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EnergyAustralia
LIGHT THE WAY

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Dear Dr Ben-David

ESC – New customer entitlements in the retail energy market – draft decision

EnergyAustralia welcomes the opportunity to make this submission to the Essential Services Commission's draft decision for new customer entitlements in the retail energy market.

We are one of Australia's largest energy companies, providing gas and electricity to 2.6 million household and business customer accounts in New South Wales, Victoria, Queensland, South Australia and the Australian Capital Territory. In Victoria, we provide gas and electricity to around 20 percent of households.

We also service 15 per cent of small business electricity needs and 19 per cent of their gas needs. We are the only major vertically integrated energy retailer based in Victoria with 2000 employees at the Yallourn power station and mine in the Latrobe Valley and contact centre and head office staff located in metropolitan and CBD locations.

EnergyAustralia supports the objective of the Commission to ensure that customers are given helpful information that enables them to easily identify a deal that is more suitable to their individual circumstances. Customers are our priority. We are focused on building trust and ensuring our customers are on the best product for them. We support the Commission's approach to give responsibility back to retailers. The Commission should take this further, and rather than prescriptive regulation on how retailers deliver the new proposed Part 2A[1] of the Code, leave this as a high-level objective.

By overengineering the regulations, rather than allowing retailers to work out the best way of doing this, imposes real costs and complexity onto customers (directly and indirectly). Assuming the high-level purpose of retail regulation is to ensure customers are better off, the Commission should frame these obligations to give rise to the maximum benefit at least additional cost. We do not consider Part 2A does this. As demonstrated by the Ofgem experience in mandating a 'cheapest tariff message' on bills,

[1] Clear Advice Entitlement, Bill Change Notice, Best offer on bills

where only 3 per cent of customers were prompted to switch plans in 2017[2], the costs, of which are ultimately borne by the customer, are likely to outweigh any benefits.

[redacted]

[2] https://www.ofgem.gov.uk/system/files/docs/2018/05/annex_2_-_summary_of_evidence_used_to_inform_our_proposals_0.pdf

[3] 2.6 million accounts, on average at least 4 bills per year per account, and around 260 week days per year

[4] Our billing run currently takes around 3 hours per night and starts at around 9.30pm. At times we have had to make improvements to our system's processing capacity to ensure that our bill run does not encroach into business hours. Once this finishes then the next step in the process is for mail house processing that must be completed to meet Australia Post mail receipt deadlines.

We strongly urge the Commission to consider obtaining IT advice and assessing the costs of the changes before a final decision is made. [redacted].

To assist with managing implementation, we request that the Commission consider a staged approach to implementation in its final decision. While, the amendments to the Code need to come into effect on 1 July 2019, as specified under the terms of reference, we consider the Commission has some discretion to include transitional arrangements.

We propose that this can be done in two phases:

1. First phase: compliance with bill change notices and the Clear Advice Entitlement for contact centres by 1 July 2019.

2. Second phase: compliance with the remainder of the draft Code amendments by 1 January 2020. Including the requirement to provide at least one 'best offer' message in any format in the 6 months period before 1 January 2020.

A staggered approach will ensure that changes are implemented in a manner that limits unintended consequences. Particularly, as there are elements of the draft amendments that need further consideration and clarity. We consider that the Commission has understated the actual amount of change required to comply with these amendments before the 1 July 2019.

The remainder of our submission focuses on the components of the draft decision which we consider need further clarification by the Commission.

1. Putting the best off on bills

The Commission has stated that the new billing entitlements will lead to innovative products for customers, we consider that innovation may be suppressed. For example, demand response offers are expensive to build and to take to market. The savings depend on the customer's ability to respond behaviourally (to messages to reduce energy use at certain times) or to have appliances, a smart inverter or other electronic control that enables a more automatic response. The savings on these types of plans will be impossible for us to assess or reliably include in the 'best offer' message. This means that customers are unlikely to see it as a viable offer and are more likely to distrust other marketing that retailers may do to market these products even though they would offer considerably lower bills for customers. We request the Commission further consider the necessity of future proofing the regulations to allow retailers the ability to design new products that reflect what customers want.

1.1. Definition of the best offer

Defining the 'best offer' as the cheapest generally available offer from the retailer is the simplest approach to take. However, we request that the Commission consider a further eligibility criterion. We have found that customers support a move towards offers that are more personalised – such as staff plans for employees of Alliance Partners or individually tailored to the specific circumstances of the customer. As both these categories are defined by a level of exclusivity, and are not suitable to all customer

segments, the 'best offer' definition should also be defined as an offer that can be easily acquired by all general members of the public.

1.1. Design and presentation

We understand, as a result of further customer testing, that the Commission may prefer the message 'paying $485 more than they need to'. EnergyAustralia does not support the move towards a 'payment' statement. This creates expectations for the customer about the accuracy of their bill which is misleading. It could potentially lead to levels of angst that customers have been 'ripped off' when they may never have or be able to achieve that saving. We are concerned that this will increase the level of distrust in retailers which contradicts the objective of this obligation - to build trust. If retailers were to use similar wording in marketing material, it would almost certainly be picked up by regulators as misleading. The Commission should retain the wording as prescribed in the draft Code amendment.

We do not support the Commission's reasoning that the threshold should be set at $22 as this is the maximum exit fees retailers may charge, to determine if a message is positive or negative. The Commission's own customer testing showed that 90 per cent of customers would require a saving of $50 or more to consider switching. As such, the threshold should be set at a saving of $50 per year. If the Commission decides to maintain the $22 threshold we would encourage that in the final decision, the requirement for a positive message is removed altogether.

1.2. Frequency

The Commission has proposed that the 'best offer' message appears at a minimum, every six months and to appear on the first bill following 1 January and 1 July each year. Our preference is to not link the message to any specific date or communication type. Instead retailers should be obliged to provide a message at least twice a year, and this can be either on the bill or a bill change notice. This will reduce any unintended consequences leading to customer confusion and concerns that customers will become desensitised to the message due to information overload.

We also believe that this will support customer choices, such as those customers who value locked in rates and value bill predictability. For example, EnergyAustralia's Secure Saver plan guarantees residential electricity and gas customers their usage rates and supply charges will not increase for a two-year period but may have a higher rate than other plans. We recently contacted our customers who were on standing tariff offers in New South Wales to encourage them to be on better plans. [redacted]. Our research indicates that customers who are less confident or engaged prefer consistency and stability. These customers would not benefit from a 'best offer' message and doing so may result in further disengagement. We suggest that the 'best offer' message should only apply to certain categories of customers – such as customers who have not engaged with us for two years.

Greater flexibility on when and how retailers provide the 'best offer' is consistent with other regulators. Ofgem is proposing to remove some of the prescriptive content, placement and formatting rules of its 'cheapest tariff message'.[5] It is opting for greater flexibility in how retailers communicate the message and will require this message to be provided at a minimum of once a year and at all Key Prompt Points (i.e. points at which consumers could benefit from considering their options) as appropriate. It will be at the discretion of the retailer to determine the most effective times to prompt their customers. Ofgem acknowledged consumer groups concerns that this change could lead to some customers getting insufficient information, but Ofgem considers these concerns are addressed through the once a year minimum requirement to provide a 'cheapest tariff message'. EnergyAustralia supports this outcome focussed approach, which will provide flexibility to retailers to innovate products, and strongly encourages the Commission to consider the learnings from Ofgem in making its final decision.

We also do not support the proposal for the bill message to be provided on the customer's anniversary with the retailers. Mandating customer contact at the 6-month anniversary of the sign date is operationally complexed. Significant changes would be required to our system at a substantial cost as previously discussed.

1.3. Scope

The scope of the obligation should be limited to only bills (in all formats) or the new, proposed bill change notice. We do not support the 'best offer' obligation applying to communications that summarise key content – bill summaries such as email or SMS. While the Commission states that customers may not open a bill attachment to an email or SMS, our customer research indicates that customers value the bill and will look at it over an email content. Additionally, the technical limits of providing the 'best offer' message in SMS form is likely to see retailers move away from these types of communications. As discussed above, our preference is that the Commission should not mandate the form of the communication.

1.4. Validity of the offer

The Commission has proposed the 'best offer' must be available for 13 business days. A blanket 13 business day approach for all customer is difficult to operationalise and we do not support this approach. [redacted]

We consider the issue of validity is moot if retailers are provided the flexibility on the frequency and form of communication of the 'best offer' message. That is, no validity period would be needed. Retailers operate in a competitive market where business models rely on retailers retaining customers. To be viable, we should be offering our customers the best plan for their circumstances to encourage them to stay with us. If the Commission determines that a validity timeframe is required, this could be regulated at a higher level rather than prescriptively, as it currently is drafted.

[5] https://www.ofgem.gov.uk/system/files/docs/2018/09/statutory_consultation_-_domestic_supplier-customer_communications_rulebook_reforms.pdf

We do not support the concept of an unique ID. Adopting the use of an unique ID will require significant changes to our systems, process and training of contact staff and third parties. The benefit derived by customers being able to cross reference an unique ID will outweigh the costs. Particularly, as the policy intent of the 'best offer' message is to nudge the customer to engage in the market. Most of our conversations with customers are based on product name and the customer's needs making the use of unique ID's obsolete. We are also unsure of how this would work with Victorian Energy Compare without significant upgrades to the website.

2. Clear advice entitlement

The intent of this obligation is for the retailer to communicate to the customer the contract attributes of the 'best offer', for example conditional discounts to get a lower bill or additional fees, that may affect the bill amount. We agree that the customer should be informed of this information to determine if the 'best offer' is the right offer for their individual circumstances.

However, as currently drafted, retailers are obliged to inform the customers of *any* contractual terms or conditions that will influence the monetary value of a bill. This is a very broad requirement and is outside the scope of the policy intent of this recommendation. We encourage the Commission to consider tightening the requirements of this obligation to only apply to any contract attributes which will impact what the customer will pay if they switch.

We do not support the Clear Advice Entitlement applying to third parties or digital channels. It is unclear how the logistics of these requirements will work in practice. The Clear Advice Entitlement imposes a requirement that retailers are to consider *all* information it has knowledge of regarding the customer in fulfilling this obligation. This will rely on the customer inputting a significant amount of information into digital platforms or third parties being fully informed of a customer's individual needs. Customers will be required to provide all necessary information in an era where customers are already time poor and may find it too much work to input this into a digital platform. As currently drafted, the retailer may be found to be at fault if later the customer complains that they are not on the 'best offer', though they may not have provided all information needed to assess their individual circumstances.

Research has shown that more and more information does not necessarily mean customers will make the best decision for them. Customer's want simple and hassle-free options. Given that the Commission has not had the opportunity to work through the implications of the Clear Advice Entitlement on third parties or digital platforms we recommend that this be removed entirely from this obligation or a delayed implementation until 1 January 2020.

Additionally, due to the complexities discussed above and the limited consultation on the Clear Advice Entitlement we do not support this obligation being linked to explicit informed consent. This is a heavy-handed approach where we are yet to understand what operational impacts this requirement will have on the business, including training consultants (noting the new obligations under PDF for consultants) and how it would work with a digital platform.

There is a significant risk of unintended consequences to customers by linking the Clear Advice Entitlement to explicit informed consent. We agree that an obligation should be on retailers to ensure customers are fully informed but consider this should be linked to a penalty.

3. Bill change notice

We support the Commission's proposal to streamline the bill change notice and to align the national framework. While we agree that the price change notice should be provided to a customer within 5 business days, consistent with AEMC rule change, we do not agree that this should also apply to the benefit change notice.

The National Retail Rules[6] require a retailer to notify no earlier than 40 business days and no later than 20 business days before the benefit change date. While, we note that the Commission considers the shortening the benefit notice requirement to 5 business days may increase its effectiveness as a prompt to customers to engage this will be logistically challenging if the discount/benefit change coincides.

4. Summary

EnergyAustralia welcomes greater efforts to ensure all customers are on the best plan for their individual circumstances. This effort is something that we are already undertaking and will continue to do so into the future. As such, we ask that the Commission considers the implications of a heavily prescribed approach and rather provide retailers flexibility in the frequency and form of the 'best offer' message. We also request that the Commission consider a staged approach to implementation of the new billing entitlements to ensure that these regulatory changes deliver the best outcomes for customers.

EnergyAustralia looks forward to continuing to work cooperatively with the Commission to improve energy comprehension and accessibility for all customers. If you would like to discuss this submission, please contact Carmel Forbes on (03) 8628 1596 or at carmel.forbes@energyaustralia.com.au.

Regards

Melinda Green
Industry Regulation Leader

[6] NERR, 48A