

Victorian Default Offer amendment to price determination 2021

Draft decision

24 June 2021



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We are proposing to vary the current VDO price determination

Our draft decision is to vary the current Victorian Default Offer Price Determination 2021 as outlined in the Victorian Default Offer Amendment to Price Determination 2021 provided at Appendix A. A consolidated version of the Victorian Default Offer Price Determination 2021 as amended by this draft decision is also provided at Appendix A.

This paper sets out our reasons for our draft decision to vary the current Victorian Default Offer Price Determination 2021 which covers the period from 1 January 2021 to 31 December 2021.

We are proposing a variation to the current VDO price determination in response to changes in network tariffs applying from 1 July 2021.

Changes to network tariffs

We based the current VDO price determination on assumptions at the time about certain costs including the level and structure of network tariffs paid by Victorian electricity retailers. We used approved network tariffs to calculate network costs for the VDO. However, at the time of making the current VDO price determination the approved network tariffs for the second half of 2021 were not available.

Since then, the Australian Energy Regulator (AER) has made changes to the structure of network tariffs. The new two period time of use network tariffs will be the default network tariff for around 400,000 legacy non-flat customers (with approximately 15,000 of those being VDO customers), as well as new connections in Victoria.

The AER also recently made its final decision on the Victorian distribution network businesses' revenue requirements for the 2021–26 regulatory period. On 18 June 2021, it approved network tariffs for 2021–2022 regulatory year commencing 1 July 2021.

Network costs are treated as a pass through

Our intention is to vary the current VDO price determination to reflect the AER approved network tariffs and tariff structures for the second half of 2021. The current VDO price determination

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nominates the AER's final decision on network tariffs as one of the circumstances under which we might vary VDO prices.¹

Network costs account for around a third of the costs reflected in the VDO and they are treated as a 'pass through' in our VDO methodology.² A pass through means the network costs approved by the AER are accounted in full in the VDO cost stack hence fully recovered from VDO customers. This is because retailers pay charges for using the network to deliver energy to their customers, and the charges are determined by a price regulator.

If we do not pass the changes in network tariffs through in the current VDO price determination we would need to update for them in full in the next VDO price determination. The risks of delaying the pass through of these costs are that network costs would be lumpy (that is customers will pay their full network costs over a shorter period). We also consider that our approach has regard to the financial viability impacts on retailers of the AER's decision, given network charges are a large proportion of retailer costs.

Stakeholders who made a submission on our consultation paper generally supported our proposed approach to vary the current VDO price determination to account for network costs. See next chapter for details.

We are seeking your views on our draft decision

Following the release on 14 May of our consultation paper on the next steps for the VDO, we held a public forum on 20 May to give stakeholders further opportunity to share their views about our proposed variation. We have considered stakeholders' feedback in reaching our draft decision.

The release of our draft decision is later than foreshadowed in our consultation paper, due to the resubmission of network tariff proposals by distribution businesses as part of the AER network tariff approval process for 2021–22. This has also required us to update our process, notably moving the proposed effective date for the VDO variation to 1 September 2021 rather than the 1 August 2021 as noted in our consultation paper.

We are now seeking feedback on our draft decision and draft Victorian Default Offer Amendment to Price Determination 2021 (variation determination). In particular, we seek feedback on the method we have adopted to passing the changes in network costs through to customers on the

¹ Essential Services Commission, Victorian Default Offer Price Determination 2021: 1 January 2021–31 December 2021, November 2020, pp. 10-11.

² Essential Services Commission, Victorian Default Offer 2021: Final decision, November 2020, p. 18.

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VDO, and views on how we account for changes in network costs faced by retailers over July and August 2021.

We are proposing a relatively short consultation because we consider it is urgent to align the VDO with changes in network tariff structures and prices as soon as possible after 1 July 2021. Our consultation process and timeframes have been tailored to what we consider most appropriate for making the variation determination. This is consistent with the requirements of the pricing order³ made under section 13 of the Electricity Industry Act 2000 (Vic) (pricing order) and the current VDO price determination.⁴ Our approach also reflects the:

1. extensive consultation we undertook in 2020 on options for reflecting anticipated changes in network tariffs in the VDO
2. benefits of enabling new VDO tariffs to apply from 1 September 2021
3. relatively narrow focus of our proposed variation (focusing on network tariffs only)
4. treatment of network costs as a pass through in our VDO methodology.

Our charter of consultation and regulatory practice⁵ provides principles we consider when undertaking stakeholder engagement. Our proposed timeframes are shorter than those outlined in our charter but the charter's timelines are indicative and are not suitable for this price determination variation process.⁶

The key milestones dates are set out below. We would like stakeholders to give feedback on our draft decision by 2 July 2021.

Table 1: Timeframes for the 2021 VDO variation

Key milestones	Indicative date
AER decision on network tariffs for 2021–2022 published	18 June 2021
Draft decision and variation determination released	25 June 2021
Submissions on draft variation determination close	2 July 2021
Final variation determination released	15–19 July 2021
Variation to 2021 VDO price determination comes into effect	1 September 2021

³ Clause 13(5) of the pricing order.

⁴ Clause 6(5) of the current VDO price determination.

⁵ Developed and issued under section 14 of the Essential Services Commission Act 2001.

⁶ Essential Services Commission 2018, Stakeholder engagement framework: Charter of consultation and regulatory practice, 27 June.

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How to provide feedback

We invite stakeholders to give us feedback on this draft decision paper.

General comments and formal submissions should be made by **5pm on 2 July 2021**.

We may not be able to consider, or we may not give the same weight to, submissions received after this date.

To make a submission please go to Engage Victoria's website: www.engage.vic.gov.au.

Otherwise, please email us at VDO@esc.vic.gov.au to discuss other options for making a submission.

All submissions come under the commission's submissions policy. Submissions will be made available on the commission's website, except for any information that is commercially sensitive or confidential. Submissions should clearly identify which information is sensitive or confidential.

We are proposing to vary the current VDO price determination

Our draft decision

In this section, we discuss our proposal and approach to varying the current VDO price determination, its impacts on the VDO tariffs and the annual bills of customers on standing offers and the matters we have regarded in coming to our draft decision. We also address stakeholders' responses to our consultation paper.

Network costs represent the costs of building, operating and expanding the electricity distribution and transmission networks, provision of metering services and the cost of jurisdictional schemes. We are required to have regard to network costs in estimating efficient costs, with the charges levied by each of Victoria's five network distribution zones approved by the AER on an annual basis. Our current VDO methodology treats network costs as a pass through and uses the simplest network tariffs approved by the AER for each distribution zone.

Why we are changing the current VDO price determination

Our draft decision is to vary the current VDO price determination to reflect the AER's final decision on network tariff structures and prices. The current VDO price determination nominates the AER's final decision on network tariffs as one of the circumstances under which we might vary VDO prices.⁷

When we released our consultation paper in May 2021, we did not have the AER's approved network prices for 2021–22 nor indicative tariffs proposed by the distribution network businesses.

Since then, the AER has approved distribution network businesses' pricing proposals for the 2021–22 regulatory year commencing 1 July 2021.⁸ We have used these network tariffs to estimate network costs in our draft decision and draft variation determination.

Changes to network tariffs from 1 July

On 30 April 2021, the AER made its final decision on the Victorian distribution network businesses' revenue requirements for the 2021–26 regulatory period.

⁷ Essential Services Commission, Victorian Default Offer Price Determination: 1 January 2021–31 December 2021, November 2020, pp. 10-11.

⁸ Citipower, Pricing proposal 2021/22, June 2021; Jemena, Initial pricing proposal: for 2021–22 tariffs, June 2021; Powercor, Pricing proposal 2021–22, June 2021; United Energy, Pricing proposal 2021/22, June 2021; AusNet Services, Annual pricing proposal 2021–22, June 2021.

The AER also approved Victorian distribution network businesses' plans to introduce simplified two period (peak and off-peak) time of use network tariffs which is designed to better reflect the cost of using the network. While retaining flat and demand tariff options, the new network time of use tariffs with the following peak periods will be introduced:

- residential customers – 3pm to 9pm every day peak
- small business customers – 9am to 9pm business day peak.

On 18 June 2021, the AER published its approved network tariff rates for the Victorian distribution network businesses to apply from 1 July 2021 to 30 June 2022.

Updating the flat VDO tariff

We propose to update the flat VDO tariff to reflect the new AER approved rates for flat network tariffs. The structure of the flat VDO tariff, and all other cost components (except for network costs) would remain unchanged. This is consistent with the treatment of network costs as a pass through in our VDO methodology.

The distribution network businesses proposed higher flat network tariffs for domestic and small business customers for the second half of 2021 (see Appendix B for details).⁹ Compared with the previous regulatory period, the new revenue requirements are lower.¹⁰ However, the AER had already approved the tariffs for the first half of 2021. If the proposed tariffs from 1 July 2021 are compared to the tariffs approved for the first part of the year, the tariffs for the second half of the year are higher. In addition, some distribution network businesses have increased rates to offset revenue loss from lower demand.¹¹

Using the AER approved network tariffs, our updated VDO calculations show that domestic customers on the flat VDO tariff would face an increase of \$3–\$6 per month on their electricity bills for the period 1 September to 31 December 2021, depending on distribution zones. Small business customers on the flat VDO tariff would face an increase of \$12–\$32 per month on their electricity bills for the same period, except for small business customers under the United Energy zone who would face a decrease of \$6 on their bills per month. See Appendix C for details.

⁹ Citipower, Pricing proposal 2021/22, May 2021; Jemena, Initial pricing proposal: for 2021–22 tariffs, May 2021; Powercor, Pricing proposal 2021–22, May 2021; United Energy, Pricing proposal 2021/22, May 2021; AusNet Services, Annual pricing proposal 2021–22, May 2021.

¹⁰ For all distribution networks except for AusNet Services. AusNet Services' revenue will increase by 1.6 per cent over the next five years. This is due in part to the investment AusNet Services has made in reducing bushfire risks and allowed depreciation recovery over the next five years.

¹¹ Citipower, Pricing proposal 2021/22, May 2021, p.12; Powercor, Pricing proposal 2021–22, May 2021, p.12; Jemena, Initial pricing proposal: for 2021–22 tariffs, May 2021.

Despite the increase in flat network tariffs for the second half of 2021, the annual bills under the amended 2021 VDO prices remain lower than under the 2020 VDO prices for domestic customers on flat VDO tariffs.

Table 2: Comparison of estimated annual bills of flat domestic VDO customers in 2021 with 2020, in \$nominal

Distribution zone	2020 VDO	Amended 2021 VDO
AusNet Services	\$1,646	\$1,525
Citipower	\$1,420	\$1,292
Jemena	\$1,496	\$1,348
Powercor	\$1,517	\$1,387
United Energy	\$1,508	\$1,330
Victoria (average)	\$1,517	\$1,376

Note:

1. The estimated bills are calculated using annual usage of 4,000kWh.
2. Annual bills in 2021 are calculated by aggregating 2021 VDO prices for January – August 2021 and amended 2021 VDO prices updated for variation for September – December 2021, assuming uniform monthly usage across the two periods.

Network tariffs are approved by the AER. Under the VDO methodology we pass through the published network tariffs directly.¹² We consider passing through the changes in network tariffs this year best supports the VDO objectives.

If we do not pass these costs through within the current VDO price determination we would need to update for them in the next VDO price determination. The risks of delaying the pass through of these costs include that network costs would be lumpy (that is customers will pay their network costs over a shorter period).¹³

Further, we consider our approach has regard to the financial viability impacts of the AER's decision on energy retailers, given network charges are a large proportion of retailer costs.¹⁴ Network costs account for around a third of the costs reflected in the VDO for residential customers.

¹² This means that the actual network tariffs approved by the AER are allowed to be recovered by retailers from their customers under the VDO methodology.

¹³ There are currently around 120,000 residential and 30,000 small businesses on the flat VDO tariff.

¹⁴ Essential Services Commission Act 2001, s. 8A(1)(b).

See Schedules 1B and 2B of the draft variation determination for details about the updated flat VDO tariffs for the five distribution zones (provided as Appendix A).

Updating for non-flat tariffs

The pricing order requires us to determine:¹⁵

- the tariffs, or the maximum tariffs, a retailer may charge prescribed customers under a standing offer during the regulatory period or
- the manner in which the tariffs, or the maximum tariffs, a retailer may charge prescribed customers under a standing offer during the regulatory period are to be determined or calculated.

Currently, there are a large range of non-flat network tariffs and retailers offer a variety of standing offer tariffs which are regulated under the compliant maximum annual bill regime.

Our draft decision is to vary the current price determination to:

- **Introduce** a new two period time of use tariff VDO, which is calculated based on the new default time of use network tariff structure and prices approved by the AER.¹⁶ To set the new tariffs for the time of use tariff VDO, all other cost components (that is, but for network costs) would adopt the values used to calculate the flat VDO tariff in the current price determination.¹⁷
- **Update** the compliant maximum annual bill arrangements to reflect the new default time of use network tariffs approved by the AER (currently the compliant maximum annual bill is calculated based on the flat tariff VDO rates). This would regulate all standing offers not covered by the flat VDO tariff, or by the proposed new two period time of use VDO.¹⁸

Our updated VDO calculations shows that impacts of the new network tariffs on domestic and small business customers on non-flat VDO tariff are mixed.¹⁹ Depending on the distribution zones, some domestic customers would face a decrease of \$1–\$2 per month on their electricity bills for the second half of 2021 while others would face an increase of \$2–\$5 per month.

¹⁵ Clause 10 of the pricing order.

¹⁶ As with the flat VDO rates, all non-network components remain unchanged and are combined with the relevant time of use network charge. This is consistent with our treatment of network costs as a pass through in our VDO methodology.

¹⁷ Under our methodology the retail operating margin is also updated to reflect adjustments made to the cost stack –such as network costs.

¹⁸ This does not change retailers' obligations for the purposes of the reference bill.

¹⁹ There are currently around 5,000 residential and 10,000 small businesses on a non-flat tariff VDO.

Our draft decision

Some small business customers would face a decrease of \$4–\$107 per month on their electricity bills for the same period while others would face an increase of \$6–\$8 per month depending on the distribution zones compared to the tariffs for the first part of the year. See Appendix C for details.

The introduction of a new two period time of use VDO to align with the new default time of use network tariffs should see more standing offer customers' prices regulated through specified VDO tariffs, rather than through the compliant maximum annual bill. Generally, stakeholders agreed with our approach to specified tariffs as they are more transparent and reduce compliance costs for retailers (compared to the compliant maximum annual bill system).²⁰ Accordingly, we consider our proposed approach will simplify the VDO, which is consistent with objectives under the pricing order.²¹

However, when comparing time of use tariffs to flat tariffs using representative bills customers are either about the same or better off.²² Our proposed approach allows standing offer customers currently on legacy time of use network tariffs to benefit from the new two-period time of use tariffs. These customers should be better off because of the new time of use peak periods for residential and small business having much shorter peak periods than many legacy network tariffs. Also, the network businesses rebalancing prices between flat and time of use tariffs (leading to lower network costs for time of use tariffs) benefits them.²³

We also consider the variation will provide for consistency between retail and network tariffs, which could lead to reduced financial risks for retailers as their retail tariffs would better reflect underlying costs.²⁴

See Schedules 6, 7 and 8 of the draft variation determination provided as Appendix A for details about the new two-period time of use tariff VDO and updated compliant annual maximum bill for each distribution zone.

²⁰ Simply Energy, Submission to the commission's Next steps for the Victorian Default Offer: Consultation on our approach to network tariff reforms and determination process, 24 May 2021; Origin Energy, Submission to the commission's Next steps for the Victorian Default Offer: Consultation on our approach to network tariff reforms and determination process, 25 May 2021, p.1.

²¹ Clause 3 of the pricing order.

²² Most domestic customers on time of use compared to flat tariffs have similar bills, whereas most small business customers on time of use tariffs are better off compared to flat, using the usage assumptions from the VDO. This will vary depending on a customer's actual consumption.

²³ Jemena in its tariff structure statement analysed its legacy time of use customers bill impacts of their proposed changes. Jemena's analysis covered the 18,529 customers on its legacy time of use tariffs who have consumption over 250kWh and below 40MWh. Out of these 18,529 customers, Jemena has 201 customers (1 per cent) with bill increases, with the remainder having bill decreases.

²⁴ Clause 12(3) of the pricing order.

Other matters we have considered

Usage profile

Our draft decision adopts the following usage profiles in calculating the compliant maximum annual bill amounts.²⁵ For more details see clause 7 of the attached Victorian Default Offer Amendment to Price Determination 2021.

Table 3: Domestic – usage profile for maximum bill calculation

Customer class	Peak period	Off peak
Time period window	3.00pm–9.00pm every day	All other times
Usage profile	0.33	0.67

Table 4: Small business – usage profile for maximum bill calculation

Customer class	Peak period	Off peak
Time period window	9.00am–9.00pm weekdays	All other times
Usage profile	0.49	0.51

In response to stakeholder feedback, we have updated our usage profiles:

- We adjusted the methodology to account for daylight savings during the six month period from the start time in October to the end time in April.
- We ensured that the small business profile reflects the peak and off-peak consumption with peak 9.00am-9.00pm weekdays, and off peak all other times.

²⁵ To establish usage profiles for the residential and small business two period time of use VDO, we used Manually Read Interval Meter (MRIM) data provided by the Australian Energy Market Operator for the period 1 July 2019 to 30 June 2020. The data has been filtered by AEMO to only capture customers relevant to the VDO, that is, residential and small business customers using up to 40MWh per year. Noting the MRIM data aligned with AEST we included an adjustment for daylight savings in Victoria. For each distribution zone, we calculated the proportion of total volume of electricity peak and off-peak loads consumed during the specified peak and off-peak periods. To calculate a Victoria wide profiles for both residential and small business customers, we used a simple averaged of the profiles of each of Victoria's the five distribution zones.

Our draft decision

Wholesale costs

In our consultation paper, we proposed to continue to use our current approach to calculating wholesale costs. We will use the average wholesale costs rather than having separate wholesale costs for the peak and off-peak period. Under this approach retailers recover their efficient costs.

The VDO is intended to apply as a safeguard for customers unable or unwilling to engage in the electricity retail market. At this point in time, we consider different wholesale costs for peak and off peak periods are not required given retailers do not hedge separately for different tariff types (such as VDO customers on time of use or flat tariffs).

Variation to take effect from 1 September

Our draft decision proposes a new effective date of 1 September 2021. In our consultation paper, we proposed 1 August 2021 as an indicative date for the variation determination to come into effect. Retailers were generally supportive of our initial proposed effective date.

In our consultation paper, we also noted that our timeframes for the variation of the current VDO price determination are indicative and may change subject to the timing of the AER's decision on network tariffs.²⁶ We have decided to delay our draft decision to account for recent re-submissions by two network businesses to the AER's network pricing determinations.²⁷

We consider 1 September 2021 is appropriate given the new timeframes. This also means we are consulting on VDO tariffs that are based on the AER approved network tariffs. This, together with a later effective date, would allow energy retailers sufficient time to prepare and implement the changes and meet their customer notification requirements.

The timing also provides for a relatively quick pass through of changes to retailer costs that will occur from 1 July 2021. However, we note the delay to the variation implementation date will mean we need to consider how to reflect network costs for the period between 1 July 2021 and 31 August 2021.

Network cost recovery

Our methodology is based on reflecting network tariffs in full in the VDO. As a guide we estimate the delayed network costs across all distribution zones are around \$4 per month for a domestic

²⁶ Essential Services Commission, Next steps for the Victorian Default Offer: Consultation on our approach to network tariff reforms and determination process, May 2021, p.6

²⁷ Citipower and Powercor have submitted revised annual pricing proposals to the AER on 11 June 2021 (Source: accessed on 15 June, <https://www.aer.gov.au/networks-pipelines/determinations-access-arrangements/pricing-proposals-tariffs/powercor-annual-pricing-2021-22>; <https://www.aer.gov.au/networks-pipelines/determinations-access-arrangements/pricing-proposals-tariffs/citipower-annual-pricing-2021-22>).

customer and \$16 per month for a small business, on flat rate tariffs. The costs for time of use tariffs are estimated to be \$2 per month for a domestic customer and -\$22 (indicating credit) for a small business. We note that while these costs will be incurred by retailers over July and August 2021, they will not have been reflected in the VDO.

We seek stakeholder views on how we might account for these costs in the VDO – including options for the consumption profiles used to estimate the costs, and when we might reflect these costs in the VDO. We are interested in how the proposed recovery periods balance the financial risks on retailers as well as managing customer impacts at this time.²⁸

In terms of timing for the recovery of these costs, we consider there are two main options:

1. Reflect the network costs incurred over July and August 2021 from 1 September this year and across the next regulatory period starting 1 January 2022.
2. Reflect the network costs incurred over July and August 2021 in the next regulatory period starting 1 January 2022.

Note we are currently consulting on whether the regulatory period commencing 1 January 2022 should be a six or 18-month period.

We prefer a variation to the determination

In our last determination, we said that if there are matters which materially affect our VDO cost stack or approach to VDO tariff structures, and it is practical to do so, we may make a new determination and revoke the 2021 VDO price determination.

We consider that a variation determination is a simpler mechanism and process and will allow us to quickly pass through the anticipated 1 July change in network tariffs. Under the revoke option, changes to network tariffs can only be passed through in late 2021.

Stakeholders' feedback

We received 11 submissions from 10 stakeholders: eight electricity retailers, Consumer Action Law Centre and a consumer. We have considered all feedback from stakeholders, including at our forum held in May 2021, in making our draft decision on the amendment to the current VDO price determination.

²⁸ Essential Services Commission Act 2001, s. 8A(1)(b).

Stakeholders support our proposed approach to the variation

All retailers who made a submission support our proposed approach to variation, including the introduction of two-period time of use tariff VDO.²⁹

Origin Energy said:

We consider that introducing a new time of use VDO to align with network tariff structures is a positive outcome and preferable to the existing compliant maximum annual bill arrangements. This should provide for a simpler, consistent, and more transparent tariff offer for customers and a simpler process for retailer compliance. We also agree with the ESC's proposal to use a new compliant maximum annual bill arrangement based on the time of use network tariff is appropriate for other non-flat tariff standing offers.³⁰

AGL and Origin Energy also supported our proposed approach to make a variation rather than to revoke the current VDO price determination.³¹ Origin considered that the impact of the change in network prices is not sufficient to warrant a re-opening of the current VDO price determination and that the proposed variation is a pragmatic approach under the current short timeframes.³²

²⁹ Simply Energy, Submission to the commission's Next steps for the Victorian Default Offer: Consultation on our approach to network tariff reforms and determination process, 24 May 2021, p.1; AGL, Submission to the commission's Next steps for the Victorian Default Offer: Consultation on our approach to network tariff reforms and determination process, 25 May 2021, p.1; Alinta Energy, Submission to the commission's Next steps for the Victorian Default Offer: Consultation on our approach to network tariff reforms and determination process, 25 May 2021, p.1; EnergyAustralia, Submission to the commission's Next steps for the Victorian Default Offer: Consultation on our approach to network tariff reforms and determination process, 25 May 2021, p.1; Origin Energy, Submission to the commission's Next steps for the Victorian Default Offer: Consultation on our approach to network tariff reforms and determination process, 25 May 2021, p.1; Powershop, Submission to the commission's Next steps for the Victorian Default Offer: Consultation on our approach to network tariff reforms and determination process, 25 May 2021, p.1; Red and Lumo Energy, Submission to the commission's Next steps for the Victorian Default Offer: Consultation on our approach to network tariff reforms and determination process, 25 May 2021, p.1. ^{1st} Energy did not specifically mention its support to our proposed approach but seems to imply that it has no issues with it, except for the timing and full cost recovery (^{1st} Energy, Submission to the commission's Next steps for the Victorian Default Offer: Consultation on our approach to network tariff reforms and determination process, 25 May 2021, p.1).

³⁰ Origin Energy, Submission to the commission's Next steps for the Victorian Default Offer: Consultation on our approach to network tariff reforms and determination process, 25 May 2021, p.1.

³¹ Origin Energy, Submission to the commission's Next steps for the Victorian Default Offer: Consultation on our approach to network tariff reforms and determination process, 25 May 2021, p.1; AGL, Submission to the commission's Next steps for the Victorian Default Offer: Consultation on our approach to network tariff reforms and determination process, 25 May 2021, p.1.

³² Origin Energy, Submission to the commission's Next steps for the Victorian Default Offer: Consultation on our approach to network tariff reforms and determination process, 25 May 2021, p.1.

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Consumer Action Law Centre also generally supports our proposed approach to the variation but suggested we adjust for lower wholesale costs and remove the temporary allowance for bad debt.³³

We will review wholesale costs and the temporary allowance for bad debts as part of our 2022 VDO price determination process, which is consistent with our approach in previous reviews. The current VDO price determination nominates the AER decision on network tariffs as one of the circumstances under which we would consider varying this determination.³⁴

As we stated in our consultation paper, we base our assessment of wholesale prices on forecasts, as retailers hedge their contracts well in advance.³⁵ In some years, consumers will benefit from this uncertainty and in other years retailers will. While there has been a drop in wholesale contract prices, the impact on retailers' actual wholesale costs for 2021 is unclear. This is because our methodology considers the use of hedging in our assessment of wholesale costs. Given this hedging, wholesale costs are unlikely to reflect the full decrease in wholesale contract prices.

On the other hand, network tariffs are a known cost determined by a regulatory body. In our methodology to set the VDO tariffs, we pass through the published network tariffs directly. Not passing through the changes in network tariffs this year would not be consistent with our approach to network tariffs.

The intent of the variation is to account for changes to network tariffs applying from 1 July 2021. The commission is closely monitoring the situation and considers the temporary allowance for bad debt and lower wholesale costs will be among our key considerations for the 2022 VDO review.

Stakeholders raised timing considerations

All retailers supported our proposed effective date of 1 August 2021 – as set out in our consultation paper – for the variation.³⁶

³³ Consumer Action Law Centre, Submission to the commission's Next steps for the Victorian Default Offer: Consultation on our approach to network tariff reforms and determination process, 25 May 2021, pp. 1-4.

³⁴ Essential Services Commission, Victorian Default Offer Price Determination 2021: 1 January 2021–31 December 2021, November 2020, pp. 10-11.

³⁵ Essential Services Commission, Next steps for the Victorian Default Offer: Consultation on our approach to network tariff reforms and determination process, May 2021, p. 13.

³⁶ Simply Energy, Submission to the commission's Next steps for the Victorian Default Offer: Consultation on our approach to network tariff reforms and determination process, 24 May 2021, p.1; AGL, Submission to the commission's Next steps for the Victorian Default Offer: Consultation on our approach to network tariff reforms and determination process, 25 May 2021, p.1; Alinta Energy, Submission to the commission's Next steps for the Victorian Default Offer: Consultation on our approach to network tariff reforms and determination process, 25 May 2021, p.1; EnergyAustralia, Submission to the commission's Next steps for the Victorian Default Offer: Consultation on our approach to network tariff

Simply Energy and Red and Lumo Energy consider 1 August would give retailers sufficient time to update their standing offer prices, meet gazetting and notification requirements and make the necessary system and process changes.³⁷ EnergyAustralia said that 1 August as an effective date would minimise time lag and under-recovery of network costs.³⁸ AGL also considered that an effective date no later than 1 August 2021 is a reasonable option.³⁹

While some retailers considered 1 August as practical, they still consider the timing as tight for them to implement the changes and provide timely notification.⁴⁰ To meet the 1 August effective date:

- Alinta Energy and EnergyAustralia suggested we release the final VDO prices no later than 25 June and 22 June, respectively, to give retailers sufficient time to implement the changes^{41 42}
- AGL suggested we use the most updated price information and load profiles in our draft variation determination to enable retailers to prepare for changes.⁴³

reforms and determination process, 25 May 2021, p.1; Origin Energy, Submission to the commission's Next steps for the Victorian Default Offer: Consultation on our approach to network tariff reforms and determination process, 25 May 2021, p.1; Powershop, Submission to the commission's Next steps for the Victorian Default Offer: Consultation on our approach to network tariff reforms and determination process, 25 May 2021, p.1; Red and Lumo Energy, Submission to the commission's Next steps for the Victorian Default Offer: Consultation on our approach to network tariff reforms and determination process, 25 May 2021, p.1; 1st Energy, Submission to the commission's Next steps for the Victorian Default Offer: Consultation on our approach to network tariff reforms and determination process, 25 May 2021, p.1.

³⁷ Simply Energy, Submission to the commission's Next steps for the Victorian Default Offer: Consultation on our approach to network tariff reforms and determination process, 24 May 2021, p.1; Red and Lumo Energy, Submission to the commission's Next steps for the Victorian Default Offer: Consultation on our approach to network tariff reforms and determination process, 25 May 2021, p.1.

³⁸ EnergyAustralia, Submission to the commission's Next steps for the Victorian Default Offer: Consultation on our approach to network tariff reforms and determination process, 25 May 2021, p.1.

³⁹ AGL, Submission to the commission's Next steps for the Victorian Default Offer: Consultation on our approach to network tariff reforms and determination process, 25 May 2021, p.1.

⁴⁰ Origin Energy, Submission to the commission's Next steps for the Victorian Default Offer: Consultation on our approach to network tariff reforms and determination process, 25 May 2021, p.1; EnergyAustralia, Submission to the commission's Next steps for the Victorian Default Offer: Consultation on our approach to network tariff reforms and determination process, 25 May 2021, p.1; Alinta Energy, Submission to the commission's Next steps for the Victorian Default Offer: Consultation on our approach to network tariff reforms and determination process, 25 May 2021, p.1.

⁴¹ Alinta Energy, Submission to the commission's Next steps for the Victorian Default Offer: Consultation on our approach to network tariff reforms and determination process, 25 May 2021, p.1; EnergyAustralia, Submission to the commission's Next steps for the Victorian Default Offer: Consultation on our approach to network tariff reforms and determination process, 25 May 2021, pp 1-2.

⁴² EnergyAustralia also called to move the gazettal date for standing offer variation notices from 19 July 2021 as currently planned by the Department of Environment, Land, Water and Planning to 26 July 2021. EnergyAustralia noted that this timeframe would require them to submit their draft Gazette notice to the Gazette office on 5 July which would be problematic if the commission releases the VDO prices in late June. The commission is not the responsible party for considering Gazette timelines.

Our draft decision

We have reconsidered and proposed a new effective date of 1 September 2021 for this draft decision. See discussion on 'Variation to take effect from 1 September' above for details.

Consumer Action Law Centre recommended the effective date to be 1 July 2021, which is the date that changes to network costs take effect.⁴⁴ It pointed out that with 1 August effective date retailers are given an extra month to charge higher costs (assuming network costs decrease). We understand Consumer Action Law Centre's concern. However given the timing of the AER decision on pricing proposals and the time it needs for retailers to implement the changes and meet their customer notification obligations a 1 July effective date would not be practical.⁴⁵

Recovery of network costs for the month of July and August

Depending on the direction of changes in network tariffs for different distribution zones and VDO customers, retailers will either under-recover or over-recover network costs for the months of July and August 2021.⁴⁶

During the public forum we stated that our initial view is that the under-recovered network costs for VDO customers for the month of July would likely not be material. 1st Energy sought clarification on our initial view while EnergyAustralia urged the commission to reconsider this issue and provide specific amounts on the materiality of this under-recovery in its draft variation determination.⁴⁷ EnergyAustralia estimated the network cost under-recovery for July is around \$5 per customer per month.⁴⁸

Consumer Action Law Centre on the other hand recommended that, assuming network costs decrease, the over-recovery of network costs should be passed back to consumers.⁴⁹

⁴³ AGL, Submission to the commission's Next steps for the Victorian Default Offer: Consultation on our approach to network tariff reforms and determination process, 25 May 2021, p.1.

⁴⁴ Consumer Action Law Centre, Submission to the commission's Next steps for the Victorian Default Offer: Consultation on our approach to network tariff reforms and determination process, 25 May 2021, p.2.

⁴⁵ Clause 13(6) of the pricing order.

⁴⁶ During the public forum, the indicative effective date for the variation was 1 August 2021.

⁴⁷ 1st Energy, Submission to the commission's Next steps for the Victorian Default Offer: Consultation on our approach to network tariff reforms and determination process, 25 May 2021, p. 1.

⁴⁸ EnergyAustralia, Submission to the commission's Next steps for the Victorian Default Offer: Consultation on our approach to network tariff reforms and determination process, 25 May 2021, p.3.

⁴⁹ Consumer Action Law Centre, Submission to the commission's Next steps for the Victorian Default Offer: Consultation on our approach to network tariff reforms and determination process, 25 May 2021, p.1.

We support the recovery of network costs and have considered this matter in our draft decision above (see 'Network cost recovery').

Other matters raised by stakeholders

Some stakeholders have also raised other matters:

- EnergyAustralia suggested we consider a one-off adjustment to reflect the additional administration costs related to the implementation of the variation noting it is material and can be clearly quantified.⁵⁰ Similar to our approach to other costs we will consider these costs during the next VDO when we review all the VDO cost components.
- EnergyAustralia also sought clarity on how we will treat two period time of use tariff with controlled load (CL) in AusNet's area.⁵¹ The network pass-through for the VDO CL is the same for both flat and time of use residential customers and can be combined with either the flat or time of use VDO rates. This is based on Ausnet's 2022–26 revised tariff proposal: the NAST13/14/15 time of use plus CL tariff codes include the same CL charge as the single rate plus CL network tariff (which we use for the existing VDO CL rate).
- Powershop is concerned that 'the Order in Council released by the Victorian Government, effective 25 May will prevent retailers from bundling customer notification requirements, despite the perceived advantages for customers.'⁵² This is not within the commission's remit.
- 1st Energy sought clarity on the application of clause 46AA(7) which allows retailers to increase their market offers one month after a variation to the VDO price determination takes effect.⁵³ Clause 46AA (7) of the Energy Retail Code does not apply to the proposed changes in regulated network tariffs, as it was foreseen at the making of our 2021 VDO price determination.⁵⁴

⁵⁰ EnergyAustralia, Submission to the commission's Next steps for the Victorian Default Offer: Consultation on our approach to network tariff reforms and determination process, 25 May 2021, p.3.

⁵¹ EnergyAustralia, Submission to the commission's Next steps for the Victorian Default Offer: Consultation on our approach to network tariff reforms and determination process, 25 May 2021, p.3.

⁵² Powershop, Submission to the commission's Next steps for the Victorian Default Offer: Consultation on our approach to network tariff reforms and determination process, 25 May 2021, p. 1.

⁵³ 1st Energy, Submission to the commission's Next steps for the Victorian Default Offer: Consultation on our approach to network tariff reforms and determination process, 25 May 2021, p. 1.

⁵⁴ See our [response](#) to a similar question raised during the public forum.

Our draft decision

- A customer of an embedded network noted that VDO prices are too high and urged the commission to ‘either extend full retail competition to all embedded customers or reduce the VDO to a level that stops rewarding inefficient energy retailers at the expense of customers’.⁵⁵ The VDO is based on our assessment of efficient costs to deliver electricity retail services. We note that there is currently an expert panel leading a review into developing recommendations to government on how to ensure that, to the fullest extent practicable, embedded network customers in existing residential settings can access the same competitive retail offers and consumer protections as on-market customers.⁵⁶

Matters we must have regard to in making a variation determination

The pricing order provides that before or during a regulatory period, the commission may, on its own initiative, vary a VDO price determination in respect of the regulatory period.⁵⁷ We may vary a VDO price determination:

- if an event has occurred or will occur that was uncertain or unforeseen by the commission at the time of making the VDO price determination; or
- to correct a clerical error, miscalculation, misdescription or other deficiency, or
- if any of the further circumstances for considering a variation outlined in clause 6.2 of the current VDO price determination occur.

The current VDO price determination nominates the AER’s final decision on network tariffs as one of the circumstances under which we might vary VDO prices.⁵⁸ The AER has published its approved network tariffs for distribution network businesses on 18 June 2021. The proposed variation to the current VDO price determination is to reflect and pass through changes in the network tariff structures and prices, to take effect from 1 September 2021.

The matters the commission is to have regard to in deciding to vary the current price determination are outlined below.

⁵⁵ Anonymous, Submission to the commission’s Next steps for the Victorian Default Offer: Consultation on our approach to network tariff reforms and determination process, 17 and 18 May 2021, p. 1.

⁵⁶ Victoria’s Embedded Network Review, See: <https://engage.vic.gov.au/embedded-networks-review>.

⁵⁷ Clause 13(1) of the pricing order.

⁵⁸ Essential Services Commission, Victorian Default Offer Price Determination: 1 January 2021–31 December 2021, November 2020, pp. 10-11.

Matters to be considered in deciding whether to vary the current VDO price determination

The matters specified in the current VDO price determination we may have regard to when considering whether the changes in network tariffs proposed by the AER's final decision⁵⁹ are sufficiently material to warrant a proposed price determination variation, are outlined in the table below.⁶⁰

Table 5: Matters to which the commission may have regard in deciding whether to vary the current VDO price determination

Matters the commission may have regard	Comment
The extent of the impact (positive or negative) on the fixed flat tariffs specified in Schedules 1 and 2	See section on the flat VDO tariff above.
The impact on the calculation of a compliant maximum annual bill amount	See section on the non-flat VDO tariff above.
The general extent of the impact on prescribed customer annual bills	
The costs and benefits to retailers and prescribed customers of a proposed price determination variation	See sections on flat VDO tariff, non-flat VDO tariff and 'we prefer variation to the determination' above.
The objectives and requirements of the Order	See sections on flat VDO tariff, non-flat VDO tariff and 'we prefer variation to the determination' above and matters to be considered under legislation below.
Any other matter that the Commission considers relevant and appropriate.	We have also considered stakeholder submissions as shown above.

Matters to be considered under legislation in making this variation determination

In making a VDO price determination, which includes making a variation of such a determination, we must adopt an approach and methodology that is in accordance with section 33(2) of the

⁵⁹ Essential Services Commission, Victorian Default Offer Price Determination 2021: 1 January 2021–31 December 2021, November 2020, pp. 10-11, see circumstance 2 referred to in clause 6(2).

⁶⁰ Clause 6(2) of the pricing determination (Ibid). See circumstance 2 and the matters to the commission may have regard to when considering whether this circumstance is sufficiently material to warrant a proposed price determination variation.

Essential Services Commission Act 2001 and the pricing order.⁶¹ This requires us to adopt an approach and methodology that is consistent with the objectives of the commission specified in the Essential Services Commission Act 2001⁶², as well as under the Electricity Industry Act 2000⁶³, best meets the objective of the VDO⁶⁴, and has regard to various matters specified in the pricing order.⁶⁵

We have considered all our legislative obligations and had regard to all relevant matters required under relevant legislation in coming to our draft decision to vary the current VDO price determination.

⁶¹ Clause 12(1) of the pricing order.

⁶² These are set out in section 8 read with section 8A of the ESC Act.

⁶³ These are set out in section 10 of the EI Act.

⁶⁴ Best meeting the objective of the VDO is a requirement under clause 12(2) of the pricing order.

⁶⁵ Section 8A(g) of the EI Act.

Our draft decision

Appendix A – (1) Victorian Default Offer Amendment to Price Determination 2021; and (2) Victorian Default Offer Price Determination 2021: as amended on 24 June 2021 (consolidated version)

See attached.

Appendix A – (1) Victorian Default Offer Amendment to Price Determination 2021; and (2) Victorian Default Offer Price Determination 2021: as amended on 24 June 2021 (consolidated version)

Appendix B – Distribution network businesses’ flat network tariffs for 2021–22

Table B.1 Domestic flat network tariffs – rates comparison

Distribution zone	Current network rate (1 January 2021 to 30 June 2021)	New network rate from 1 July 2021	Per cent change
AusNet Services – Residential small single rate, NEE11			
Daily charge (\$ per year)	\$106.00	\$111.11	4.82%
Block 1 (\$ per kWh)	\$0.1054	\$0.1145	8.64%
Block 2 (\$ per kWh)	\$0.1207	\$0.1284	6.36%
Controlled load (\$ per kWh)	\$0.0386	\$0.0426	10.42%
CitiPower – Residential single rate, C1R			
Daily charge (\$ per year)	\$90.00	\$90.01	0.01%
Variable charge (\$ per kWh)	\$0.0647	\$0.0805	24.42%
Controlled load (\$ per kWh)	\$0.0209	\$0.0247	18.18%
Jemena – Residential, A100/F100a/T100b general purpose			
Daily charge (\$ per year)	\$69.03	\$82.20	19.07%

Distribution zone	Current network rate (1 January 2021 to 30 June 2021)	New network rate from 1 July 2021	Per cent change
Variable charge (\$ per kWh)	\$0.0741	\$0.0867	17.00%
Controlled load (\$ per kWh)	\$0.0292	\$0.0360	23.25%
Powercor – Residential single rate, D1			
Daily charge (\$ per year)	\$140.00	\$139.98	-0.02%
Variable charge (\$ per kWh)	\$0.0674	\$0.0815	20.92%
Controlled load (\$ per kWh)	\$0.0214	\$0.0239	11.68%
United Energy – Low voltage small 1 rate, LVS1R			
Daily charge (\$ per year)	\$59.86	\$80.01	33.66%
Variable charge (\$ per kWh)	\$0.0767	\$0.0799	4.17%
Controlled load (\$ per kWh)	\$0.0173	\$0.0217	25.43%

Table B.2 Small business flat network tariffs – rates comparison

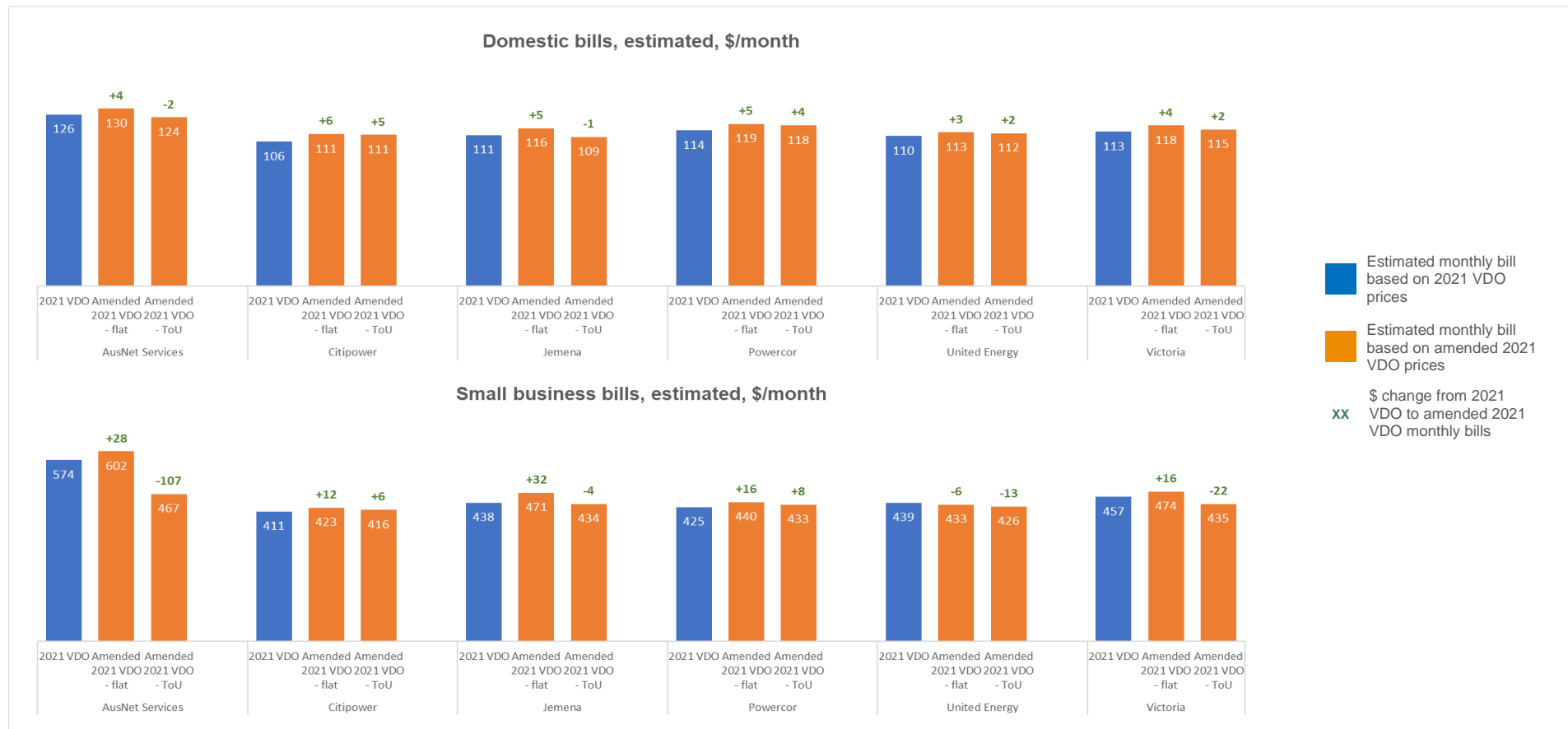
Distribution zone	Current network rate (1 January 2021 to 30 June 2021)	New network rate from 1 July 2021	Per cent change
AusNet Services – Business small single rate, NEE12			
Daily charge (\$ per year)	\$106.00	\$111.11	4.82%
Block 1 (\$ per kWh)	\$0.1396	\$0.1554	11.31%
Block 2 (\$ per kWh)	\$0.1693	\$0.1827	7.90%
CitiPower – Non-residential single rate, C1G			
Daily charge (\$ per year)	\$160.00	\$160.02	0.01%
Variable charge (\$ per kWh)	\$0.0754	\$0.0821	8.89%
Jemena – Small business, A200/F200a/T200b general purpose			
Daily charge (\$ per year)	\$118.74	\$134.47	13.24%
Variable charge (\$ per kWh)	\$0.0933	\$0.1097	17.61%
Powercor – Non-residential single rate, ND1			

Daily charge (\$ per year)	\$180.00	\$179.98	-0.01%
Variable charge (\$ per kWh)	\$0.0844	\$0.0929	10.07%
United Energy – Low voltage medium 1 rate, LVM1R			
Daily charge (\$ per year)	\$79.86	\$120.01	50.28%
Variable charge (\$ per kWh)	\$0.0927	\$0.0879	-5.18%

Note: Charges have been rounded off to 4 decimal places for variable tariffs, and 2 decimal places for fixed tariffs.

Appendix C – Estimated customer impacts of the changes in network tariffs from 1 July

Figure C.1: Estimated bills for domestic and small business customers on flat and time of use tariffs, 2021 VDO vs Amended 2021 VDO, \$/month



Appendix C – Estimated customer impacts of the changes in network tariffs from 1 July

Note:

1. The estimated bills and customers impacts are calculated using an annual usage of 4,000kWh for residential and 20,000kWh for small business. The monthly usage is assumed to be spread uniformly across the year.
2. The allocation of load for peak and off peak windows for time of use tariffs used are given in tables 3 and 4 in this paper.
3. Totals may not tally due to rounding.

Appendix D – Order in council

Victorian Government Gazette

No. S 208 Thursday 30 May 2019

By Authority of Victorian Government Printer

The Lieutenant-Governor, as the Governor's deputy, with the advice of the Executive Council on the recommendation of the Minister pursuant to section 13(1B) of the **Electricity Industry Act 2000** (the Minister having first consulted with the Premier and Treasurer pursuant to section 13(1C) of that Act), acting under section 13 of the **Electricity Industry Act 2000** makes the following Order:

1. Purpose

The main purpose of this Order is to regulate the standing offer tariffs that retailers may charge prescribed customers, through the introduction of the Victorian default offer.

2. Commencement

This Order comes into operation on the date on which it is published in the Government Gazette and remains in force until it is revoked.

3. Objective of the Victorian default offer

The objective of the Victorian default offer is to provide a simple, trusted and reasonably priced electricity option that safeguards consumers unable or unwilling to engage in the electricity retail market.

4. Definitions

1. In this Order:

Act means the **Electricity Industry Act 2000**;

annual reference consumption has the meaning given in clause 15(5);

controlled load tariff means a tariff for the supply or sale of electricity only for use in specific appliances that are permanently wired to the relevant electricity meter;

Example: A storage water heater is such an appliance.

controlled load usage means use by a specific appliance that is permanently wired to the relevant electricity meter;

customer type means a customer who is either a domestic customer or a small business customer, as the case may be;

distribution system means a system of electric lines and associated equipment (generally at nominal voltage levels of 66 kV or below) which a distribution company is licensed to use to distribute electricity for supply under its licence;

distribution zone means the area in which a distribution company is licensed to distribute and supply electricity under the Act;

domestic customer means a customer who purchases electricity principally for personal, household or domestic use at a supply point;

Energy Retail Code means the document of that name (version 12 dated 1 January 2019) published by the Commission as amended and in force from time to time;

ESC Act means the **Essential Services Commission Act 2001**;

flat tariff means a tariff for the supply or sale of electricity where the tariff components do not vary by reference to:

- (a) the time of day;
- (b) the amount of electricity distributed or supplied during the day;
- (c) temperature, whether actual or forecast; or
- (d) other characteristics that vary during the day.

Notes:

1. A tariff with a daily supply charge as one tariff component and a usage charge calculated by \$ per kWh as another tariff component, is a flat tariff;
2. Paragraph (b) does not exclude block tariffs from being flat tariffs;
3. The definition does not exclude tariffs that vary seasonally, from being flat tariffs;

flexible tariff means a tariff for the supply or sale of electricity where the tariff components vary (wholly or partly) according to the time of day when the electricity is supplied;

former franchise customer means a person described in section 37 of the Act who is either a domestic customer or a small business customer;

general usage means any electricity usage that is not controlled load usage;

headroom means an allowance that does not reflect an efficient cost borne by firms operating in the market;

Example: An allowance that is added, so that retail prices do not act as a barrier to new entrants, is headroom.

kWh means kilowatt hour;

Minister means the Minister administering the Act;

MWh means megawatt hour;

objective of the Victorian default offer means the objective specified in clause 3;

Order means this Order;

prescribed customer: see clause 5;

quarter means a period of 3 consecutive months;

regulatory period means a period over which a VDO price determination is to apply;

Note: the first regulatory period commences on 1 January 2020.

relevant customer has the same meaning as in section 39 of the Act;

small business customer means a customer who is not a domestic customer and whose aggregate consumption of electricity taken from a supply point is not, or in the case of a new supply point is not likely to be, more than 40 MWh per annum;

standing offer tariffs means the tariffs determined by a licensee under section 35(1) of the Act and published in the Government Gazette in accordance with that section, as varied from time to time by the licensee as provided for under section 35(3) of the Act;

supply charge means a fixed charge for supplying electricity to a customer (whether charged on a daily basis or over any other period);

Note: A supply charge is also sometimes called a service charge.

supply point means, in relation to a supply of electricity to a person, the point at which that supply of electricity last leaves the distribution system owned or operated by a distribution company before being supplied to the person, whether or not the electricity passes through facilities owned or operated by any other person after leaving that point before being so supplied;

tariff component, in respect of a tariff for the supply or sale of electricity, includes the supply charge, the usage charge and any other charge that is part of the tariff for the supply or sale of electricity;

usage charge means a charge for the amount of electricity supplied or sold to a customer;

Note: A usage charge is sometimes called a consumption charge.

VDO compliant maximum annual bill has the meaning given it in clause 10(2);

VDO price determination means a price determination pursuant to clause 10;

Victorian default offer or **VDO** means an offer a retailer must make pursuant to this Order.

2. Despite subclause (1), in:

- (a) clause 6;
- (b) clause 7;
- (c) clause 10(2)(a)(i),
- (d) schedule 1; and
- (e) schedule 2,

the following definitions instead apply:

(f) **domestic customer** means a domestic customer within the meaning of the definition of 'domestic or small business customer' in the Act; and

(g) **small business customer** means a small business customer within the meaning of that definition.

Notes:

1. The following terms are defined in section 3 of the Act: Commission; domestic or small business customer; distribution company; electricity bill; regulated tariff standing offer; retailer; standing offer.
2. As at the date of the commencement of this Order, the Order in Council made under section 35 of the Act and published in the Government Gazette No. S 315 on 25 November 2008 applies for the purposes of the definition of 'domestic or small business customer' in the Act.
3. 'price determination' is defined in section 13(6) of the Act.

5. Declaration of Prescribed customers

The following customers are declared, pursuant to section 13(5) of the Act, to be prescribed customers:

- (a) a domestic or small business customer;
- (b) a former franchise customer who is a party to a deemed contract under section 37 of the Act; and
- (c) a relevant customer who is a party to a deemed contract under section 39 of the Act.

6. Victorian default offer tariffs

1. A retailer's standing offer tariffs for sale of electricity to prescribed customers must comply with this clause.
2. During the period from 1 July 2019 to 31 December 2019, the standing offer tariffs a retailer may charge to a domestic customer, in respect of the distribution zone specified in column 1 of the table in Schedule 1, are fixed at the amounts specified in columns 2, 4 and 5 of the table for the tariff components specified in those columns.
3. During the period from 1 July 2019 to 31 December 2019, the standing offer tariffs a retailer may charge to a small business customer, in respect of the distribution zone specified in column 1 of the table in Schedule 2, are fixed at the amounts specified in columns 2 and 4 of the table for the tariff components specified in those columns.

4. Subclauses (2) and (3) do not apply to standing offer tariffs other than:

- (a) a flat tariff; or
 - (b) a flat tariff with a controlled load tariff.
5. During any regulatory period commencing on or after 1 January 2020, a retailer's standing offer tariffs for sale of electricity to prescribed customers must comply with any VDO price determination made by the Commission that is in force.

Note: The VDO price determination will be in respect of both standing offer tariffs that are flat tariffs and standing offer tariffs that are not flat tariffs. See also clause 10.

7. Retailer must make Victorian default offer

1. A retailer's regulated tariff standing offer for sale of electricity to prescribed customers must include (specified as the 'Victorian default offer in respect of flat tariffs'):
 - (a) one flat tariff that is available to each domestic customer;
 - (b) one flat tariff with a controlled load tariff that is available to each domestic customer with a controlled load; and

- (c) one flat tariff that is available to each small business customer, which tariffs must be:
 - (d) for the period from 1 July 2019 to 31 December 2019, those fixed in accordance with clause 6(2) and clause 6(3);
 - (e) for any regulatory period commencing on or after 1 January 2020, standing offer tariffs complying with the VDO price determination in respect of that regulatory period.
2. In addition, for any regulatory period commencing on or after 1 January 2020 and in the case of standing offer tariffs that:
- (a) are not flat tariffs; or
 - (b) are any combination of a flat tariff, and a tariff that is not a flat tariff,
- a retailer's regulated tariff standing offer must include standing offer tariffs and terms and conditions (both specified as the '*Victorian default offer in respect of the VDO compliant maximum annual bill*') that ensure the retailer's compliance with the VDO price determination in respect of that regulatory period.

8. Information about the VDO on electricity bills

1. This clause applies until such time as the amendments to the Energy Retail Code required by clause 16(2)(b) come into force.
2. A retailer's electricity bill issued to a prescribed customer on or after 1 October 2019 must include information about how the customer may access the Victorian default offer from the retailer.
3. The information required by subclause (2) must be in plain and clear English and prominent on the electricity bill.

9. Conferral of functions and powers on the Commission

1. For the purposes of Part 3 of the ESC Act and section 12(1)(b) of the Act, the supply or sale of electricity under the Act is specified as prescribed goods and services in respect of which the Commission has the power to regulate prices.
2. The Commission may not make a price determination regulating tariffs for the supply or sale of electricity under the Act except as contemplated under this Order.

Note: See section 32 in Part 3 of the ESC Act. This Order is an empowering instrument for the purposes of Part 3 of the ESC Act: see paragraph (d) of the definition of 'empowering instrument' in section 3 of the ESC Act.

10. Commission to make VDO price determination

1. At least 37 days before the commencement of a regulatory period, the Commission must make a price determination in respect of the regulatory period that determines, for each distribution zone in Victoria:
 - (a) the tariffs, or the maximum tariffs, a retailer may charge prescribed customers under a standing offer during the regulatory period; or
 - (b) the manner in which the tariffs, or the maximum tariffs, a retailer may charge prescribed customers under a standing offer during the regulatory period are to be determined or calculated.
2. Without limiting subclause (1), the price determination that the Commission makes in respect of the first regulatory period:
 - (a) must determine:
 - i. the standing offer tariffs that are to apply in respect of flat tariffs, including, in the case of domestic customers, both flat tariffs and flat tariffs with a controlled load tariff; and
 - ii. in the case of a prescribed customer who is on:
 - A. a tariff that is not a flat tariff; or
 - B. any combination of a flat tariff, and a tariff that is not a flat tariff,
 the maximum annual electricity bill amount that the prescribed customer is to pay under a standing offer in the regulatory period (*VDO compliant maximum annual bill*); and
 - (b) may provide, in the case of the customers specified in subclause (2)(a)(ii), for how any overpayment by those customers in that regulatory period, or any year (or part year) thereof, is to be dealt with; and
 - (c) may also include any other decisions or determinations that are required by this Order.

3. Despite subclause (2), the Commission may after its first price determination, determine another manner pursuant to which the standing offer tariffs referred to in that subclause are to be determined or calculated.

11. Regulatory periods for VDO price determinations

1. The first regulatory period commences on 1 January 2020.
2. Subject to subclause (3), the duration of each regulatory period is 12 months.
3. Before the commencement of a regulatory period, if the Commission considers that special circumstances exist, the Commission may, after consulting the Minister:
 - (a) extend the duration of the regulatory period by up to 6 months; or
 - (b) reduce the duration of the regulatory period, provided the duration of the regulatory period as so reduced is not less than 6 months.

12. Approach and methodology for making a VDO price determination

1. In making a VDO price determination, the Commission must adopt an approach and methodology that is in accordance with section 33(2) of the ESC Act and this Order.

Note: section 33(2) of the ESC Act requires the Commission to adopt an approach and methodology that best meets the objectives of the ESC Act and of the **Electricity Industry Act 2000**.

2. In addition, the Commission must adopt an approach and methodology which the Commission considers will best meet the objective of the Victorian default offer.
3. The tariffs determined by the Commission pursuant to the VDO price determination are to be based on the efficient costs of the sale of electricity by a retailer.
 4. For the purposes of subclause (3), the Commission must have regard to:
 - (a) wholesale electricity costs;
 - (b) network costs;
 - (c) environmental costs;
 - retail operating costs, including modest costs of customer acquisition and retention;
 - (d) retail operating margin; and
 - (e) subject to subclause (10), any other costs, matters or things the Commission, in the exercise of its discretion, considers appropriate or relevant.

Note: Section 33(3)(e) of the ESC Act similarly requires the Commission to have regard to any other factors that it considers relevant.

5. The VDO compliant maximum annual bill must be based on:
 - (a) the standing offer tariffs that the Commission determines are to apply in respect of flat tariffs; and
 - (b) the prescribed customer's electricity usage.
6. For the purposes of subclause (4)(d), the Commission must, in the exercise of its discretion, determine the amount of modest costs of customer acquisition and retention.
7. For the purposes of subclause (4)(e), the Commission must, in the exercise of its discretion, determine a maximum retail operating margin, and in doing so must have regard to (without limitation) the principle that the margin must not compensate retailers for risks that are compensated elsewhere in the costs.
8. Subclauses (3), (4), (5) and (6) do not require the Commission to determine tariffs based on the actual costs of a retailer.
9. Subclause (7) does not require the Commission to determine tariffs based on the actual retail operating margin of a retailer.
10. In making a VDO price determination the Commission must not include headroom.
11. Section 33(4)(a) of the ESC Act does not apply to the making of a VDO price determination.
12. Otherwise, section 33 of the ESC Act applies to the making of a VDO price determination only to the extent that the section is not contrary to this Order.

Notes:

1. This Order, as an 'empowering instrument' in terms of the ESC Act, can modify the application of section 33 of the ESC Act: see section 33(1) of the ESC Act.
2. Pursuant to section 33(3)(d) of the ESC Act, the Commission must have regard to relevant interstate and international benchmarks for prices, costs and return on assets in comparable industries.

13. Variation of VDO price determinations

1. Before or during a regulatory period, the Commission may, on its own initiative, vary a VDO price

- determination in respect of the regulatory period.
2. The Commission must specify, in a VDO price determination, the circumstances under which the Commission will consider, and the basis on which the Commission will decide on, a proposed variation and (subject to subclauses (4) and (5)) the processes to be followed to enable the Commission to make such a variation.
 3. Without limiting subclause (1), the Commission may vary a VDO price determination:
 - (a) if an event has occurred or will occur that was uncertain or unforeseen by the Commission at the time of making the VDO price determination; or
 - (b) to correct a clerical error, miscalculation, misdescription or other deficiency.
 4. Before making a variation, the Commission must consult in accordance with clause 14.
 5. Subclause (4) does not apply if:
 - (a) the variation is not sufficiently material to warrant consultation in accordance with clause 14; or
 - (a) the need for the variation is sufficiently urgent to warrant consultation in accordance with clause 14 not being undertaken.
 6. If, as a result of a variation of a VDO price determination, a retailer is or will be required to vary the retailer's standing offer tariffs, the Commission must ensure the retailer is given adequate notice before the variation to the VDO price determination takes effect.

14. Consultation

1. The Commission may decide the nature and extent of stakeholder consultation it will undertake when making a VDO price determination or a decision to vary a VDO price determination.
2. For the purposes of subclause (1), the Commission must have regard to its Charter of Consultation and Regulatory Practice (as amended from time to time) developed and published under section 14 of the ESC Act.

15. Victorian default offer tariffs to be the reference tariffs for discounts

1. This clause applies until such time as the amendments to the Energy Retail Code required by clause 16(2)(a) come into force.

Provided that, if those amendments do not provide for any matter provided for in this clause, then this clause continues to apply in respect of that matter.

 2. A retailer that offers a discount to a domestic customer or a small business customer must:
 - (a) if the discount is in respect of the period from 1 July 2019 to 31 December 2019, disclose how the discount is calculated as against the tariffs in Schedule 1 or Schedule 2 (as the case may be), and what (in percentage or dollar terms) the reduction in tariff is in terms of those tariffs; and
 - (b) if the discount is in respect of a regulatory period, disclose how the discount is calculated as against the flat tariffs determined by the Commission pursuant to the VDO price determination that applies in respect of that period, and what (in percentage or dollar terms) the reduction in tariffs is in terms of those tariffs.
 3. For the purposes of subclause (2), the reduction in tariffs is to be expressed as the difference between the estimated annual cost of the Victorian default offer for the customer type and distribution zone, and the estimated annual cost of the offer to which the discount relates after the discount is applied, using the annual reference consumption.
 4. For the purposes of subclause (3):
 - (a) the estimated annual cost of the Victorian default offer is:
 - i. during the period from 1 July 2019 to 31 December 2019, determined by applying Schedule 3;
 - ii. during a regulatory period, determined by applying Schedule 3 or any other approach or methodology determined by the Commission; and
 - (b) the retailer must determine the estimated annual cost of the retailer's offer to which the discount relates:
 - i. if the tariff is a flat tariff or a flexible tariff (in either case, with or without a controlled load), by applying Schedule 3;
 - ii. otherwise, based on a reasonable estimate having regard to any relevant information available to the retailer; and
 5. The annual reference consumption is:

- (a) during the period from 1 July 2019 to 31 December 2019:
 - i. for domestic customers without a controlled load – 4,000 kWh general usage per annum;
 - ii. for domestic customers with a controlled load – 4,000 kWh general usage plus 2,000 kWh controlled load usage per annum;
 - iii. for small business customers (with or without a controlled load) – 20,000 kWh general usage per annum.
 - (b) during a regulatory period:
 - i. the consumption amount determined by the Commission (if any); or
 - ii. if no amount is determined by the Commission pursuant to subclause (5)(b)(i), the amount specified in subclause (5)(a).
6. For the purposes of subclause (5), the amount of electricity consumed is assumed to be the same on each day of the year.
7. Any percentage or dollar amount disclosed pursuant to this clause must be expressed as a whole percentage or dollar, rounded to the nearest percentage or dollar.
8. Otherwise, Division 2 of Part 2A (*Customers entitled to clear advice*) of the Energy Retail Code applies to the disclosures required by this clause.

16. Direction to the Commission pursuant to section 13(3)(b) of the Act

1. The Commission must, as soon as practicable after the commencement of this Order, amend the Energy Retail Code and any other instrument of the Commission to give effect to the Victorian default offer and this Order.
2. Without limiting subclause (1), the Commission must amend the Energy Retail Code (and any other instrument of the Commission) so that the Code:
 - (a) provides for tariffs determined by the Commission pursuant to the VDO price determination being the reference tariffs for discounts and for the methodology of that comparison; and
 - (b) requires a retailer's electricity bill to include information about how the customer may access the Victorian default offer from the retailer.
3. For the purposes of subclause (2)(a), the Commission must have regard to the following principles:
 - (a) There must be a consistent methodology for comparison of tariffs that applies to:
 - i. all offers of discounts by retailers; and
 - ii. the advertising in respect of those discounts.
 - (b) The methodology must apply in respect of flat tariffs and tariffs that are not flat tariffs;
 - (c) The methodology must (without limitation) readily allow, in respect of a regulatory period, a comparison between:
 - i. the discounted tariffs offered by a retailer; and
 - ii. the tariffs determined by the Commission pursuant to the VDO price determination in respect of that period; and
4. Any actual comparison in accordance with the methodology must be readily understandable by a prescribed customer. Subclause (3) does not limit:
 - (a) the matters the Commission may have regard to; or
 - (b) the matters the Commission may provide for by way of the amendments required by subclause (2).

17. Review of the operation of this Order

The Minister must cause a review of the operation and effectiveness of this Order to be undertaken before the third anniversary of the Order coming into operation.

SCHEDULE 1

Victorian default offer tariffs for period from 1 July 2019 to 31 December 2019 – domestic customers

Charges are inclusive of GST.

Distribution zone	Supply charge (\$ per day)	Usage charge structure	Usage charge (not controlled load) (\$ per kWh)	Usage charge: controlled load (\$ per kWh)
AusNet Services	\$1.1368	Block 1 (up to 1020 kWh during a quarter) Block 2 (> 1020 kWh during a quarter)	\$0.2763 \$0.3113	\$0.2024
CitiPower	\$1.1055	Anytime	\$0.2325	\$0.1809
Jemena	\$1.0037	Anytime	\$0.2547	\$0.1618
Powercor	\$1.2333	Anytime	\$0.2403	\$0.1561
United Energy	\$0.9115	Anytime	\$0.2620	\$0.1873

SCHEDULE 2

Victorian default offer tariffs for period from 1 July 2019 to 31 December 2019 – small business customers

Charges are inclusive of GST.

Distribution zone	Supply charge (\$ per day)	Usage charge structure	Usage charge (\$ per kWh)
AusNet Services	\$1.1368	Block 1 (up to 1020 kWh during a quarter) Block 2 (> 1020 kWh during a quarter)	\$0.3154 \$0.3605
CitiPower	\$1.2972	Anytime	\$0.2464
Jemena	\$1.1450	Anytime	\$0.2682
Powercor	\$1.3611	Anytime	\$0.2394
United Energy	\$0.9691	Anytime	\$0.2717

SCHEDULE 3

1. Estimated annual cost for flat tariff offers

The estimated annual cost for an offer for the supply or sale of electricity under a flat tariff is to be calculated as follows:

$$EAC = SC \times 365 + UC \times ARC$$

where:

EAC is the estimated annual cost of the offer;

SC is the supply charge;

UC is the general usage charge; and

ARC is the annual reference consumption for general usage.

2. Estimated annual cost for flexible tariff offers

The estimated annual cost for an offer for the supply or sale of electricity under a flexible tariff is to be calculated as follows:

$$EAC = SC \times 365 + ARC \times UC_p \times UA_p + ARC \times UC_s \times UA_s + ARC \times UC_{op} \times UA_{op}$$

where:

EAC is the estimated annual cost of the offer;

SC is the supply charge; and

ARC is the annual reference consumption for general usage;

and where, in respect of the relevant tariff type specified in column 1 of Table 1:

UC_p is the retailer's peak usage charge;

UA_p is the peak usage allocation specified in column 2 of Table 1; UC_s is the retailer's shoulder usage charge;

UA_s is the shoulder usage allocation specified in column 3 of Table 1; UC_{op} is the retailer's off-peak usage charge; and

UA_{op} is the off-peak usage allocation specified in column 4 of Table 1.

3. Estimated annual cost for offers that include a controlled load tariff

The estimated annual cost for an offer for the supply or sale of electricity that includes a controlled load tariff is to be calculated as follows:

$$EAC = EAC_{GU} + UC_{CL} \times ARC_{CL}$$

where:

EAC is the estimated annual cost of the offer;

EAC_{GU} is the estimated annual cost of the offer for general usage only, calculated in accordance with clause 1 or 2 of this Schedule 3 (as the case may be);

UC_{CL} is the usage charge for controlled load usage; and

ARC_{CL} is the annual reference consumption for controlled load usage.

Table 1 – Usage allocation for flexible tariffs

Tariff type	Peak	Shoulder	Off-peak
Flexible price (3 part time of use)	0.25	0.45	0.30
5-day time of use	0.52	0.00	0.48
7-day time of use (small business customers only)	0.74	0.00	0.26
5-day time of day 9 pm off peak (United Energy distribution zone only)	0.25	0.20	0.55
5-day time of day (United Energy distribution zone only)	0.32	0.20	0.48

Dated 28 May 2019 Responsible Minister
HON. LILY D'AMBROSIO MP
Minister for Energy, Environment and Climate Change

PIETA TAVROU
Clerk of the Executive Council

Electricity Industry Act 2000

MINISTERIAL ORDER UNDER SECTION 35(3B)

I, Lily D'Ambrosio, Minister for Energy, Environment and Climate Change and Minister responsible for administering the **Electricity Industry Act 2000** (the Act), specify, pursuant to sections 35(3B)(a) and 35(3B)(b) of the Act, the following periods within which a licensee may publish a notice under section 35(3) of the Act, and the following dates on which tariffs varied in accordance with section 35(3) of the Act must take effect.

1. Commencement

This Order commences on the date that it is published in the Government Gazette.

2. Periods within which a notice varying licensee standing offers must be published

If, during the period from the date of commencement of this Order until the expiry date of this Order, a licensee proposes to publish a notice under section 35(3) of the Act, varying the tariffs determined by the licensee and published in the Government Gazette under section 35(1) of the Act, the notice may be published during the following periods:

- (a) the period commencing on the date this Order commences and ending on 17 June 2019; and
- (b) the period commencing on 25 November 2019 and ending on 18 December 2019.

3. Dates on which a variation to a licensee standing offer under clause 2 must take effect

Pursuant to section 35(3B)(b) of the Act, any variation to licensee standing offer tariffs under clause 2 of this Order must take effect on the following dates:

- (a) if the variation is under clause 2(a) – on 1 July 2019; and
- (b) if the variation is under clause 2(b) – on 1 January 2020.

4. Expiry of this Order

This Order expires on 31 March 2020.

Dated 22 May 2019

HON. LILY D'AMBROSIO MP

Minister for Energy, Environment and Climate Change