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26 November 2024

Mr Gerard Brody
Chair
Essential Services Commission
Level 8, 570 Bourke Street
Melbourne VIC 3000

Submitted electronically: energyreform@esc.vic.gov.au

Dear Mr Brody,

Re: Discussion Paper - Energy Consumer Reforms

Red Energy and Lumo Energy (Red and Lumo) welcome the opportunity to make this submission to the Essential Services Commission's (the Commission's) discussion paper on potential amendments to the Energy Retail Code of Practice (ERCoP).

The discussion paper notes various concerns raised by the Energy and Climate Change Ministerial Council (ECMC) but we do not see a strong basis for substantial regulatory change at this time. We recommend that the Commission undertake further analysis to better quantify the nature and extent of the problem and to understand the impact of some of the proposed measures. In our view, some of the options the Commission is considering will generate a net cost for consumers or discourage engagement between a customer and their retailer, while others could lead to poor customer outcomes.

As an example, *ex ante* consent to switch a consumer to a cheaper offer under some circumstances will potentially create confusion and misunderstandings, particularly if that consumer attaches significant value to non-price elements of a retail offer. Similarly, greater awareness of the Energy and Water Ombudsman of Victoria (EWOV) has merit but could encourage more consumers to contact it in the first instance, rather than seeking to initially resolve issues with their retailer. The latter option can overcome misunderstanding, and lead to a faster resolution and promote trust and engagement between a customer and their retailer if the matter is straightforward.

Access to best offer

The Commission is aware of retailers' obligations to provide best offer notifications on bills. All consumers can access the best offer at any time and numerous retailers already provide a range of options for their customers to take up the best offer. Examples include through websites, apps and online accounts and of course, through their call centres. The market is already delivering the outcome that the Commission and policymakers are seeking and through mechanisms that align with consumers' needs and preferences.

The discussion paper also notes that retailers must discuss appropriate offers with their customers when offering support under the Payment Difficulty Framework. The Commission suggests this does not always occur but that is an issue of non-compliance with existing obligations rather than a basis for regulatory change.

We have concerns with options that allow for automated switching to a different offer and which, by implication, start to erode the concept of explicit informed consent. A mandated contact point between a retailer and consumer before there is a change of offer is an important safeguard and a core element of the competitive market. Consumers have diverse needs and preferences and they may have legitimate reasons for wanting to stay on their current contract. An example might be that they lose access to non-price benefits (such as rewards points or carbon offsets) when they switch to a cheaper offer.

The important issue for us is that a consumer always has an opportunity to discuss the options available to them with their retailer before they select the offer that best suits their circumstances. This conversation, which also involves the clear advice entitlement, is an opportunity for a retailer to better understand that customer's specific circumstances, which could potentially identify some challenges in paying their energy bills. On the other hand, automated options can discourage conversations between retailers and consumers, or create disputes and generate complaints if a consumer does not fully understand the reason for a switch.

The discussion paper proposes a number of options. In our view, some of the proposed automatic triggers such as the length of time in debt or number of missed bills, are already considered in our customer debt management plans and should instead be the starting point for a discussion about potential payment difficulty, rather than a switch of retail plan. Similarly, a general, *ex ante* consent that leads to a switch of plan as cheaper offers are brought to the market, could lead to confusion, misunderstandings and disputes. A general consent given at some previous time and under different circumstances is not, in our view, a satisfactory alternative.

We agree with the Commission's observation that the proposal for retailers to credit the difference between the current plan and the best offer would present challenges. This would involve substantial and costly changes to billing systems to align with best offer calculations and the calculation of the eligibility period and associated amount (for example, if it were to apply when a customer is receiving tailored assistance and cannot pay for ongoing usage). We do not view this as a practical solution.

Concessions to bills

Red and Lumo ensure that we apply all applicable concessions to our customers' bills. It is in our mutual interest to ensure they are aware of and are receiving their entitlements, including any assistance they might need when they are experiencing payment difficulty. We

seek information about eligibility at sign-up as a matter of course and would typically remind them to check their eligibility as part of any discussion about challenges in paying bills.

The Commission notes that the vast majority of energy consumers in Victoria are receiving their concession entitlements. As such, we do not see any compelling case for additional obligations on retailers. However, there may be some merit in the entities such as the Commission, financial counsellors and consumer representatives promoting broader community awareness of the availability of concessions.

Protections for customers on legacy contracts

Given the limited number of customers' legacy contracts and conditional discount arrangements, we do not see a strong basis for changes to current obligations. Rather, the focus for these consumers should be to promote engagement with their retailer and market participation more generally. Options such as grandfathering legacy contracts or reducing the size of a conditional discount on a historic contract are disruptive and could confuse some consumers, even if the nature and extent of the problem is small. We also note that it is unlikely that many retailers still differentiate between payment methods when it comes to conditional discounts and fees.

Independent dispute resolution services

We recommend that the Commission carefully consider the broader impact of any obligations on retailers to promote awareness of EWOV. It is important that all Victorian energy consumers are aware that they have access to a free dispute resolution service. However, there is a risk that some consumers might then seek to raise issues with EWOV rather than their retailer in the first instance, regardless of the materiality of that issue.

In our view, consumers will experience better outcomes when they engage directly with their retailer and have the option of pursuing a complaint through EWOV if they cannot reach a satisfactory position. Some potential disputes are easily resolved through a discussion if they are relatively minor or the result of some misunderstanding that is easily corrected. Furthermore, a conversation that was initially a complaint might also be an opportunity to discuss alternative offers or to identify potential payment difficulty.

Red and Lumo already include the EWOV phone number on the front page of our bills but this reflects our current judgement about the potential trade-off between promoting awareness of EWOV and encouraging our customers to raise issues with us in the first instance. However, it remains our view that adding further information about EWOV's website or other ombudsman services to bills or email invoices is unnecessary.

We are also aware of anecdotal evidence that other ombudsman schemes (namely, those in NSW, SA and Queensland) have seen an increase in recorded complaints since implementation of the Australian Energy Regulator's *Better Bills Guideline* September 2023.

The Commission will be aware that the Guideline mandates the inclusion of contact details for these schemes. At the same time, there is evidence that the average time taken to resolve those complaints has also increased. It is possible that the increased volume includes complaints that the retailer and consumer could have resolved relatively easily. In summary, our concerns with promoting greater awareness of ombudsman schemes are that it may encourage some consumers to avoid contacting their retailer even where a matter is relatively minor, and could also lengthen the time taken to resolve complaints if volumes increase substantially and EWOV is not well placed to manage that increased volume.

About Red and Lumo

We are 100% Australian owned subsidiaries of Snowy Hydro Limited. Collectively, we retail electricity and gas in New South Wales, Queensland, South Australia, Victoria and the ACT to over 1.4 million customers.

Red and Lumo thank the Commission for the opportunity to comment on the discussion paper. Should you wish to discuss or have any further enquiries regarding this submission, please call Thakshila Gunaratna, Regulatory Manager, on [REDACTED]

Yours sincerely

[REDACTED]

Geoff Hargreaves
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