



21 January 2020

Mr Aaron Yuen
Senior Regulatory Manager, Energy Division
Essential Services Commission
Level 37, 2 Lonsdale Street
MELBOURNE VIC 3000

Dear Mr Yuen

ENSURING ENERGY CONTRACTS ARE CLEAR AND FAIR CONSULTATION

Tango Energy welcomes the opportunity to provide its feedback and views on the Essential Services Commission's (ESC's) draft decision on *ensuring energy contracts are clear and fair*.

Tango Energy is a rapidly growing energy retailer supplying over 80,000 customers across the National Electricity Market. As an emerging retailer, Tango Energy is committed to promoting competition and market innovation. In saying that, Tango Energy is concerned that the ESC's proposed reforms could stifle competition and innovation, and increase retail energy costs; this would not be in the long term interests of Victorian consumers. For this reason, Tango Energy makes the following three recommendations:

- 1) Retailers should only be restricted from increasing their prices for a minimum of 12 months from the day that a customer signs up to a new energy plan or contract. After 12 months, a retailer should be permitted to vary a customer's prices at its discretion.
- 2) Where possible, the ESC should mirror the national requirements when developing a Victorian Default Offer (VDO) reference price and imposing restrictions on conditional discounting.
- 3) Retailers should be permitted to back-bill for more than 4 months where a customer is undercharged as a result of an act or omission outside the retailer's reasonable control.

Tango Energy considers the above recommendations align with the Victorian Government's terms of reference and complement other recent regulatory reforms.

1 Fixed pricing

Tango Energy is concerned that the ESC's proposal to restrict retail price increases to a single day per year will lead to less consumer engagement in the market and result in an overall increase in energy prices. Energy consumers will have less incentive to look around for a better deal throughout the year. Further, restricting the ability of retailers to pass on price increases for all existing customers will lead to retailers being more exposed to wholesale and network price variations. As a result, there is a real likelihood that retailers will factor in a risk premium when setting their annual energy prices.

In view of this, Tango Energy recommends that the ESC should only impose a requirement on retailers to not raise their energy prices for 12 months from the date that a customer signs up to a new energy contract. This will provide customers with at least 12 months of pricing certainty, and is consistent with Recommendation 4A of the *Independent Review into the Electricity & Gas Retail Markets in Victoria*. After 12 months, retailers should be allowed to vary customer energy prices at their discretion, which should in turn act as a prompt for customers whose prices have changed to reengage in the market. Having customers continually reengage in the market at various stages throughout the year will ensure that competitive discipline is retained, as retailers will continue to compete for customers who are looking for a better deal after their minimum capped price period has ended.



The only exemption to the minimum 12 month price cap should be in circumstances where there has been a network tariff reclassification at the customer's site. In such circumstances, a small customer should be offered a capped price for 12 months under his or her newly assigned rates.

Tango Energy is of the view that its alternative recommendation would lead to better outcomes for energy consumers in the long-term. Indeed, restricting price increases in line with the VDO could lead to some retailers engaging in conduct that may be contrary to the overarching intent of the proposed reforms. For example, some retailers could elect to offer low prices in the lead up to a VDO price change to incentivise new customers to sign up before increasing the prices of recently acquired customers only a couple of months or even weeks later. This is exactly what the Victorian Government was intending to avoid in recommending that the ESC regulate price increases.

2 VDO reference price and conditional discounting

In terms of reducing compliance and system configuration costs for retailers, the ESC should look to mirror national requirements in establishing a VDO reference price and restricting conditional discounting. In particular, Tango Energy considers that electricity plans with a demand component should be excluded from the reference price requirements. It needs to be kept in mind that most consumers on demand products are small business customers. Small business customers tend to have diverse usage and load factor profiles, reflecting the varying scale and nature of these businesses, which renders a reference price for demand products an ineffectual point of comparison.

Tango Energy also observes that green charges have been expressly excluded from the ESC's guidelines for comparing electricity prices against the VDO. However, to ensure consistency and compliance with requirements under the Australian Consumer Law, it is imperative that the full cost of any product with a mandatory or bundled green component is advertised to consumers. For this reason, Tango Energy recommends that the ESC's guidance be updated accordingly.

3 Recovery of undercharged amounts

Finally, Tango Energy considers that limiting back-billing to 4 months will place a strong onus on retailers to proactively ensure billing errors are promptly identified and rectified. However, there may be instances where undercharging is outside a retailer's reasonable control, such as when there is an error in metering data or an energy bill is based on a distributor's estimated meter read. In view of this, Tango Energy is of the view that retailers should not be restricted from recovering any amounts that are the result of an act or omission beyond their reasonable control. Any back-billing found to be unreasonable by the Ombudsman should be reported to the ESC for further investigation and enforcement action, as necessary.

In closing, Tango Energy looks forward to continuing to engage with the ESC as it embarks on significant regulatory reforms that will shape the Victorian energy sector for years to come. To arrange a discussion on this submission or Tango Energy's views on the ESC's proposed reforms more generally, please contact me on [REDACTED] or email at [REDACTED]

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Gus Poh".

Gus Poh
Legal, Regulatory and Compliance Manager
Tango Energy Pty Ltd