

5 October 2018

James Clinch  
A/Senior Regulatory Manager, Energy  
Essential Services Commission  
Level 27, 2 Lonsdale Street  
MELBOURNE VIC 3000

By email: [RetailEnergyReview@esc.vic.gov.au](mailto:RetailEnergyReview@esc.vic.gov.au)

Dear Mr Clinch,

### **New Requirements for Energy Bills**

Simply Energy welcomes the opportunity to provide feedback on the proposed amendments to the Victorian Energy Retail Code.

Simply Energy is a leading second-tier energy retailer with over 660,000 customer accounts across Victoria, New South Wales, South Australia, Queensland and Western Australia. As a second-tier retailer, Simply Energy actively supports customer engagement and open market competition. With these objectives in mind, Simply Energy considers the proposed scope of the Code changes are adequately adapted to enhance competitive tension and consumer outcomes in the Victorian energy market.

In exploring the proposed Code changes in further detail, Simply Energy's submission briefly evaluates:

- the objectives on the proposed changes;
- the scope of the deemed best offer requirement;
- the implementation of the clear advice entitlement; and
- the scope of the GST-inclusive price obligation.

### **Objectives**

Overall Simply Energy is supportive of the policy intent of the changes outlined under Part 2A. That said, Simply Energy considers the objective under cl 70G around supporting customer choice should be confined to requiring retailers to provide the information consumers need to make informed decisions about their energy services. The ultimate decision as to which product is most suitable should remain with the consumer, who can choose a product that suits his or her lifestyle and needs based on clear and transparent information provided by market participants.

## Deemed Best Offer

Simply Energy considers that advice of the deemed best offer may be able to play a role in promoting greater consumer engagement, but its limitations need to be considered. There is a risk that providing estimated savings in dollar terms on customer bills and price change notices could lead to unrealistic expectations about the benefits of switching offers. Customers need to understand that these estimates are based on historic usage and offer rates that may be subject to change.

For this reason, it may be more beneficial to have a standalone requirement to advise customers about whether they are on the deemed best offer every 12 months, rather than including this information on bills and price change notices. Including notifications as part of a standalone message should provide retailers with greater scope to qualify any estimated savings, and also provide more meaningful information to consumers.

Furthermore, if 12 months usage data is not available, then a consistent estimation approach should be prescribed in the Retail Code. Simply Energy considers that the current requirements outlined under the definition of *annual usage history* are insufficient to ensure consistency across all Victorian energy retailers. Simply Energy is also of the view that the inclusion of concessions and energy rebates in the calculation of a deemed best offer is problematic given these rates can vary based on a customer's levels of usage.

In terms of generally available offers used for the purposes of evaluating a customer's deemed best offer, Simply Energy considers that offers which have eligibility criteria, such as requiring membership with a club or association, should be excluded from the assessment. Simply Energy also considers that mandating that an offer must be available for 13 business days after advice on the deemed best offer is issued is too restrictive and potentially unworkable given new products offerings are continually being developed. In view of this, Simply Energy considers that cl 70S should be qualified and state that a retailer must provide information on an equivalent comparable offer in circumstances where the product stated in the deemed best offer message is no longer available.

It also needs to be made clear in the Code and to consumers that reference to an offer in the any form of correspondence is a mere invitation to treat. There should not be any obligation on retailers, other than the financially responsible market participant in offering a standard retail contract, to provide energy services in all circumstances. Simply Energy considers that it is important for this safeguard to be preserved, as it ensures retailers can effectively manage their credit risk. This is not to say that genuinely vulnerable customers should not be encouraged to take up the most appropriate energy plan for their circumstances. Indeed, Simply Energy already has processes in place to ensure these customers are proactively supported.

## Clear Advice Entitlement

With the focus on ensuring the customers understand the terms and conditions that may affect the monetary value of their bill, Simply Energy considers that the clear advice requirement will be beneficial for customers looking to change offers or retailers. In order to ensure customers receive the most benefit from these conversations, Simply Energy is of the view that cl 70H should be confined to the disclosure of product specific clauses rather than disclosure of generic distributor and metering charges. From Simply Energy's perspective, the main charges and provisions that should be brought to a customer's attention are those relating to conditional discounts, price change, feed-in tariffs and variable supply charges.

In order to ensure that retailers have sufficient time to implement the clear advice entitlement across all sale's channels, Simply Energy considers that a phased implementation approach should be adopted. As the Australian Energy Council has suggested in its submission, a potentially workable approach for industry could be to apply the obligations to disclose the financial terms for contact centres from 1 July 2019 and from 1 January 2020 for all other communication channels. The individualised nature of the information and linking the entitlement to explicit informed consent requirements means that it is imperative that retailers have robust processes in place.

### **GST Inclusive Marketing and Billing**

Simply Energy also sees the benefit in communicating and advertising based on GST inclusive terms. These requirements will ensure small-use energy customers are aware of the full costs associated with the services they are receiving or looking to procure.

Simply Energy, however, considers that extending this requirement to billing may lead to customer confusion given that energy concessions, discounts and feed-in tariffs are calculated based on GST-exclusive charges. This could, in turn, make it difficult for retailers to comply with other aspects of the Retail Code, such as the requirement under cl 25(1)(h) for retailers to make it easy for small customers to verify the basis on which tariffs and charges are calculated.

### **Concluding Remarks**

Overall Simply Energy considers that the Essential Services Commission has been very open and engaged throughout this process. Consistent with this open and engaged approach, Simply Energy would encourage the Commission to continue to take into account industry feedback in refining the proposed amendments to the Retail Code.

Simply Energy welcomes further discussion in relation to this submission. To arrange a discussion or if you have any questions please contact Anthony O'Connell, Senior Regulatory and Compliance Officer, on (03) 8807 5134 or at [Anthony.OConnell@simplyenergy.com.au](mailto:Anthony.OConnell@simplyenergy.com.au).

Yours sincerely



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