

17 October 2019

Ms Kate Symons  
Chairman  
Essential Services Commission of Victoria  
Level 37, 2 Lonsdale Street  
Melbourne VIC 3000.

Submitted online: <https://engage.vic.gov.au>

Dear Ms Symons

### **Victorian Default Offer to Apply from 1 January 2020**

Thank you for the opportunity to provide a submission in response to the ESC's draft determination on the VDO for 2020.

Momentum Energy is a 100% Australian-owned and operated energy retailer. We pride ourselves on competitive pricing, innovation and outstanding customer service. We retail electricity in Victoria, New South Wales, South Australia, Queensland and the ACT. We offer competitive rates to both residential and business customers along with a range of innovative energy products and services. We also retail natural gas to Victorian customers.

Momentum Energy is owned by Hydro Tasmania, Australia's largest producer of renewable energy.

Momentum acknowledge the ESC's requirement to make a decision in line with the Order in Council Terms of Reference which it has been provided however, we are also cognizant of its statutory objective to "promote the long term interests of Victorian consumers."<sup>1</sup>

Like the Commission, Momentum agrees that the objective of the VDO – to provide a simple, trusted and reasonably priced electricity option that safeguards consumers unable or unwilling to engage in the electricity retail market – is consistent with promoting the long term interests of consumers. We do not believe however, that the Terms of Reference provided are consistent with this objective as they create market distortions and cross subsidies that run counter to the principles outlined in the Australian Energy Market Agreement (The Agreement).

The Agreement seeks to establish a framework to, among other things, *enhance the participation of energy users in the markets including through demand side management*

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<sup>1</sup> *Essential Services Commission Act 2001 s 8.*

*and the further introduction of retail competition, to increase the value of energy services to households and businesses.<sup>2</sup>*

The application of the VDO to non-flat pricing structures, combined with the Best Offer on Bill requirements will create and promote incentives for customers whose consumption profiles place considerable strain on generation and network resources, to ‘game’ the system. Although the VDO serves to provide a fair price to relatively unsophisticated consumers, it is highly foreseeable that more savvy users whose consumption profiles would generally see them attract higher charges under Time of Use or Demand Tariffs will switch to the VDO in order to avoid more cost reflective tariffs or undertake more proactive steps to reduce their bills (eg. load shifting). Such behaviour will increase the burden on the distribution system, a major driver of energy costs, and disadvantage vulnerable and less engaged consumers.

We do not believe that this could be argued to be in line with the long term interests of consumers as muting price signals in this manner will entrench the need for further capital investment in network infrastructure thereby driving increased prices.

We understand that the ESC is bound to comply with its Terms of Reference however, we believe that it would be inappropriate to fail to mention the significant policy flaws in the VDO in its final decision.

### **Cost to Serve**

Once again, Momentum is concerned that the ESC has failed to take into account the cost of the Victorian Government’s regulatory reform program. Such is the system, process and organizational change which has been precipitated by the Victorian Government’s reform program that benchmarks against jurisdictions who enjoy more stable regulatory frameworks are not a reasonable indicator of costs.

Retailers always have an incentive to implement regulatory changes at the lowest possible cost, however providing an insufficient allowance for these changes will lead to a need to cut corners and will possibly cause non-compliance and customer detriment. The industry has highlighted to the ESC the additional expense which come from rushing through change, and to not make sufficient allowance to fund these changes risks further undermining of the Government’s reform agenda.

If retailer operating costs are not adequately captured in the VDO, the result will be a disproportionate increase in the price of retailer market offers to ensure that these costs can be recovered. This risks further disengaging consumers on previously attractive market offers who who have already faced price increases as a result of the introduction of the VDO.

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<sup>2</sup> Australian Energy Market Agreement between The Commonwealth of Australia, The State of New South Wales, The State of Victoria, The State of Queensland, The State of Western Australia, The State of South Australia, The State of Tasmania, The Australian Capital Territory, The Northern Territory of Australia. 2.1(b)(iv).

We acknowledge that the ESC provided retailers with the opportunity to provide data relating to their costs. We note however, that the ESC “*may* use this data as a cross-check against the allowance calculated<sup>3</sup>” [emphasis added], so it appears that any data provided is unlikely to be particularly persuasive in driving the calculation of the VDO. We believe that a systematic approach to measuring the costs and benefits of regulatory reforms is needed, but acknowledge that there is insufficient time for this to inform the decision for the 2020 VDO.

## Conclusion

Momentum considers that the draft decision does not reflect a fair price for electricity which is consistent with the long term interests of Victorian consumers. In addition to the sub-optimal allowance for retailer operating costs, further information has been received from network businesses indicating that network costs will be significantly higher than initially anticipated.

Conscious of the fact that network tariffs are considered to be a passthrough cost, we are concerned that public expectation of price increases of 1.3% and 1.7% for residential and small business bills respectively, may create challenges for the ESC when the prices outlined in the final decision are necessarily higher than this. We urge the ESC to consider how it will communicate to ensure that customers understand the drivers for these price increases.

Recognising that there is insufficient time to fully recalculate the VDO using a more suitable methodology to capture retailer operating costs, Momentum recommends the following steps to ensure that future VDO decisions are more reflective of a fair price for consumers.

- Review the ESC’s approach to consulting on future regulatory reform to take into account both the implementation and the ongoing costs of reforms;
- Commence consultation on the approach for determining the 2021 VDO with a view to ensuring that actual retailer costs are captured; and
- Make explicit mention in the final decision of the ways in which the ToR’s requirements with regard to non-flat tariffs are likely to increase costs for consumers in the medium to long term.

Should you require any further information regarding this submission, please don’t hesitate to contact me on 0413 266 081 or email [joe.kremzer@momentum.com.au](mailto:joe.kremzer@momentum.com.au).

Yours sincerely

[Signed]

Joe Kremzer

Head of Regulatory Affairs

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<sup>3</sup> Essential Services Commission 2019, Victorian Default Offer to apply from 1 January 2020: Draft decision, 20 September P43