

12 August 2019

Kate Symons
Acting Chair
Essential Services Commission of Victoria
Level 37, 2 Lonsdale Street, Melbourne VIC 3000

Victorian Default Offer for 2020 – Issues Paper

Thank you for the opportunity to provide a submission in response to the issues paper Ensuring Energy Contracts are Clear and Fair.

Momentum Energy is a 100% Australian-owned and operated energy retailer. 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 along with a range of innovative energy products and services. We also retail natural gas to Victorian customers.

Momentum Energy is owned by Hydro Tasmania, Australia's largest producer of renewable energy.

We agree with the view that consumers should have access to fairly priced energy contracts which do not require arduous research to identify. In principle, the VDO should meet this need, however the ESC's approach to cost setting is such that customers who may have more specific needs and are prepared to engage with the market are likely to be disadvantaged.

As outlined in previous submissions relating to the setting of the VDO, Momentum is deeply concerned of the negative consequences which are likely to arise if the ESC inaccurately reflects the costs of supplying electricity. At a minimum, the cheapest and most innovative offers in the market are likely to be withdrawn by retailers with all price points clustering around the VDO rate. At worst, an inaccurately set VDO could lead to a retailer(s) failure which would disadvantage consumers who were on market offers or had established payment plans or other forms of assistance with the failing retailer.

Cost Components

Momentum is broadly comfortable with the ESC's approach to setting wholesale and network costs. We believe however, that a portfolio approach to environmental costs is more appropriate as this is more reflective of how a prudent business would manage its liability. We acknowledge that these costs, while material, do not represent the most recent assumptions on the part of the ESC and are therefore a second order issue in terms of price setting. We suggest that a portfolio approach should be taken for environmental costs as the recent decline in these costs does not reflect the past purchases that a prudent retailer would have undertaken.

In the current determination, the ESC has made reference to the ACCC's Retail Electricity Pricing Inquiry (REPI) calculation of retail operating costs and the additional expense associated with operating in the Victorian market. In our submission on the draft advice, Momentum pointed out that the REPI figures reflected the cost of operating in a market which is very different to today's reality and did not take into account the cost of Victoria specific reforms which have been implemented since the data collection for the REPI was undertaken.

We do not believe that the cost of reforms which commenced on 1 July 2019 were factored into the current determination and consider that this is due to a systemic flaw with the ESC's approach to regulatory reform. Once again, the ESC proceeded with a major regulatory change without conducting even a cursory cost/benefit analysis. More concerning, the final requirements for the changes were not received by retailers until after the final price was determined¹. It is clear therefore that the capital cost of these programs and the ongoing opex associated with complying with requirements which have diverged further from the rest of the market is accounted for using little more than guesswork,

Similarly, we are conscious of the fact that consultation has commenced on a number of changes slated to come into effect on 1 July 2020. We understand that the changes are likely to be finalized around the time that the ESC makes a determination on the 2020 VDO, however there does not appear to be a process in place to capture the cost that retailers will be subjected to introduce and manage these reforms.

Momentum has repeatedly called for greater transparency in decision making and believe that failure to conduct a thorough cost/benefit analyses of each reform represents not only a failure to conduct good practice regulation, but is compounded in circumstances such as these where the ESC is called upon to determine a 'fair' price for electricity.

In the absence of an appropriate mechanism to capture retailer operating costs, we consider that in order to protect customers from the potentially calamitous outcomes of widespread ROLR events which an incorrectly set VDO could precipitate. The ESC must build in a general risk allowance to hedge against the inadequate cost inputs used in this process.

Setting a non-flat VDO.

Of the two options outlined in the issues paper, Momentum considers that there is only one course of action that the ESC can pursue in order to meet its terms of reference. Approach 1, whereby the ESC would set a maximum price for a representative customer, at a particular consumption point, allows retailers to maintain control over tariff components and deliver price signals to customers. This approach also appears to align with the AER's approach and in doing so is consistent with the ACCC's recommendation which considers that Victoria aligning more closely to the NECF will lower prices for consumers.

¹ The Final Decision on Consequential Amendments Related to the Victorian Default Offer was released on 13 June 2019. Rather than being consequential amendments in the traditionally understood sense, these changes impacted elements of the implementation of the VDO and lead to direct cost both through changes to existing retailer work plans and because of the late notice received.

We do not believe that Approach 2 is appropriate simply because it does not represent a non-flat pricing structure. If peak prices are capped at the flat VDO rate, retailers will, as acknowledged by the ESC would need to set off-peak prices at the same rate. This is by definition a flat rate tariff.

Summary

We appreciate the ESC's willingness to explore the issues at this stage, however we are concerned that Government does not appreciate the distortionary impacts that price setting of this nature can have on the market. The fact that although some customers will be 'winners' in the short term, many more will be significantly worse off, both immediately and in the longer term. We understand that the ESC is bound by the Terms of Reference it has been delivered however we also believe that it is bound by its governing legislation to provide advice to Government on the long term interest of consumers and as such its draft and final determination on the 2020 VDO must contain commentary on the issues which it will cause.

If you require any further information with regard to these issues, please contact me on [REDACTED] or email [REDACTED]

Yours sincerely

Joe Kremzer
Head of Regulatory Affairs
Momentum Energy