

21 January 2020

To Essential Services Commission
Level 37, 2 Lonsdale Street
Melbourne, Victoria 3000

amaysim Submission on Ensuring Energy Contracts are Clear and Fair - Draft Decision

Introduction

This submission relates to the Essential Services Commission draft decision on “Ensuring energy contracts are clear and fair 2019” (**Draft Decision**). The changes outlined in the Draft Decision will have a profound impact of the ability of the competitive retail market to deliver the best outcomes for Victorian customers.

amaysim aspires to be Australia’s best customer-focused utilities service provider. amaysim is accordingly focused on developing innovative offerings that put the customer first – having a Victorian energy market that fosters competition and delivers on customer outcomes is of utmost importance to amaysim.

We would be pleased to discuss this submission with you directly.

Background on amaysim

amaysim entered the energy market in 2017 when it acquired the Click Energy Group. We retail electricity and gas to over 80,000 residential and small business customers in Victoria, and over 200,000 customers nationally.

amaysim is a tier two energy retailer offering innovative products in competition with the major energy retailers (including gentailers). Competition from tier two retailers is vital to ensuring that tier one energy retailers are not able to utilise their market position to the detriment of Victorian customers. It is important that the Victorian regulatory regime continues to provide a safety net for those customers that are unable to engage with a complex market, while at the same time allowing retail diversity and innovation to ensure customers benefit from the next generation of retail offerings. amaysim is well placed and committed to ensure that customers have products that are tailored to their individual needs, and that these products are user-friendly and provide genuine value.

amaysim has actively invested in its subscription energy plans to ensure that customers benefit from customer centric features that empower them through usage monitoring capabilities and improve overall experience through consistent and transparent pricing. We are particularly interested in ensuring that the regulatory framework delivers real choice and ultimately provides long-term benefits for customers. The whole suite of recent regulatory changes in the Victorian retail sector have had a profound impact on how the Victorian market functions.

Ensuring customers can reasonably compare offers

The Commission’s draft decision essentially replicates the national provisions in terms of the information requirements for benchmarking pricing against the independently set Victorian Default

Offer (VDO).

While amaysim supports increased transparency for customers to more readily engage in the market, we maintain that the national regime does not encourage product innovation and remains focused on the traditional ways of selling energy which are notoriously complex and opaque. The Commission should consider a pathway for retailers to apply for exemptions, for example in the case of innovative products, where new features are not contemplated by the proposed advertising provisions. Under the proposed advertising provisions, retailers are required to offer products that essentially (by virtue of the prescribed advertising requirements) mimic the structure of the VDO.

The principal issue that the information requirement changes are trying to address is to allow customers to compare price and usage discounts across retailers. This intent is fully supported, as it is important that pricing is clear and transparent and allows customers to engage with the market. However, the Commission should be cautious around how these advertising provisions will impact new product offerings in the market. For example, amaysim's subscription energy plans remove many of the issues plaguing existing energy products by introducing usage monitoring capabilities and consistent and transparent pricing. Our subscription energy products are clear and up front about the price that our customers should expect to pay each month with amaysim. The proposed advertising provisions will detract from our ability to clearly communicate the benefits of these new plans.

The VDO requires a retailer to rely on a model usage consumption profile based on a typical market offer tariff structure. This is fundamentally different to the usage and tariff structure of amaysim's subscription energy plans. The advertising requirements do not facilitate a comparison of the VDO reference price to our subscription customers' "annual bill" as the value of a subscription plan is a combination of a fair monthly price and that customers' rolled-over energy which is "banked" for future use for up to three years.

amaysim requests that the Commission consider including an exemption regime for products/offers that do not reflect the pricing structure of the VDO but offer a genuine alternative to customers. This will encourage the retail market start to deliver innovative products and offerings that meet customer preferences, such as amaysim's subscription energy plans.

Fixing market contract prices

The recent suite of reforms has been an opportunity to both help customers engage with the market, and to provide a safety net for those customers who are inactive in the market. The original recommendation to fix prices for 12 months was intended to address the issue of retailers increasing prices almost immediately after sign-up.

It is amaysim's position that the market should be allowed to evolve so that customers have a real choice of products that steer customers away from "acquisition offers" that ultimately cost them over the course of their relationship with their retailer.

Consumers today face a proliferation of enticing market offers at sign up, only to be followed by a large price increase at some point later down the track. The industry has traditionally used "acquisition offers" and "back-book pricing" to have customers believe they are getting a good deal, only to later experience bill shock as they find that the price they pay goes up over time.

Ideally a functioning market delivers a range of products, including products that offer a fair and sustainable margin and that do not require future price rises to remain viable. The real risk with the solution proposed by the Commission is that market offers will increase in the years when the VDO increases (as just witnessed for 2020), and retailers may use the independently set price as justification for extracting increased margin. It also moves the market one step closer to the Commission regulating the whole market, stifling innovation and evolution in what should be a rapidly evolving industry.

The Clear Advice Entitlement introduced in 2019 has adequately remedied the original issue of retailers increasing prices after sign-up. The real issue that this policy is attempting to address is that retailers expect to recoup low or negative margin in later years of customer contracts by subsequent

price rises over several years. amaysim has recognised that this model is not in our customers' interests and is working hard to provide an alternative through our no-lock-in energy subscription plans, giving customers fair value for their full time with us as their retailer. The proposed recommendation around fixing market prices will detract further from a competitive market and is pushing retailers to only offer one product that replicates the structure of the VDO.

Protecting customers at the end of benefit and contract periods

amaysim acknowledges that in the past, some customers have been financially disadvantaged when their benefit period or contract period ends. In particular, the loss of a large benefit such as a discount can result in large increases to customers' bills.

amaysim is more concerned with the messaging, rather than the practicalities, around moving customers onto the VDO when their benefit period ends. The Commission needs to be careful about the message it is sending to customers. The market would be better served by keeping VDO messaging simpler and less prominent as this is likely to maintain customer confidence in the competitive market. Mandating multiple (and often conflicting) messages on customer bills will only further confuse customers and may leave the false impression that they benefit from disengaging with the market.

The Commission needs to be cautious around its messaging on the VDO, which is more than likely not the best offer available for each customer. Ideally, amaysim would like to see both policy makers and regulators affirm their commitment to a competitive retail market in Victoria rather than promote regulation of electricity prices as being in the best long-term interests of customers.

Including information about the VDO on bills

The industry and the Commission have only had six months to assess the recent suite of regulatory changes, and initial observations around market activity suggest that some of the changes have not resonated as first intended. The required wording around the VDO is yet another requirement that will need to be added to a bill.

Given this, additional messaging on the bill may further complicate the messaging currently provided to customers on their bills. Moreover, rather than being encouraged to request the VDO from retailers (which the current market shows is not the best offer for customers), customers should be directed to shop around to find offers that maximise benefits relative to their circumstances.

amaysim's own experience is that the increasing amount of mandated messaging on bills has made them less clear and, in fact, more difficult to understand. By mandating prescriptive wording on the bills, for example the best offer message and reference to the VDO, retailers are required to put additional information on customers' bills to ensure compliance with other legislation, including the Australian Consumer Law and to ensure customers are not misled by the various claims about the VDO. Further, by requiring retailers to include this regulatory messaging on the cover of a bill, key elements of a customer's bill have necessarily been moved to subsequent pages. There is now an overload of information on a customer's bill and the concern is that very little of this messaging is cutting-through to customers. We have provided some confidential examples of amaysim invoices prior to July 2019, and after, to illustrate the level of complexity that has been added since these regulatory reforms were introduced. In our view, customers would be better served by keeping VDO messaging simpler.

Changing back billing rules

The Commission needs to consider and propose how to reciprocate the four-month obligation for back billing upon distribution networks. This way customers can be confident that all elements of the electricity supply chain are adequately working to ensure that bills are accurate, and the data that underlies their bills is accurate and correct.

Imposing a four-month maximum back billing obligation on distributors will ensure that their internal processes and procedures align with community expectations for energy companies. The best

outcome for customers is to be provided timely and correct billing based on correct data. This is particularly important as we adapt to the upcoming suite of Consumer Data Right reforms in the energy sector.

amaysim notes that the Australian Energy Council (**AEC**) has submitted on the issue of back billing. As an active member of the AEC, we are fully supportive of the views contained within their submission. Ultimately, retailers should only be financially responsible for the issues they directly control.

Conclusion

We would welcome the opportunity to discuss our recommendations with you. Please contact Adam Lourey, our Compliance and Regulatory Manager (Energy), (whose email address has been provided separately) should you wish to do so.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Alexander Feldman', written in a cursive style.

Alexander Feldman
Chief Strategy Officer & General Counsel