

14th July 2020

Essential Services Commission
Level 37, 2 Lonsdale Street
Melbourne VIC 3000

Lodged online: www.engage.vic.gov.au

Thank you for the opportunity to provide a submission in response to the 'Supporting Energy Customers Through the Coronavirus Pandemic' Draft Decision.

Momentum Energy is an energy retailer owned wholly by Hydro Tasmania, Australia's largest generator of renewable energy. We pride ourselves on competitive pricing, innovation and outstanding customer service. We retail electricity in Victoria, New South Wales, South Australia, Queensland, the ACT, and on the Bass Strait Islands. We offer competitive rates to both residential and business customers, a range of innovative energy products and services, as well as the retail of natural gas in Victoria.

The energy industry has traditionally responded to crises in the community by providing support to customers in need. Historically this has been in the context of relatively localised natural disasters (most recently the catastrophic bushfires of Summer 2019/20), but the COVID-19 pandemic has seen the industry step up across the nation in an unprecedented manner. In a sector where customer welfare has from time to time been taken for granted in pursuit of financial gain, Momentum is genuinely proud of the way that energy businesses have responded to assist their fellow Australians at this time.

Despite this positive response, the Essential Services Commission (the Commission) is proposing to further regulate customer assistance offered by retailers. We do not believe it reasonable to regulate in the absence of a demonstrated need to do so and we do not believe that a case has been made to show that the current arrangements are not working for customers.

It is particularly worrying that at a forum, at which all retailers were present, the Chair of the Commission commented that that they were mindful of the burden of any additional regulation. The Chair assured participants the Commission was considering how to support customers in practical and balanced ways. Proceeding to a Draft Decision without any initial canvassing of options with industry does not evidence a consideration by the Commission of the potential regulatory impact or burden on retailers.

We appreciate that the response to the COVID pandemic is time critical, however this should not obviate the Commission's responsibility to consult appropriately nor its regard to the costs and benefits of any proposals.

We are particularly disappointed that the Commission has sought to codify some of the actions which retailers are voluntarily undertaking. As well as being inefficient and contrary to competitive principles, doing so reinforces the naïve narrative that retailers will not do anything to assist customers unless they are compelled to do so. The reality is that Momentum is continually seeking to raise the bar in customer service and support. Competitive forces push our competitors to do the same. Regulating a minimum standard of behaviour only builds in additional costs of developing compliance frameworks to oversee business as usual activity.

Draft Decision 1: Supporting customers to complete and lodge utility relief grant applications

As the Commission is aware, Momentum has dedicated resources to assisting customers to fill in Utility Relief Grant Scheme (URGS) application forms. This was done (prior to the COVID-19 pandemic) to assist our customers, in response to feedback that the forms were difficult for customers to complete without expert assistance. We also sought to minimise the chance of any additional delays in the face of a substantial Department of Health and Human Services (DHHS) processing backlog.

While we are pleased that the Commission has acknowledged failings with the current URGS process, we are dismayed that it considers additional regulation to be the appropriate solution. In achieving its objectives around promoting the long-term interests of Victorian consumers (including protections for customers who are facing payment difficulty), some of the considerations the Commission's governing legislation requires it to have regard to include:

- *efficiency in the industry and incentives for long term investment;*
- *the financial viability of the industry; and*
- *the benefits and costs of regulation (including externalities and the gains from competition and efficiency) for—*
 - (i) *consumers and users of products or services (including low income and vulnerable consumers);*
 - (ii) *regulated entities.*¹

Addressing the URGS process through refinements to the application forms and processes would appear to be a considerably more efficient approach than to require each participant to bear the costs of the proposed change. We appreciate that it is not within the Commission's remit to regulate other government agencies, however the proposed approach is revealing and appears to confirm industry views that the Commission regards considerations relating to efficiency and viability of the industry as secondary to short term consumer outcomes. These outcomes, whilst important, do not supersede the long term interests of Victorian consumers, which the Commission is bound to promote.²

As previously stated, Momentum is pleased to assist its customers to deal with the unwieldy and difficult application process and we will continue to do so whether or not we have an obligation under the Energy Retail Code.

We believe that a temporary Code Provision to allow time for the DHHS to revise their form and process is more appropriate. Furthermore, we expect that the additional cost of completing URGS forms for customers be factored into Victorian Default Offer prices as it is unlikely that DHHS admin fees for retailers will be updated to reflect the additional cost to retailers.

Draft decision 2: Extending tariff check entitlement to all customers receiving tailored assistance

Momentum agrees with the principle that being on the best available offer will assist customers to manage their payments. We question, however, whether this requirement is necessary or practical.

The Payment Difficulty Framework (PDF) was a fundamental change to the way that retailers in Victoria operate. During its implementation, Momentum, and presumably many other

¹ Essential Services Commission Act 2001 No. 62 of 2001 Section 8A

² *ibid* Section 8

retailers, made significant organisational changes to allow us to deliver the entitlements to customers as efficiently as possible. This involved call routing and workflows to enable us to meet the needs of customers in a compliant manner. Agents who currently deal with Tailored Assistance 1 (TA1) customers do not have the training and or systems access to undertake the tariff check (and change) contemplated by the proposed change to the Retail Code.

In order to facilitate tariff checks and changes for TA1 customers, Momentum's Customer Care and/or Credit Agents would need to transfer the customer to a sales agent who has the capability to quote the customer. This would lead to a poor customer experience for those customers who are already on the best offer and would drive a considerable increase in operating costs.

A more practical solution would be a requirement to actively refer these customers entering into TA1 to the best offer by including advice on their bills. This approach would ensure that any increases in customer handling time are minimised which would keep retailer costs manageable and enable agents to handle more calls and assist a higher number of customers. The retailers whose organisational model would allow them to efficiently conduct a best offer check for TA1 customers can choose to do so, in much the same way as Momentum has chosen to go above the minimum standard for assisting customers with URGS applications. We believe that this is a pragmatic approach to assisting customers without unduly disrupting retailer operations and adding to operating costs.

Draft decision 3: Payment flexibility for small businesses anticipating financial stress

As outlined in the Draft Decision, retailers have implemented a range of measures to assist small businesses during the pandemic. While we are not opposed to the types of arrangements anticipated by the Commission, it is important to ensure that any regulatory requirements are consistent with the arrangements currently being offered voluntarily by retailers. While a simple "copy and paste" of the standard assistance measures applicable to residential customers appears, on the surface, to be a sensible approach, a bespoke form of temporary business assistance would perhaps be more useful to consumers.

In its Final Decision on the PDF, the Commission determined that the Framework should not cover small business customers. Momentum supports this view on the basis that the nature of energy supply is different for businesses. While continued energy supply is vital for businesses, it is not an essential service in the same sense that it is for residential customers. That is to say, quality of life is not directly at stake. Business customers should be supported but the consequences of disconnection are simply not as high as for residential customers.

Replicating the PDF obligations for business customers will also impose disproportionate costs on retailers who only service business customers. These retailers would not have established the systems and processes required to operate under the PDF and will struggle to develop them within the timeframes required.

The needs of small businesses are varied and we prefer an approach whereby retailers can work with businesses to understand their needs and provide more bespoke assistance. To this end, we suggest that the Commission explore more outcomes based regulation which does not prescribe the assistance which retailers are required to provide their business customers.

Momentum is proud to support small business customers as we recognise that their ongoing survival plays a role in the economic recovery which will follow this crisis. We also recognise that the continued operation of small businesses impacts the livelihoods of small business owners and employees. By allowing a degree of flexibility, retailers will be better able to provide meaningful assistance to small businesses at a lower cost which will in turn allow them to

support individuals who are directly impacted by the regrettable closure of many businesses during this pandemic.

Draft decision 4: Payment assistance for small businesses that miss a pay-by-date

As acknowledged by the Commission, retailers are already providing small business customers with assistance. In many instances this assistance includes payment plans and deferrals which strike a balance between the needs of the customer and the capacity of the retailer to manage risk. We do not believe it appropriate to grant small business customers an entitlement to a 24-month payment plan.

Having worked with our small business customers over many years (noting that for a period of time Momentum operated exclusively in the business market), we understand the challenges that small business operators face even in the best of times. It is a tragic reality that a number of businesses will not survive this pandemic crisis, and to require retailers to effectively underwrite these businesses will be significantly detrimental for other customers who require assistance, as it will inevitably increase the price they pay for energy.

We propose that rather than narrowing the focus on business customer assistance to providing a specified package to eligible customers, that retailers have the discretion to act reasonably in providing any sort of assistance to any type of customer. While the proposed change as drafted will not technically prohibit this, any prudent business will reduce the overall quantum of assistance it is able to provide if it is required, by regulation, to effectively provide credit to inherently risky customers. Put simply, it is unreasonable to require retailers to take on this quantum of risk.

If a small business requires 24 months to pay a single bill, it should be taken as a reasonable indication that they are at serious risk of default. In a circumstance as fluid and unpredictable as the current crisis it does not seem appropriate to be requiring retailers to set plans two years in advance when a customer's capacity to pay for energy consumed can change in a matter of days or weeks.

Conclusion

It is uncertain at this time how the pandemic will continue to unfold. It is clear that the recent announcement to return most of Victoria to Stage 3 Restrictions, and the decision by a number of States to continue to restrict travel to and from Victoria, has changed the trajectory of the crisis. These changes will require the Commission to remodel the forecasts which it used to determine that the Draft Decision is in fact in the best interests of Victorian consumers. The energy sector is not immune to the economic downturn associated with the COVID-19 pandemic and the Commission needs to be mindful that imposing any additional risk or debt on to the sector could even lead to a catastrophic retailer of last resort event.

Regardless of the Commission's modelling, the provision of additional assistance to customers will increase retailer operating costs and lead to reduced margins. The more stringent the assistance, the greater the costs which will ultimately be reflected in the Victorian Default Offer meaning that all Victorians will pay higher energy costs in the foreseeable future.

Momentum is committed to supporting our customers. We have learned from experience that the support we provide is repaid in loyalty when circumstances improve. We commit to being fair to all of our customers and compassionate towards those struggling with the impacts of the COVID-19 pandemic, but we do not believe that the Commission should take steps which may undermine the viability of the industry as a whole and which will lead to increased energy costs in the period following this immediate crisis.

If you require any further information with regard to this submission, please contact me on (03) 8651 3565 or email joe.kremzer@momentum.com.au.

Yours sincerely

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