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Submitted Online

Regulatory Impact Statement – Energy Consumer Reforms

Alinta Energy welcomes the opportunity to provide comment on the Essential Services Commission of Victoria's (Commission) Regulatory Impact Statement on "Energy Consumer Reforms".

Alinta Energy, as an active investor in energy markets across Australia with an owned and contracted generation portfolio of nearly 3,000MW and more than 1.1 million electricity and gas customers has a strong interest in energy market design, particularly as it relates to consumer protection frameworks, and the ongoing engagement of customers.

The Commission would be aware of the energy consumer reforms under review as part of the AEMC rule change "*Improving Consumer Confidence in Retail Energy Plans*". The AEMC rule change is considering a number of similar consumer reforms to those under consideration by the Commission.

The Commission would also be aware of the benefits that can be achieved through harmonisation of consumer support /protection obligations, as such consideration must be given to an outcome of achieving harmonisation of the energy consumer reforms across all jurisdictions. This review provides a significant opportunity to achieve such harmonisation.

Our detailed comments on the regulatory impact statement are provided in the following, should you have any questions or wish to discuss any aspect of our submission I can be contacted on [REDACTED] or via email:

[REDACTED]

Yours Sincerely

[REDACTED]

Shaun Ruddy

Manager National Retail Regulation

Energy Consumer Reforms – Regulatory Impact Statement.

Automatic best offer for customers experiencing payment difficulty

Customers experiencing genuine payment difficulty should be provided with every assistance to help them manage their energy bills and maintain their energy supply. Alinta Energy strongly endorses this and has made significant investment in providing support services that are available to all our customers.

Ensuring that customers experiencing hardship or payment difficulty are on the best available product, including pricing suited to their individual circumstances, is of paramount importance. However, it is equally important that customers retain a sense of agency in choosing their energy product. Removing this element of choice may risk undermining their confidence in the products and services they are placed on.

The Commission is proposing that retailers be given the power to move customers on to alternative products without the need for the customer to consent to the change in arrangements. That is, retailers would not be required to obtain the customers *“Explicit Informed Consent”* to a change in energy supply arrangements.

Explicit informed consent is a fundamental consumer protection that should not be eroded, such that it reduces a customer's agency in their choice of energy product. Consent ensures the customer has a complete and detailed understanding of the arrangements they are agreeing to.

The Commission's solution of managing customers who have not given their consent and subsequently want to opt out of the forced move to an alternate energy product is to include a *“Post-Switch”* reversal option for these customers.

The post-switch reversal option however introduces an administratively complex requirement on retailers, that will require extensive system and process enhancements.

Retailers generally remove a product from their *“product suite”* once that product is no longer available. The proposed change would require Retailers to maintain all of their products within their product suite for an indefinite period. This would be required in order to have the ability to revert customers back to any product, including legacy products that under normal circumstances would no longer be available just in case a customer decides to switch back to that product offer after being switched (without their explicit informed consent) to the retailers' best offer.

This would be both a costly and administratively burdensome obligation to be placed on retailers.

Retailers will also be required to introduce management and monitoring protocols for those customers switched without consent, so as to monitor the proposed opt-out period.

The Commission asserts the post switch opt-out period would operate similar to the existing cooling off period for market retail contracts. However, this is not the case.

The cooling off period under a market retail contract is provided following the obtaining of explicit informed consent from the customer to enter into the market contract, where the cooling off period generally occurs prior to any customer transfer or product change taking place. It is only after the cooling off period has expired that the agreed customer transfer or product change occurs.

This means that if the customer chooses to exercise their option to "cool-off" the administrative burden for the retailer (and the customer) in unwinding any proposed transaction is minimal.

Under the Commission's proposal the transaction has already occurred, and this now needs to be unwound, (including the product reversion) which is a far more complex activity to manage and complete. Further the time period where the customers reversal may be exercised five business days from the date the small customer receives their first bill, creates further administrative complexities in both managing the time period and communications to and from the customer regarding the reversal.

Given the issues outlined above, we maintain that there needs to be a further level of review and assessment of the Commission's proposed option.

However, in our view the more preferable option of ensuring that customers in hardship have access to the retailer's best product and pricing offer, is the option that has been put forward as part of the EMMC rule change "*Assisting Hardship Customers*" which is being considered by the AEMC.

The AEMC proposal includes a principle that places a direct and clear obligation on retailers to ensure hardship customer pay no more than the deemed best (better) offer. Retailers have the flexibility in how they meet this obligation either by:

- providing a financial benefit under their current plan, such as a downward price adjustment, enduring discount or credit where they cannot obtain Explicit Informed Consent (EIC) to move to the deemed better offer; or
- obtaining EIC and move the hardship customer onto the deemed better offer as per existing mechanisms in the National Energy Retail Law. The financial benefit must be the same monetary value the hardship customer would have received or saved if they were on the retailer's deemed better offer.

The proposed approach in the AEMC Assisting Hardship Customers rule change has the potential to provide the level of protection and opportunity being sought by the Commission in ensuring customers experiencing payment difficulty receive the retailer's best offer. It would also introduce an additional level of jurisdictional harmonisation, which in turn leads to administrative efficiencies and cost savings.

The flexibility afforded under the AEMC proposal also incentivises retailers to use their best endeavours to obtain customer consent for a change to the retailers' best offer. Noting that if the regulatory complexities associated with the collection of explicit informed consent were to be reduced, the ability for a retailer to obtain this consent would be greatly enhanced.

Improving access to cheaper offers

The Commission are proposing that retailers must offer alternative payment methods for all contracts and offer paper bill options for all contracts. In addition, that access to contracts and product offerings for vulnerable customers should not be impeded by conditions attached to payment and/or billing methods. The Commission is asserting that customers are unable to access "affordable" plans due to restrictions included in the plan that require the customer to interact with the retailer via a prescribed mechanism.

Retailers structure product offers with prescribed payment and billing methods to help manage costs and risk, enabling them to pass on these savings through lower energy prices for customers.

Removing the ability for retailers to structure products in a way that allows for the reduction in administration costs in servicing the product, reductions that provide additional consumer benefit, will result in an overall detrimental impact across all customer types.

The requirement for retailers to include all (possible) payment and communication methods for all product offerings, may simply impact a retailer's ability to offer certain products into the market.

Furthermore, the reforms being proposed under "**Automatic best offer for customers experiencing payment difficulty**", where customers experiencing payment difficulty will automatically receive the retailers best generally available offer applicable to the customer, should provide sufficient support to customer in accessing cheaper offers.

Improving the ability to switch to the best offer

The Commission have proposed an outcomes-based rule that requires a retailer to have effective processes for a customer to switch to their best offer.

The Commission would be aware of the parallel review on improving the ability to switch to a better offer that is being undertaken by the AEMC. The AEMC Draft Determination has found that there is little evidence to support a hypothesis that it is difficult for customers (time and effort) to switch to a better offer. The act of switching once the customer has decided on their preferred product offering is in fact fairly easy and can be completed in a matter of minutes.

Retailers currently have customer switching process available via their websites, over the phone and in some cases via third party service providers. The compounding factor identified as contributing to low switching rates is not complexity of process or access to the switching process, but rather a lack of awareness of the availability of

the better offer and the savings that customers could access by switching to the better offer.

Therefore, the focus in improving customers switching to a better offer must be in promoting awareness of the possible savings a customer may achieve by switching. In this respect there is the opportunity for the Victorian Government and other independent agencies to stage and run regular communications that are recognised as coming from an independent source that help educate customers on the possible benefits of switching to a better retail energy product.

The proposal under the RIS that retailers must via their website have the functionality for a customer to compare their current plan to the best offer, is one that requires further detailed consideration. The better offer calculation is a complex calculation carried out by the retailer having regard to a detailed number of input factors, that are unique to the individual customer circumstances. The concern is in creating functionality for a customer to undertake an ad hoc comparison via a retailer's website may require detailed data inputs from the customer, which will only act as a barrier to the customer carrying out the comparison.

Reducing the level of information required from the customer to conduct the comparison, will put at risk the accuracy of the comparison itself.

Protections for customers paying higher prices

The Commission propose that a retailer must review its customers' prices annually and ensure that a customer on a contract four years or older is paying a reasonable price for their energy.

Retailers are already obligated to inform customers of the availability of a better offer. In addition, if the recommendations to run independent campaigns promoting the benefits of switching are implemented, this would help address the perceived issue of loyalty penalties.

While it may appear straightforward for retailers to notify customers who have remained on the same product for four years about potentially cheaper options, the suggestion that retailers could arbitrarily reduce existing tariffs or transfer customers to cheaper plans without their explicit consent overlooks significant administrative complexities and associated risks. Such actions would not only impose substantial operational burdens but could also lead to unintended outcomes for customers and retailers alike.

For the reasons previously set out in our response to the *"Automatic Best Offer for Customers Experiencing Payment Difficulty"* switching the customer without their consent is not a viable solution. Likewise reducing the "tariffs" paid by the customer is problematic when it is only being applied to customers who have been on a product for four years.

If the product is an enduring product (that is, it remains available to new customers) retailers may then be required to maintain multiple pricing options for the same category of customers who are on the same product.

This would in turn impact how a retailer manages best (better) offer messaging noting that issues have already been raised where retailers have multiple pricing arrangements under a single product name.

The preferred solution is again the one proposed under the AEMC rule change, as it provides flexibility for the retailer to either provide a downward price adjustment, enduring discount or credit. This option allows for the “so-called” loyalty credit to be addressed in the most practical and efficient way given the retailers systems and processes.

Extending protections for customers on legacy contracts

The Commission is proposing that all fees and discounts relating to a payment condition (such as pay-on-time discounts) are limited to reasonable costs. If the scale of these conditional discounts exceeds this reasonable estimate (for example high pay-on-time discounts), retailers must apply these discounts unconditionally.

This would apply to all contracts, including those that customers have entered into before 1 July 2020. A retailer must also provide any discount, rebate or credit in a contract entered into before 1 July 2020 for the entire duration of the contract, if the benefit has not already expired.

Customers on legacy contracts, those entered into prior to 1 July 2020, remain on a variety of products with diverse benefits, whilst some remain on products that include prompt payment discounts, the level of the available discount can vary considerably. Likewise, those customers, the overwhelming majority, who continue to meet the conditions to achieve their discount, continue to benefit from their energy product of choice.

The targeted customer group on legacy contracts who need assistance are those customers who continuously have an inability to meet the conditions of their energy contract that would allow them to receive their credit or discount.

As we have seen a steady decline in the number of customers remaining on legacy contracts, the option exists to focus providing protections to customers with an ongoing inability to meet the conditions of the discounts and benefits of their energy contract. Whilst allowing those customers receiving (meeting the conditions of) benefits to transition to other products at a time of their own accord.

Retailers will be able to identify the cohort of customers that need immediate attention and address these customers as a priority, noting that there are less and less of these customers requiring attention. These customers could be assisted in a similar manner to customers being moved to the retailer’s best offer.

Increasing best offer and debt-disconnection thresholds

The ESC propose to;

- increase the threshold for a customer to receive a ‘best offer’ message from \$22 to \$50 in estimated annual savings.
- to increase the minimum debt amount that a retailer can disconnect a

customer, from \$300 to \$500.

Alinta Energy agrees with the proposal to increase the best offer message threshold to \$50.

However, Alinta Energy does not support the proposal to increase the minimum disconnection amount to \$500.

At the outset it needs to be clearly understood that disconnection is an absolute last resort for retailers. Consumers experiencing payment difficulty, and/or participating in retailers support programs, will be protected from disconnection.

While the minimum disconnection amount plays an important role in protecting consumers, it also has a direct impact on the level of bad and doubtful debts carried by retailers. These unrecovered costs are ultimately absorbed by the broader customer base, including households that may themselves be struggling financially but continue to meet their payment obligations.

It is also important to recognise that every customer's circumstances are different. Some may be unable to meet their financial obligations despite their willingness to do so, while others may delay engagement for various reasons unrelated to their capacity to pay.

Our experience suggests that while support information is provided to all customers who have fallen behind on their energy bills, it is not always acted upon until contact is made regarding the possibility of disconnection. In many cases, this contact becomes the prompt that encourages the customer to engage with their retailer, often opening the door to tailored support options that can lead to better outcomes.

In this context, early communication about the risk of disconnection can play a valuable role in facilitating timely engagement and helping customers access support sooner.

Raising the minimum disconnection amount could delay these critical interactions, potentially allowing debts to build to levels that are harder for customers to manage.

The issue of a delay in customer interaction was previously highlighted in reviews conducted by the Australian Energy Regulator in its March 2017 Final Determination on the review of the minimum disconnection amount. The AER stated:

While we strongly encourage retailers to engage early and not wait for the minimum disconnection amount to become relevant, we consider increasing the minimum amount would potentially delay early engagement, exacerbating customer debt.¹

The AER also went on to state that:

the minimum disconnection amount needs to strike a balance between the level of debt most customers can afford to repay and the management of existing debt by retailers and customers. The AER considered that increasing the minimum disconnection amount would limit the ability of customers already experiencing payment difficulty to

¹ Review of Minimum Disconnection Amount Final Decision March 2017 3.1.2 Maintaining Supply – Preventing Disconnection for Small Amounts

repay a larger debt, exacerbating payment or financial difficulties. It would also place added pressure on retailers to maintain customer supply, while managing increased cost exposure to large amounts of uncollected debt.²

Both observations from the 2017 Final Determination remain current in today's environment.

An increase in the minimum disconnection amount will arguably have the impact of increasing consumer debt beyond the level that most customers can afford to repay. Likewise, the potential cumulative effect of delaying the consumer interactions risks the accumulation of higher debt levels, further impacting the consumer and ultimately increasing the costs borne by all customers, including those financially stretched but continuing to pay their bills on time.

It is for these key reasons that we do not support an increase to the minimum disconnection amount.

Timeframe

The ESC is proposing a two-stage commencement process to give time for retailers to prepare for the new reforms, with the following timings for specific reforms:

- 1 January 2026:
 - Protections for customers paying higher prices
 - Improving the application of concessions on bills
 - Extending protections for customers on legacy contracts
 - Improving awareness of independent dispute resolution services
 - Increasing best offer check and debt-disconnection thresholds
- 1 July 2026:
 - Automatic best offer for customers experiencing payment difficulty
 - Improving access to cheaper offers
 - Improving the ability to switch to the best offer

In the absence of being provided with the final detail of the proposed reforms the 1 January 2026 is potentially not feasible. Retailers will not commence activities to scope and implement system and process changes until the final details of the requirements have been determined. In addition, as there are four individual reforms being proposed to be implemented at the same time, all of which may require divergent system and process enhancements for which the same resources will be required, the proposed 6-to-7-month timeframe is inadequate.

Whilst not having final reform requirements, a conservative estimate of the time required to implement the proposed reforms would be 10-to-12 months from release of final requirements.

² Page 9 Review of Minimum Disconnection Amount Final Decision March 2017

General questions

1. Are there any additional costs and benefits that we should consider for the proposed reforms?

Yes, the benefit of jurisdictional harmonisation and the benefit of delaying the implementation date.

2. Are there any additional implementation requirements we should consider for this package of reforms and each individual reform?

Yes, again the AEMC are reviewing and have provided a final determination on energy consumer reform that align with the issues under consideration by the Commission. As retailers will be making system and process changes to cater for the AEMC reforms, where Victoria diverges from these reforms it will introduce greater complexity and costs for implementation and on-going administration and management of divergent obligations.

3. Do you have any feedback on the proposed implementation timeframes for the proposed reforms?

Proposed implementation timeframes are potentially not feasible, noting that retailers will not commence discovery and implementation assessments until final requirements have been communicated in any final determination. Retailers will need between 10-12 months from time of release of final requirements to implement any change.

4. Are there any further considerations required for how each reform will interact with one another?

N/A

5. If your preferred option differs from that identified in the MCA, could you please explain why? Other matters considered

Jurisdictional harmonisation in line with the AEMC reforms.

6. Do you agree with increasing the threshold for the best offer check results from \$22 to \$50? If not, what amount would be more appropriate, and why?

Yes, reviews have shown that the minimum benefit that can be achieved by a customer that would potentially trigger action from the customer to move to a better offer is \$50 or greater. The \$22 threshold is too low.

7. Do you agree with increasing the minimum disconnection amount to \$500? If not, what amount would be more appropriate, and why? Should this amount be indexed to account for inflation or increases in energy prices? Automatic best offer for customers experiencing payment difficulty

Do not agree, refer to reasons outlined in submission response above.

8. Are there other mechanisms we should consider in the design of the automatic best offer to protect consumer choice and agency (in addition to the proposed opt-out and post switch reversal periods)?

Again, preference is for the AEMC model.

9. Could the proposed amendments for the automatic best offer be enhanced to further reduce implementation costs and maximise benefits to customers experiencing payment difficulty?

Yes, adopt the AEMC model. Harmonisation will reduce implementation costs while still providing appropriate protections for customers.

10. Do you have any feedback on the proposed process and implementation timeframes for the automatic best offer? Improving the ability to switch to the best offer

See previous comments on implementation timeframes.

11. What metrics do you think could help assess the effectiveness of the process to switch to the best offer?

Simply relying on customer switching numbers would not provide an accurate assessment of the effectiveness of the process. Instead, a more comprehensive evaluation is needed, including metrics that capture the specific reasons or catalysts prompting customers to switch. Such an approach would ensure any observed changes can be clearly linked to the reform itself, thereby providing a more meaningful measure of its impact.

12. Are there any implementation issues for small retailers that we should consider regarding effective processes to switch to the best offer? Protections for customers paying higher prices

N/A

13. What would you consider to be a suitable benchmark to determine a reasonable price for gas?

Currently, the most appropriate benchmark available to determine a reasonable gas price is the average of all retailers' standing offer prices. This approach provides a transparent, consistent reference point that accurately reflects broader market conditions while incorporating a reasonable allowance for retailer costs and risks