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Essential Services Commission

Level 37/2 Lonsdale St, Melbourne VIC 3000

RE: Ensuring energy contracts are clear draft discussions

GloBird Energy welcomes the opportunity to provide feedback on "Ensuring energy contracts are clear and fair draft". In principal, GloBird Energy support many of the intentions behind the proposed changes. For example, anchoring discounts to a standard reference price, or disclosing to customers information about future price changes. These are steps that help customers easily navigate the market to find the product that works best for them. However, we do not support regulation that will likely drive up the cost of energy for Victorian consumers or measures that will harm competition, limit customer choice, and stifle innovation.

Recently it has become clearer that some of the observations in the Thwaites review were based on customer perceptions rather than reality. As time has passed and regulators gain more hands-on understanding of the market, many of these perceptions have shown to be untrue. For example, the Thwaites report noted concerns that a customer can sign up on a set of low rates, only to have a large price change soon afterwards. Some customers felt or assumed that this must be caused by the "bait and switch" trickery of retailers. This may be a reasonable conclusion, but is it always true? Whilst bait and switch practices may have existed, they were certainly not the norm.

The introduction of the VDO shows that even when the Government set rates, the same thing happened. A customer who signed up on the VDO in Oct 2019 received a big price increase just two months later. This is not because the government used bait & switch tactics, but because the underlying cost of energy increased.

The ESC initial projection of the 2020 VDO annual price increase was that it would be about $20. Just a few months later the actual cost increase was $110 a year. In fact, this $110 only covered half of 2019 as the VDO was only introduced in July. This demonstrates that the underling cost of power was the true cause of the increase, not the ESC. GloBird Energy is hopeful that regulators have a better understanding now of why price changes happen and their impact on customer perceptions. It is true that communicating and explaining the reasons for price changes to customers is something retailers have not done well, but the new clear advice rules should help improve this with time.

When it comes to price changes, small retailers face the same issues as the regulator. That is; that the underlying cost of energy is difficult to predict and move quickly. The assumption that retailers are out to mislead customers is based on false perceptions, not reality. A retailer is forced to take the cost of the wholesale market, which is something it cannot control. A retailer can take all possible care to hedge and manage its risk prudently, but at the end of the day it is simply not possible to make perfect predictions in the energy market. At times when a hedge or load prediction is imperfect, a retailer needs some flexibility to reasonably adjust. Deciding to reprice an existing customer is never done flippantly. Price changes are annoying for customers. They increase the risk of losing a customer and can damage a company's brand. Sensible retailers only take this harrowing step if it's absolutely necessary. A retailer will do all it can to avoid

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a price change, but it still needs to retain the ability to do so in order to deliver the best value to customers. Any regulation in the market should be done with a light touch as unintended consequences can harm consumers and the ability of the market to provide the best customer outcomes. Before interfering in the market unnecessarily, more thought should be given to the flow on cost of regulatory changes and how these costs are ultimately borne by energy consumers.

Fixed price contracts

There are more engaged customers interacting in the market than non-engaged customers. Therefore, anything that is done to assist disengaged customers should not be done at the expense of engaged customers who benefit from cheaper dynamically priced products.

The reason retailers can set market offers at their current level is only because they have some freedom to change prices (as needed) in reaction to external factors like wholesale or network costs. Fixed price market offers are more expensive to provide. The draft acknowledges that "on average, customers have paid more on these fixed-price contracts. In 2018-19 customers on fixed-price contracts paid an average of $0.35 per kilowatt hour, whereas customers on non-fixed price contracts paid on average $0.31 per kilowatt hour".

This extra 4 cents per kWh reflects some of the additional price premium required for providing a level of price certainty for customers historically. The cost is even higher now. Rather than unnecessarily forcing this extra cost onto all customers in the market, it would be a far better outcome for customers to have the freedom to opt-in to such a product if price certainty is important to them.

This can be done at the point of sale if retailers were obliged to inform each new customer signing up to a market contract that their offer is subject to a potential price change, when that change can happen, and that a fixed price product is available. Leaving this choice to the customer enables healthy competition and the continual development of innovative better value products that benefit engaged energy customers while still meeting the intention behind recommendations 4A & 4B.

Forcing this one size fits all approach destroys the ability of retailers to introduce alternative products that can greatly benefit customers. One simple example, if a retailer wanted to offer their customer a 12 month price guarantee product, the kind of product endorsed by "consumer organisations who largely supported the option to require all tariffs of market offer contracts to be fixed for the first 12 months after a customer has signed up".

A product of this nature would now hit a major roadblock. If for example the customer joined in June 2020, it is very reasonable to expect that the retailer should have the ability to re-price that customer in July 2021 in line with the market. If the market goes up (as it did with the recent VDO), the retailer should be able to adjust the rates to cover the additional underlying cost. However, the new draft rule blocks the retailer from doing so. Instead they would be forced to sell at the lower price until six months later (eighteen months in total). Therefore, to avoid this risk, it's unlikely that that they will offer this kind of product in the first place. This is a terrible outcome for customers.

Making it even more difficult to deliver new, consumer centric, and innovative products is a backward step that hurts customers by reducing choice. Making all contracts fixed to price change date in January will have an unnecessary detrimental effect on the majority energy customers. Its better to make it compulsory to offer a product with a fixed Jan 1 price change available to customers at the time of sign up. This now exists in the form of the VDO. Doing so increases consumer choice, not limit it.

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Capping pay on time discounts

The problem of unanchored discounts in the market was confusing for customers, and the cost for missing a bill shouldn't be extreme, for example a 40% pay on time discount is very high. These kind of inflated discounts could only exist when the underlying base rate can also be pumped up. However, using the VDO as a reference point for discounts cleverly fixes the issue of irrelevant and inflated discount numbers. Since the introduction of the VDO, the commission's market report already shows the practice of big discounts to be on the decline and the size of pay on time discounts to be far smaller than they used to be. The days of 40% pay on time discounts are over and the issue identified in the Twaites review many years ago is largely solved. On the day of writing this submission the highest pay on time discount we could find across Victoria was 12%. So there seems little sense in trying to solve the problem twice.

Now that retailers are discounting off an anchored price, limiting the size of a pay on time discount can only have a detrimental effect on customers. This is because a retailer's non conditional discount (that has no ability to lower its cost) can never be as generous as a conditional discount (that encourages people to pay on time). For example, a retailer who can afford to offer a 5% fixed discount, may be able to afford a 12% pay on time discount. Banning an engaged customer from accessing the benefit of the bigger discount is detrimental to customer choice. A genuine pay on time discount off an anchored price is actually a customer benefit.

Limiting retailers from creating their own product structure and shape is detrimental to competition and innovation. It would hurt competition within the industry.

GloBird is not entirely opposed to a sensible limit on pay on time discounts like the one put forward by the AER, but the ESC draft decision goes to an extreme at the other end of the scale. The concept of a pay on time discount is to incentivise a customer into paying the bill by the due date. This drives down cost. These products are very popular with customers and provide a great incentive that motivate customers. The larger the discount the more likely the customer is prompted into action. There needs to be a balance between minimising the discount so that it doesn't unreasonably harm a customer for missing a bill, while still having some ability to prompt customer action and allow them to genuinely benefit from the cost savings their prompt payment behaviour has on retailers cost.

If there is little or no incentive for customers to pay bills on time, it will dramatically change customer behaviour. It is true that a 40% pay on time discount is too high, but a miniscule discount of 3.74% is not enough to drive behaviour. Making the incentive a more sensible number should balance somewhere between the two extremes and reflect a retailer own individual funding cost. If a limit is needed (and as mentioned the problem is already mostly solved) GloBird suggest a reasonable balance is between 10% - 15%. This will still incentivise customers to pay bills on time helping support an efficient market while meeting the intention behind recommendation 4E.

GloBird disagree most strongly with the statement "water is slightly different to energy". The risk profile and costs are vastly different between a small private energy retailer and a monopoly water entity, and the cost of debt for small retailers or new entrants is significantly higher than the figure proposed. The AER approach acknowledges this fact. A fixed percentage one size fits all approach does not.

If a cap on pay on time discounts is to work, it must be at a sensible balance that will still prompt behaviour to keep downward pressure on costs. It must also be truly cost reflective. A genuine pay on time discount off an anchored price is actually a customer benefit, so limiting its size is a bad customer outcome.

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Allowable back-billing period to four months

It is unlikely that a retailer would ever willingly delay billing a customer. To do so only ever happens as a result of an unforeseen event. Billing systems are complex in nature and interactions with the distributor, retailer and the market are complicated. Glitches can and do occur at many places along the journey, these are not necessarily the fault of the retailer. The introduction of the MC role under "power of choice" complicates things further.

Regardless of the cause of a delayed bill, customers should pay for the energy they consume in order to support an efficient and fair energy market. If a rule change reduces the quantity of energy being billed (that customers have already consumed), this must have cost implications for a retailer. Either in massive system upgrades, expensive hyper monitoring, or in an increase in unbilled revenue. Retailers costs naturally get passed on to customers. Why put upward pressure on them?

GloBird would welcome some financial impact modelling being done to quantify this additional cost, as we believe it's likely to be significant, and as mentioned, the cost will need to be recouped from somewhere. For example; how much would this additional cost increase the VDO?

GloBird cannot support regulation that will drive up the cost of energy for Victorian consumers. There will be times when a bill isn't generated on a regular cycle. If a customer is on quarterly billing, a four-month period wouldn't even be long enough to notice that more than just one bill was delayed.

GloBird Energy agree that a larger than usual billing period can cause bill shock. However, the current market rules already have ample protections in place where retailers must offer the customer time to pay by agreed instalments, over a period nominated by the customer. This already smooths out any bill shock implications for customers while still enabling a retailer to bill customers for the power they consume.

The draft decision would unnecessarily drive up costs to the detriment of an efficient market. Given this cost could be significant, it will hurt energy consumers.

Please contact me directly for further information on this submission.

Yours sincerely,

John McCluskey / Executive Manager

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