

COMPLIANCE STATEMENT

Variations to standing offer tariffs following the removal of carbon pricing

The Essential Services Commission (**Commission**) is issuing this compliance statement to address variations to standing offer tariffs to reflect the removal of the carbon price.

In Victoria, section 35 of the *Electricity Industry Act 2000* (**EIA**) and section 42 of the *Gas Industry Act 2001* (**GIA**) prohibit retailers from varying standing offer tariffs that have been in effect for less than six months (**six months rule**) and a variation cannot take effect until one month after it has been published in the Government Gazette.

The Commission has the objective to promote the long term interests of Victorian consumers with regard to price, quality and reliability of essential services, and has discretion in deciding when it will pursue enforcement action against a retailer for potential breaches of the EIA and GIA. The Commission has decided that pursuing enforcement action for potential breaches of the EIA and GIA is inappropriate when a retailer is reducing its standing offer tariff by introducing a carbon price-exclusive tariff. By permitting retailers to vary their standing offer tariffs as soon as practicable to ensure all Victorian consumers receive the tariff reductions associated with the removal of the carbon price in a timely manner, the Commission considers that it is achieving its objective.

One variation outside the parameters of the EIA and GIA

The Commission will not pursue enforcement action against a retailer for potential breaches of section 35 of the EIA or section 42 of the GIA for varying its standing offer tariff, on one occasion only, as soon as practicable following the commencement of the *Clean Energy Legislation (Carbon Tax Repeal) Act 2014* (Cth) (**Carbon Tax Repeal Act**), to introduce a carbon price-exclusive standing offer tariff.

The variation which results in a carbon price-exclusive standing offer tariff will not be considered by the Commission in determining whether a retailer has breached the EIA and GIA six months rule when the retailer next varies its standing offer tariff. For example, if a retailer varied its standing offer tariff in July 2014 and then in September 2014 it published its carbon price-exclusive standing offer tariff, the retailer would next be able to vary its standing offer tariff in January 2015.

Retailers will be required to publish the carbon price-exclusive standing offer tariff variation in the Government Gazette in accordance with section 35(3) of the EIA and section 42(3) of the GIA, but the Commission will permit retailers to begin to bill customers immediately at the lower tariff after the variation is published in the Government Gazette. A retailer may backdate the carbon price-exclusive standing offer tariff to take effect from 1 July 2014.

Energy Retail Code – tariff variation notification

Retailers are required to provide notice of the carbon price-exclusive standing offer tariff in accordance with the Energy Retail Code. Clause 26.4 of the Energy Retail Code version 10a (**ERC v10a**) states that retailers must provide notice of tariff variations to customers as soon as practicable, and no later than the customer's next bill. For customers who have smart meters, the ERC v10a requires that the notification be at least 20 business days prior to the variation.

The Commission has recently released the Energy Retail Code version 11 (**ERC v11**) which harmonised, to the extent possible, with the National Energy Customer Framework while preserving Victorian-specific consumer protections. The ERC v11 will commence on 13 October 2014. However, the Commission has provided retailers with a transitional period wherein retailers may begin to comply with the ERC v11 from 15 July 2014, with full compliance required by 13 October 2014. Under the ERC v11, retailers are not restricted by the 20 business days notification requirement, and can begin billing customers at the lower tariff immediately while providing customers with notice of the new tariff as soon as practicable, and no later than the customer's next bill.

For the purposes of consistency between the requirements under the ERC v10a and the ERC v11, retailers will be able to begin billing customers who have smart meters immediately at the lower tariff.

Mandatory notification to the Commission

The Commission requires any retailer seeking to utilise the one variation outside the parameters of the EIA and GIA to notify the Commission. When a retailer publishes its carbon price-exclusive standing offer tariff, the retailer must send an email to energy.submissions@esc.vic.gov.au confirming that the variation is due to removing the carbon price, as opposed to a regular variation. If the Commission does not receive the notification then it will deem that the retailer is making a regular standing offer tariff variation, which will prohibit the retailer from varying its standing offer tariff for a period of six months.

The Commission will periodically update the relevant webpage to list the retailers who have notified us that they are giving effect to the removal of the carbon price by utilising the one additional variation outside the parameters of the EIA and GIA.