/Retail%20Electricity%20Pricing%20Inquiry%E2%80%94Final%20Report%20June%202018\\_Exec%20summary.pdf](https://www.accc.gov.au/system/files/Retail%20Electricity%20Pricing%20Inquiry%E2%80%94Final%20Report%20June%202018_Exec%20summary.pdf)

*Consumers facing particular hardship and socioeconomic barriers to effective engagement in the electricity market are unlikely to get all of the benefits that competition can offer in this market.*

Further, the ACCC found that:<sup>5</sup>

*The gap between the best and worst offers in the market has been widening, effectively acting as a tax on disengaged customers, whether a customer is disengaged by choice or because of the unnecessary complexity.*

The VDO is likely to go some way to closing that gap, provided that other supportive measures are introduced and avenues aggressive retailers might use to try and protect existing profit margins are closed off by government regulation and enforcement action.

There will be a risk that electricity retailers will effectively collude to red-line some people who they regard as low value, only offering them the VDO which may end up being the highest priced offer in the market. Such collusion can take place without direct communication between retailers, if they simply observe each other over time and adopt a collective strategy to red-line certain groups of people. Further, people on other market offers might be only offered the VDO when their market offer finishes, as a way of the retailers forcing people onto the higher cost offer (in this case the VDO).

An additional strategy that electricity retailers may adopt is to target customers they regard as low value with any fees or charges they are able to, if such an avenue is not locked down.

One solution to these problems would be for the Victorian Government to encourage and actively support the emergence of more social energy retailers, some of which even may be not-for-profit, that adopt values to provide a good deal to people on low incomes. An example of this kind of provider is Coop Energy in the UK, which has not been without its problems.

### **1 Is the objective in clause 3 of the draft section 13 Order clear and appropriate?**

The Synod supports the objective of the VDO as drafted in clause 3 of the draft Section 13 Order, although we would prefer:

*The objective of the Victorian default offer is to provide a simple, trusted, fair, reasonably and efficiently priced electricity option that safeguards consumers unable or unwilling to engage in the electricity retail market.*

### **3. Does clause 9 of the draft Section 13 Order appropriately reflect the objective of the VDO?**

The Synod supports the current draft of clause 9 of the Section 13 Order.

### **5. Does the approach and methodology specified in Clause 11 of the draft 13 Order appropriately reflect the objective of the VDO?**

The Synod agrees that the approach and methodology specified in Clause 11 of the draft Section 13 Order reflect the objective of the VDO. However, the Synod believes further safeguards may be needed to prevent electricity retailers seeking to 'game the system' in setting the VDO price. For

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<sup>5</sup> Australian Competition and Consumer Commission, 'Restoring electricity affordability and Australia's competitive advantage. Retail Electricity Pricing Inquiry – Final Report', June 2018, xi, [https://www.accc.gov.au/system/files/Retail%20Electricity%20Pricing%20Inquiry%E2%80%94Final%20Report%20June%202018\\_Exec%20summary.pdf](https://www.accc.gov.au/system/files/Retail%20Electricity%20Pricing%20Inquiry%E2%80%94Final%20Report%20June%202018_Exec%20summary.pdf)

example, there is a need to provide a safeguard against a corporation that is both a wholesaler and a retailer using a very high internal wholesale price which does not reflect the actual wholesale cost.

Further, there should be only one residential VDO price in a distribution zone.

**6. Are there any other matters the ESC should be required to consider in setting prices for the VDO?**

The Synod believes that the ESC should be required to test the allowance for retail operating costs against historical and jurisdictional data. As noted by VCOSS, the Consumer Law Action Centre, the Financial and Consumer Rights Council and the Council on the Ageing Victoria, ACCC data shows retail operating costs are significantly higher than a decade ago, contradicting the assumption that a competitive market would result in reduced retail operating costs. National Energy Market (NEM)-wide, retail operating costs increased by 20% in real terms between 2007-2008 and 2017-2018 (from \$75 to \$90 per customer). Further, Victoria's retail operating costs are relatively high compared to other jurisdictions, such as NSW and South Australia.<sup>6</sup>

The ESC should also be required to assess any inefficiencies electricity retailers are operating with and discount the VDO based on the contribution these inefficiencies create.

The price for embedded networks should be capped at the level of the VDO for the local distribution zone.

**7. Will this approach assist customers to access the VDO? Or would it be preferable to prescribe the wording on bills and if so, what should this wording be?**

Clause 7 of the draft Section 13 Order should specify standardised terminology to describe the VDO so that people know what is being referred to and to avoid the risks of people being confused by different retailers using different language to refer to the VDO.

**11. Is the proposed review period and approach appropriate?**

The Synod strongly supports a review of the VDO, but believes the review should also assess the degree to which the VDO assists in reducing energy hardship for people on low incomes and/or with high energy needs (such as people who are forced to stay at home due to a medical condition), as well as its impact in reducing disconnections for people in hardship.

Further, the Synod would prefer to see a review commenced after three full years of operation of the VDO, as five years seems like a long time if the VDO needs adjustment to provide greater fairness in the electricity market for people who have ended up in hardship due to the market failure of the current arrangements.

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<sup>6</sup> Australian Competition and Consumer Commission, 'Restoring electricity affordability and Australia's competitive advantage. Retail Electricity Pricing Inquiry – Final Report', June 2018, 222-223, [https://www.accc.gov.au/system/files/Retail%20Electricity%20Pricing%20Inquiry%E2%80%94Final%20Report%20June%202018\\_Exec%20summary.pdf](https://www.accc.gov.au/system/files/Retail%20Electricity%20Pricing%20Inquiry%E2%80%94Final%20Report%20June%202018_Exec%20summary.pdf)