

Attachment 1

Customer outcomes in the energy market

Terms of Reference to the Essential Services Commission

The Essential Services Commission is requested to conduct a review under section 10(g) of the *Essential Services Commission Act 2001* on the appropriate amendments to the Energy Retail Code to efficiently give effect to recommendations 3A to 3H and 9A of the Independent Review of the Electricity and Gas Retail Markets in Victoria (the independent review), released on 13 August 2017.

Background

The independent review, commissioned by the Victorian Government in November 2016, found the deregulated energy market was not delivering the anticipated benefits to consumers. It made 29 recommendations designed to place consumers back on a level playing field, including changing retailer marketing practices, introducing a basic service offer and abolishing standing offer contracts.

In February 2018, the Government provided its support to the recommendations from the independent review, except for two recommendations - introducing a Basic Service Offer (BSO) and abolishing standing offer contracts (recommendations 1A and 2A). The Government will undertake further analysis on the application and scope of the BSO and abolishing standing offers and their effect on Victoria's energy sector. The Government will consult further with stakeholders regarding the design of a BSO and any alternatives to the BSO.

Request

The Government is now requesting the Essential Services Commission to give effect to recommendations 3A to 3H and 9A.

Recommendations 3A to 3H propose changes to the information provided by energy companies to customers, including marketing material and information

on bills. To give effect to these changes, the Commission is required to review the Energy Retail Code (the Code).

Recommendation 9A requires the Commission to review its regulatory codes to ensure a focus on customer outcomes and to account for new business models of service provision.

The Code is issued under Part 2 of the *Essential Services Commission Act 2001*. All licensed energy retailers must comply with the Energy Retail Code in accordance with their retail licences.

The review is to be conducted in two phases. While undertaking its review, the ESC may consider early adoption of any measures, including those introduced in other Australian jurisdictions, that it considers necessary in the context of its statutory objectives.

First phase

In conducting its review of the Code for the purposes of giving effect to recommendations 3A to 3H, the Commission is required to have regard to its objectives under the *Essential Services Commission Act 2001*, *Electricity Industry Act 2000*, *Gas Industry Act 2001* and the following:

- findings from the independent review;
- approaches being used by other regulators, such as the Australian Energy Regulator;
- information needs for Victoria's rich and diverse community, including our culturally and linguistically diverse and aged population; and
- other matters it deems relevant.

For the avoidance of doubt, the Commission is not required to assess the merits of the independent review's findings and recommendations. Its role is limited to identifying the most timely and cost-effective opportunities for implementing these findings and recommendations through amendments to the Energy Retail Code.

The Commission is required to complete and publish its review that gives effect to recommendation 3G, specifically relevant Code changes relating to

information published on customer bills, by 1 October 2018. These changes are to take effect from 1 July 2019.

The Commission is required to complete and publish its review that gives effect to recommendations 3A to 3F and 3H, including relevant Code changes, by 30 January 2019. Unless otherwise determined by Government, changes made by the Commission to the Code relating to marketing information (recommendations 3A-3F and 3H) will take effect no later than 1 July 2019 so that the marketing of energy retail offers in a standardised format (including incorporation of annual energy costs for standardised customer usage profiles) can commence from that date.

Second phase

The Commission is required to review its codes and guidelines, for the purposes of establishing an energy market code (recommendation 9A). In developing the energy market code, the Commission should have regard to developing a principles-based, consumer-focused framework that can account for new business models of service provision.

The Commission should also have regard to its objectives under the *Essential Services Commission Act 2001*, *Electricity Industry Act 2000* and *Gas Industry Act 2001*.

The Commission is required to complete this stage of the review, including relevant Code changes, by 31 December 2019.

Consultation

In undertaking this review, the Commission is required to consult widely, including with consumers, consumer advocacy groups, energy businesses, relevant experts, government departments and other regulators.

Reporting

Throughout the review, the Commission will advise the Minister for Finance and Minister for Energy, Environment and Climate Change regarding its progress and its final approach.