

Stakeholder submissions on the 'Technical consultation on the Victorian energy fact sheet' draft decision (consolidated)

We received eight submissions on our draft decision 'Technical consultation on the Victorian energy fact sheet', which was released on 12 March 2019.

The submissions can be viewed on the following pages:

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Essential Services Commission Victoria

retailenergyreview@esc.vic.gov.au

9 April 2019

Technical Consultation on the Victorian Energy Fact Sheet: Draft Decision

AGL Energy (AGL) welcomes the opportunity to comment on the Essential Service Commission of Victoria (the Commission) technical consultation paper (technical paper) regarding implementation of Thwaites 3B-3E.

AGL supports the intention behind Thwaites recommendation 3B-3E and the Commission's approach to harmonise the Energy Price Facts Sheets with the Australian Energy Regulator's (AER's) Basic Product Information Document (BPID) and more broadly the AER's Retail Pricing Information Guideline (RPIG). AGL worked closely with the AER, including providing access to consumer testing of the revised BPID, and the final design and structure of the BPID was significantly influenced from the consumer testing results.

AGL has led industry in simplifying and tailoring information so that energy consumers have access to the right information in a digestible manner so that they can feel confident in engaging in the energy sector and gaining the full benefits of the competitive market.

Based on our experience with the AER's RPIG update in 2018, we have two key concerns to the Commission's decisions for implementing 3B-3E. We believe these concerns if not properly addressed by the Commission are likely to lead to poor customer outcomes and loss of confidence by Victorian energy consumers. Our key concerns are:

- 1) the implementation timeframes continue to be insufficient for retailers to appropriately and effectively implement for 1 July 2019, and
- 2) departures from the Australian Energy Regulator (AER)'s established process for customer energy fact sheets will create additional/unnecessary burden for retailers that will compound the implementation concerns.

Throughout this process the Commission has maintained that a 1 July 2019 implementation date is required due to the Terms of Reference (TOR) issued by the Victorian Government. Noting that there has been flexibility given for other dates within the TOR (for example, the final decision due on 30 January has been moved and is now expected in May), we would encourage the Commission to give flexibility on the implementation date in the interest of consumer experience.

We support the Commission taking additional time to conduct further consultation to ensure they make a considered Final Decision. However, this additional time has reduced retailers' and the Department of Environment, Land, Water and Planning (DEWLP) development and implementation period. We do not agree that there is sufficient time for both DEWLP and retailers to make the required changes to be made for a 1 July 2019 start date, contrary to the Commission's recent email update on 28 March 2019.



AGL Energy Limited

T 02 9921 2999

F 02 9921 2552

agl.com.au

ABN: 74 115 061 375

Level 24, 200 George St

Sydney NSW 2000

Locked Bag 1837

St Leonards NSW 2065

In this correspondence, the Commission communicates renewed confidence the changes can take effect by 1 July 2019 with a focus on DEWLP requirements. The Commission's states that the VEC team is confident that the timeframe is sufficient as no other major changes are required to the Victorian Retailer Portal (VRP) and that retailers are not required to upload any new information except where existing offers have incorrect information.

However, retailers have still not been provided visibility or confirmation on timeframes for the completion of the VEC changes to ensure that there is sufficient time to complete testing and integration with our system. As we highlight in the attachment below, there are differences between the operation of Energy Made Easy (EME) and the VEC website which will impact retailer implementation, including the need to host additional fact sheets based on climate zones, the build of a search function for the unique ID, and VRP changes that invalidate existing information fields.

Shortening the implementation time, and therefore, rushing these changes increase the possibility of unintended consequences that are not in the interests of Victorian consumers. There are several elements that risk causing consumer distrust or loss of confidence if retailers are not properly supported in implementing the changes. If DEWLP is making changes to the VRP in a live environment, errors are either found by the retailer uploading new information, or more problematically, by the consumer trying to obtain information. As we highlighted in our previous submission, these live errors were experienced through the EME upgrade and caused disruption and confusion for both consumers and retailers trying to manage the incident. We want to ensure that these changes are implemented in the right way for positive customer outcomes, but the time pressures increase the risks of getting it wrong.

What we also want to stress to the Commission is the fact that the system changes are only one element of a change piece that a retailer must go through when implementing new regulatory changes. New regulatory obligations of this magnitude also require amendments to our communication pieces, marketing material, terms and conditions. We also need to develop new training and information for our many hundreds of frontline staff who must engage with the customer on a raft of new regulatory obligations from 1 July 2019. New records management systems need to be developed for retaining fact sheets, new processes and teams will need to be established or expanded to manage greater obligations, and the system requirements described above.

The remainder of the submission focuses on specific issues identified in the technical paper, including potential efficiency gains, improvements to the consumer experience and greater elaboration of the VEC/VRP concerns we note above. Should you have any questions please contact Kat Burela on [REDACTED]

Regards

Elizabeth Molyneux

General Manager Energy Markets Regulation



Efficiencies

Language alignment

We note the Commission aligned the majority of the language for the Victorian Energy Fact Sheets (VEFS) and on the VEC website to be consistent with the AER's language.

However, in those areas the Commission decided not to align the language, AGL believe will have significant impact on the implementation of the revised VEFS. We recommend the Commission and DEWLP consider aligning all the language for the VEFS and on the VEC website to be consistent with the AER's language, particularly in relation to discounts.

The current version of the AER's Retail Pricing Information Guideline (RPIG) states that unconditional discount is a prohibited term, and that while the RPIG does not extend to contracts or bills retailers should seek to maintain consistency across these documents wherever possible.¹

It is not clear why the Commission would continue to use a term that the AER has prohibited except for the purpose of consistency with the VEC website. We would therefore encourage DEWLP and the Commission to align with the national approach.

If the language is not aligned, retailers will need to develop Victorian specific marketing and information disclosures and will need to train customer facing staff for the difference. This is an unnecessary inefficiency and will also impact retailer's ability to implement all the changes by 1 July 2019. Making a change to the VEC website to align terms with the RPIG is the most cost and time effective approach at the implementation phase as well as minimising ongoing consumer confusion.

Records keeping

The Commission introduces a new obligation in the draft technical consultation being the requirement for retailers to keep a record of a VEFS for at least 2 years or for as long as the retailer has at least one customer on a generally available plan or restricted plan. All welcome packs that are sent to customers are stored for 2 years.

The purpose of the fact sheets is to provide a comparison for sale to customers. Customers then receive a Welcome pack that includes the information of the actual plan and contract a customer agreed to. When we presented this information to the AER they removed the draft requirement to include a factsheet within the welcome pack, agreeing with our assessment. We therefore consider that retaining all fact sheets is a cumbersome and unnecessary obligation to impose on retailers.

Climate and distribution zones

The Commission noted that ACIL Allen found the location of a household will affect a customer's energy consumption and therefore proposed three climate zone electricity usage profiles as per the Australian Building Codes Board.

While AGL supports tailoring VEFS to ensure as accurate as possible information, we strongly recommend that the Commission consider a reassignment of a small number of postcodes to align

¹[AER RPIG v5](#), p13



distribution and climate zones. We make this recommendation on the basis that the reduction of implementation and ongoing maintenance costs as well as complexity far outweighs minor changes to neighbouring postcodes climate zones.

VEC will automatically generate a Comparison Pricing Table for display on the fact sheet and there are overlaps between distribution and climate zones, the operational impact equates to an additional 380 VIC VEFS, approximately 5 day’s effort at a Price Change event. If the Commission reassigns certain postcodes for climate and distribution zone alignment there will be significant efficiencies achieved by retailers.

For example, if 3430 (CLARKEFIELD) and 3429 (SUNBURY) were reclassified as Zone 6 (which includes neighbouring DIGGERS REST and BULLA) this would reduce the production of future fact sheets by 92.

Similarly, if the following rural postcodes 3727, 3709, 3694, 3691 and 3678 (total population of around 1857) could be reclassified to neighbouring zone 7 would reduce VEFS by a further 72. By consolidating a small number of outlying overlapping postcodes, AGL estimate would save the production of 164 VEFS, equating to approximately 2 business days work. This would help reduce the complexity for call centre staff and therefore reduces the risks of incorrect conversations with customers.

| | | Postcodes in climate zones | | | Current Residential Electricity EPFS | Future Residential Electricity EPFS |
|--------------|----------|----------------------------|------------|------------|--------------------------------------|-------------------------------------|
| Distributor | CITY_EDA | 4 | 6 | 7 | | |
| Ausnet | SPAUSTRU | 5 | 155 | 75 | 72 | 216 |
| Citipower | CITIORIG | | 41 | | 72 | 72 |
| Jemina | AGILYAGL | | 38 | 2 | 92 | 184 |
| Powercor | PCORORIG | 94 | 145 | 54 | 72 | 216 |
| United | UNITDAGL | | 88 | | 132 | 132 |
| Total | | 99 | 467 | 131 | 440 | 820 |

Other matters

Disclaimer

The Commission proposed broadening the disclaimer to make consumers aware of their rights under the new clear advice obligations.

The purpose of marketing is to inform and encourage consumers to purchase the good or service that is being promoted. When marketing, retailers include a call to action within the creative to contact the retailer to achieve this goal which we consider makes the clear advice part of the required statement somewhat redundant:



'Fact sheets available at [insert link to the retailer/agent website where the fact sheet is located]. For clear advice to help you decide if this is a suitable plan for you, contact [us/the name of the relevant retailer] on [insert contact details for the relevant retailer].

While we understand the drive behind including the additional sentence on clear advice in the disclaimer for marketing material we question whether this is the most appropriate vehicle to inform consumers of regulatory changes that have occurred recently.

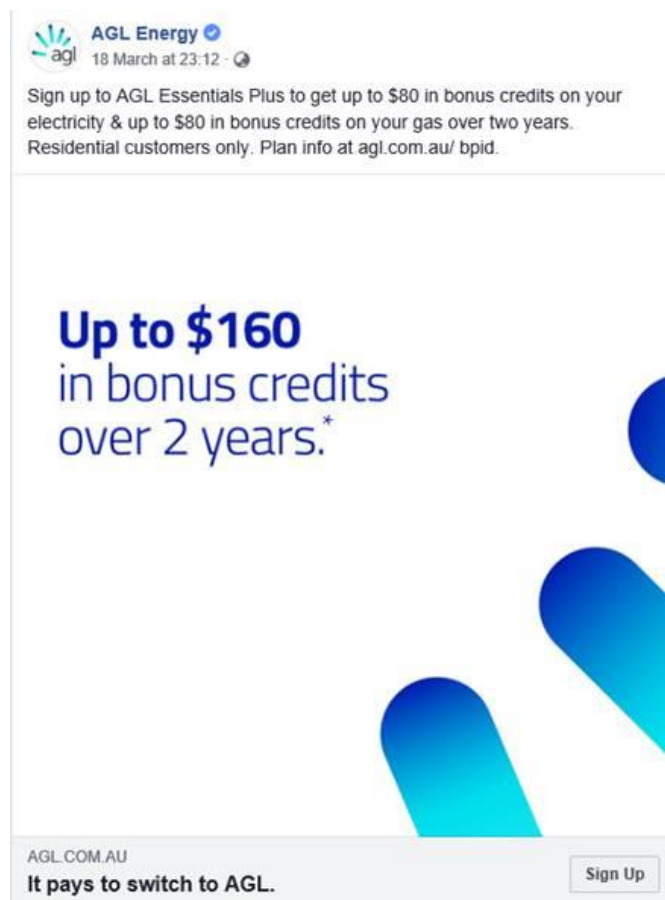
In the first instance, we would encourage the Commission to remove the second sentence of the disclaimer. If the Commission does not agree with this, we encourage the Commission to consider simplifying the language in the following way:

Fact sheets available at [insert link]. For clear advice on the right plan for you, call us or visit agl.com.au.

We welcome the Commission's proposal to allow for the full statement to be amended if character limits prevent the full statement appearing. We consider it may be appropriate for the Commission to also allow for an alternate option for social media and out-of-home (such as billboards). For example:

Fact sheets available here [embedded link] or / at: [link]

This is due to both the character limitation noted by the Commission, as well as to allow for a consistent tone and style that the customer is accustomed to across those mediums. Below is an example of a recent social media post:





DEWLP and VEC

While we recognise that the Commission works independently from DEWLP, there is a need for the two bodies to work together to ensure effective implementation of these new fact sheet requirements. We therefore strongly encourage the Commission to work with DEWLP to ensure that the proposed timeframe is appropriate to achieve the objective of improved customer outcomes.

Implementation is now less than 3 months away, and retailers are yet to meet with DEWLP to understand the extent of the changes. The first of these meetings is scheduled for 16 April 2019.

Until this time, retailers have no visibility on a number of important aspects that will impact our ability to be compliant such as:

- a confirmed delivery date for the VEC upgrades to ensure adequate testing time is available
- information about changes already undertaken to VEC within the live environment
- confirmation on whether further changes will be made in the live environment or test environment that will be made available to retailers
- confirmation on the intention to align VEC functionality with EME for searching the unique ID's provided on each energy fact sheet
- the increase of the total number of fact sheets with a change from distribution zone (current practice) to climate zone average pricing for customers.

The technical nuances on the above matters, and the difference between what EME and VEC require or offer, can significantly impact a retailer's ability to deliver an effective solution by 1 July 2019.

| | Energy Made Easy | Victorian Energy Compare |
|--|--|---|
| <i>Unique ID – search functionality</i> | The AER upgraded EME's functionality to include a search option for the unique ID's included on each of the fact sheets. This is important for both customers (who may wish to look up an offer they have seen previously) and retailers/third parties (who are able to search the ID number on the EME website and see the specific offer the customer is enquiring about). | If the VEC website is not updated to include a similar functionality then retailers will be obliged to build a database and search functionality that mirrors the EME functionality. This would then have to be made available to third parties who sell on behalf of the retailer and create further inefficiencies as these staff will be required to search through databases across all different retailers |
| <i>Fact sheet generation for retailer and third-party websites</i> | Retailers provide the offer information (such as tariff rates) for the distribution zone to the EME website. Retailers use this link on their website to direct customers to the BPID for each offer. | Retailers provide the offer information (such as tariff rates) for the distribution zone which generates fact sheets. Retailers must export/download the fact sheet and then host this on our website. This process is more labour intensive than the EME process. As the VEC process will now include climate zones, approximately 30% more fact sheets will be generated. |



| | | |
|----------------------------|---|--|
| <i>Climate zones</i> | The EME website calculates the usage for separate climate zones within those distribution zones and provides retailers with a link which dynamically displays the annual estimated price for a low, medium and high household on the fact sheet (basic product information document). | Currently retailers provide a single fact sheet for each tariff in a distribution zone. Under the new Thwaites requirements retailers will need to provide fact sheets based on climate zones. This new requirement would represent a 30% increase on the current volume of offers we manage. |
| <i>Testing environment</i> | Retailers were provided 2 months to use the new system, integrate requirements and familiarise themselves with the process to be compliant with the new rules by 31 August 2019. Even minor changes to the EME data fields had significant impacts to business processes. For example, the character limit for some fields was shortened but retailers were not forewarned of this change. This meant that offer information needed to be reassessed by both operational and regulatory/legal departments to meet the new character limits. | Changes have already been made in the live environment that have impacted AGL's business-as-usual. For example, data validation changes rendered previously acceptable data as invalid. This issue was found in the live environment, with no information being communicated by DEWLP. These issues are awaiting resolution through DEWLPs support team. |

AGL is supportive of the use of unique ID's to help customers easily locate and refer to plan offers that they are interested in. The unique ID is also used by customer-facing staff to ensure that the plan offer the customer wants to discuss can be easily located. To facilitate this, EME was updated to include a search function of the unique ID's. Several submissions made through the RPIG process noted the need for a search function on EME to facilitate this dual support for both retailers and customers.

The examples identified in the table above all have severe impacts on a retailer's ability to meet the 1 July 2019 deadline. Until we are provided with more information on the VEC and Victorian Retailer Portal (VRP) upgrades and their scope we are unable to develop the necessary system changes. We strongly encourage the Commission and DEWLP to work together with retailers to address these matters and ensure that appropriate testing (in a non-live environment) occurs. As we have stated previously, our experience under the EME process is that approximately 2 months for testing, error identification and integration should be provided to retailers at the end of the VEC/VRP upgrades.

Governance

We would appreciate further information from the Commission regarding the governance structures for changes to mandatory fields on the VRP. While VEC/VRP is the responsibility of DEWLP, there is the potential for further obligations to be inadvertently placed on retailers through the amendment or addition of information retailers must provide to generate fact sheets. If VRP were to add new mandatory fields for fact sheets for example, this may create additional regulatory burden for retailers potentially without consultation.

We appreciate the Commission adopting our proposal for simplified Energy Retail Code (Code) changes to ensure the RPIG requirements were not replicated in the Code through drafting of part



70X. However, we would appreciate additional information from the Commission on the governance and regulatory processes that will be attached to changes in retailer obligations (e.g. the addition of new mandatory fields for fact sheets as discussed above) through changes to the VRP. This distinction is important both for the current changes that are occurring to VRP, as well as any potential future changes that DEWLP may wish to make.

We would also request that retailer obligations that are reliant on VRP be recognised by the Commission, for example the need for GST inclusive only pricing on energy fact sheets and that further information on compliance expectations for these types of obligations be provided to retailers.

9 April 2019

Dr Ron Ben-David
Chair
Essential Services Commission
Level 37, 2 Lonsdale St
Melbourne, VIC, 3000

Lodged electronically: RetailEnergyReview@esc.vic.gov.au

Dear Dr Ben-David



EnergyAustralia

LIGHT THE WAY

EnergyAustralia Pty Ltd
ABN 99 086 014 968

Level 33
385 Bourke Street
Melbourne Victoria 3000

Phone +61 3 8628 1000
Facsimile +61 3 8628 1050

enq@energyaustralia.com.au
energyaustralia.com.au

ESC – Technical consultation on the Victorian energy factsheet – draft decision

EnergyAustralia welcomes the opportunity to make this submission to the Essential Services Commission's (ESC's) draft decision on the technical detail that will underpin the new Victorian energy factsheets.

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

We understand that new energy factsheets are being introduced to improve and streamline the existing information disclosure requirements. EnergyAustralia commends the ESC on removing the existing Price and Product Information Statements and Offer Summary obligations and replacing these with the new energy factsheets. We consider the new energy factsheets will provide a better customer experience.

However, we consider that the timeline for commencement should be extended to allow for the efficient implementation of other regulatory changes which take effect from 1 July 2019 (including Part 2A of the Energy Retail Code and the Victorian Default Offer.) As it stands, there is still uncertainty on how retailers will be required to inform customers of the Victorian Default Offer. As such, we encourage the ESC to take extra time to consider the interplay of all new regulatory requirements to ensure, as a whole, they effectively achieve long-term benefits for customers.

We note that the Terms of Reference required the ESC to finalise this work by 30 January 2019 to take effect from 1 July 2019. However, rather than the six months outlined in the Terms of Reference for retailers to implement the requirements, we will only be provided 2-3 months. While, we recognise that the amendments to the Code need to come into effect on 1 July 2019, we consider the ESC has some discretion to include transitional arrangements. We encourage the ESC to take a similar approach as the AER took for the Retail Pricing Information Guidelines (RPIG). This will ensure that changes are implemented in a manner that limits unintended consequences. Particularly, as there are elements of the draft Code amendments that need further consideration and clarity.

We have limited our comments in this submission to key issues contain in the technical consultation of the Energy Retail Code amendments.

Retailers to make energy factsheets accessible to relevant customers

Clause 70Y (2)

While we support this Clause, we consider that this should be broader in scope to capture all the requirements under 70Y. If retailers are unable to obtain the factsheet, through no fault of their own, not only can we not make these available to customers we also are not able to refer to these in our marketing activities, particularly if we are required to use Unique ID's in advertisements.

Clause 70Y (7)

We do not support this Clause as currently drafted. Requiring retailers to use the standard text in 'clear and easily readable text' for marketing on all mass media channels is not feasible. Particularly as this requirement is regardless of whether we mention price or benefits. This will add extra text to most of our advertisement, with some mediums not allowing for a 'clear and easily readable' disclaimer. Our preference would be for the ESC to align this Clause with the AER RPIG publication requirements on mass media and social media.

We also do not support the use of the term 'clear advice' in this Clause. While the word 'clear' has meaning in the context of the new part 2A of the Energy Retail Code we are concerned that customers will not understand the significance of the word 'clear' or why it has been included in the standard text. We are concerned it could be misconstrued as meaning that advice provided through other channels is unclear.

In addition, given 'clear advice' is open to subjective interpretation, without further explanatory text or qualifications, it could potentially expose retailers to claims of misleading or deceptive conduct if a customer does not consider the advice they received to be sufficiently 'clear' (even if the advice meets all regulatory requirements).

We consider that the 'clear advice' sentence is superfluous in the standard text and suggest that it is removed. Alternatively, the word 'clear' could be amended as suggested below:

*'Fact sheets available at [insert link to the retailer/agent website where the fact sheet is located]. For ~~clear advice~~ **information** to help you decide if this is a suitable plan for you, contact [us/the name of the relevant retailer] on [insert contact details for the relevant retailer].'*

Clause 70Y (8)

We consider that this Clause should be extended to cover all advertisements with limitations in relation to character limits, space or time. For example, small screen digital ads, radio advertisements and television advertisements. Television advertisements are subject to strict rules about the number of words permitted in the "super" text on screen and the length of time a frame is displayed on screen is determined by the number of words on screen, including in the disclaimer. Requiring this text to be included in full form in such advertisements may preclude retailers from advertising in such formats.

Clause 70Y (11)

Further clarification is required around this Clause. As drafted, the Code will require us to use an Unique ID in all marketing of plans. Is it the ESC's intention that when we market our plans we need to reference a Unique ID? This requirement will not work in practice as we may market nationally, or at a state level, but the actual plan is subject to a distribution zone and may have tariff variations. Additionally, a plan may be contingent on a customer's individual circumstance so using an Unique ID in, for example in a radio advertisement, would not be feasible and meaningless for customers generally.

We support making it easy for customers to identify and refer to a particular offer. As such, the ESC should adopt the AER's approach, in that, if a customer contacts a retailer or third party or is contacted by a retailer or third party about a plan and references the Victorian energy factsheet, the retailer or third party must be able to cross reference and identify the plan the customer is referring to based only on the Unique ID.

Summary

EnergyAustralia supports the ECS's objective to streamline the current information disclosure requirements through a new Victorian energy factsheet. We see real benefits to customers in increasing transparency of retail market offers so customers can assess and compare offers with confidence.

We encourage the ESC to consider the practical implications of the new factsheets and marketing activities and we welcome the opportunity to discuss this further with the ESC.

If you would like to discuss this submission, please contact Carmel Forbes on [REDACTED]
[REDACTED]

Regards

Sarah Ogilvie

Industry Regulation Leader



ERM Power Retail Pty Ltd
Level 3, 90 Collins Street
Melbourne VIC 3000
ABN 87 126 175 460

13 23 76
ermpower.com.au

Thursday, 4 April 2019

Dr Ron Ben-David
Chairperson
Essential Services Commission
Level 37, 2 Lonsdale Street
Melbourne, Victoria 3000

By email: RetailEnergyReview@esc.vic.gov.au

Dear Dr Ben-David

RE: Technical consultation on the Victorian energy fact sheet: Draft decision, 12 March.

ERM Power Retail Pty Ltd (ERM Power) welcomes the opportunity to respond to the Essential Services Commission's (the Commission) Draft Decision on the Technical consultation on the Victorian energy fact sheet (Draft Decision).

About ERM Power Retail

ERM Power Retail Pty Ltd, which trades as ERM Power, is a subsidiary of ERM Power Limited, an Australian energy company operating electricity sales, generation and energy solutions businesses. Since launching in 2007, ERM Power has grown to become the second largest electricity provider to commercial businesses and industrials in Australia by load¹, with operations in every state and the Australian Capital Territory. ERM Power has increasing success in the small business market. www.ermpower.com.au

General Comments

As mentioned in our previous submission to the energy fact sheet regulations, ERM Power has welcomed many of the recommendations stemming from the Independent Review into the Electricity and Gas Retail Markets Review. We have generally supported enhancing the way in which prices and product information is presented to mass market customers through the introduction of the energy fact sheet. We also acknowledge that the Commission has rationally proposed to follow the approach of the Australian Energy Regulator (AER), to promote efficiencies and consistency for compliance, minimising the implementation costs. Further, the Commission has sensibly recognised the unworkability of the comparison pricing table for small business customers, due to the difficulties in segmenting this group and the likelihood of misleading customers through generalisations about usage estimates.

For mass market customers it is appropriate to provide a standardized format that summarises offer information in a simple, consistent and transparent form. Importantly, the primary driver for these regulations is to assist customers in considering and comparing offers. It is this principle that the Commission must reflected upon when determining the application and scope of the obligation.

¹ Based on ERM Power analysis of latest published financial information.



ERM Power strongly contends that the obligations around energy fact sheet creation and provision must not be extended to multi-site customers, as this segment of customers do not and cannot use Victorian Energy Compare (VEC) for offer comparison and have a separate approach to offer assessment and contracting from mass market customers. Multi-site customers are not mass-market customers. Multi-site customers do not use their bill to compare offers, in fact often it is the customers' accounts payable area that receive bills, quite separate to the customers' energy procurement personnel. These customers do not use energy fact sheets to compare offers from retailers.

Multi-site customers' approach to energy procurement is vastly different to small, single site business and residential customers. They do not sign up to a contract through an online portal or through contact to a call centre. Rather, they engage brokers or run tender processes to assess service and prices from potential retailers, who respond formally to tender invitations/ requests by completing templates or adhering to tender format requirements. Energy fact sheets or offer summaries are never requested in a tender process or by brokers. The relationship with these customers is handled via an account manager. We are concerned that the Draft Code currently captures multi-site customers for compliance with energy fact sheet obligations, adding cost, complexity to engagement, and placing retailers that supply these customers at compliance risk, for no customer benefit. It is our strong view that the requirements around Victorian energy fact sheets should explicitly omit multi-site business customers.

What is a multi-site business customer?

ERM Power has considerable expertise in the multi-site business customer market in Victoria and other states. As a leading large market retailer, we understand the significant differences of this segment to that of the residential and small business mass market. These customers are typically large customers or corporations that have several small sites. Often these customers have sites across states, adding complexity for multi-site customer retailers as separate obligations apply in Victorian as opposed in other states (under the National Energy Customer Framework). These customers are contracted via sophisticated negotiation processes using third party brokers, direct submissions to tenders, and other means. They are customers that typically require tariff detail unbundled, inconsistent with the presentation of tariff information to mass market customers which bundle network and energy costs. They are customers that expect a streamlined efficient approach to engagement around contracting and customer service.

As a result of the restrictions that are specific to Victoria, multi-site customers must be treated as single sites and this adds to the cost of serving these customers. Retailers are unable to leverage the cost efficiencies of aggregating these sites and customers are unable to realise the benefits of convenience and flexibility presented by innovative consolidating billing design and the adoption a more streamlined approach to contracting. By not excluding multi-site customers from the energy fact sheet provisions, the Commission will effectively mandate the superfluous provision of information that adds to the cost and complexity of precontractual engagement, for absolutely no benefit to these customers.

Energy fact sheets are not appropriate for multi-site customers and VEC cannot accommodate multi-site offers.

The principle behind the energy fact sheet regulation, being for the purpose of simplifying and assisting customers to consider and compare offers - does not hold for the multi-site customer group. The nature of this customer segment puts into question how retailers will be able to meet the obligations of the Energy Retail Code and any guidelines given each multi-site offer is bespoke and the VEC website does not have functionality to cater for these offers. Furthermore, multi-site customers typically have hundreds of sites and the proposition to manually create Victorian fact sheets and load them into VEC within 2 business days to technically comply is not feasible or practical. Many of our multi-site customers have hundreds of small sites. It will be completely inefficient and



unwieldy to create a booklet of hundreds of fact sheets for a multi-site offer, containing repetitive information for each site and in a form that is completely unsuitable for the customer in their energy procurement process.

Limit scope of fact sheet obligations to those customers that will benefit

We understand that the Commission has included a provision for multi-site customer offers in the Draft Guideline to be 'restricted plans', describing such plans as:

*"plans targeted to a specific customer, with traits and characteristics that cannot be easily acquired - for example - where the customer negotiates a specific plan with the retailer based on having multiple sites serviced by the same retailer"*².

We do not agree with this approach and believe multi-site offers should not be in the scope of the energy fact sheet obligations at all. Mandatory obligations proposed in clause 70X on uploading restricted plan information to the VEC site will place provisions on a multi-site customer retailer that it will not be able to comply with, given VEC does not cater to multi-site offers. As mentioned above, these offers are bespoke and typically cover hundreds of sites. Expecting retailers to create their own hybrid multi-site fact sheets to comply with 70Y will be extremely onerous and costly, given the numerous sites and the bespoke nature of these offers. Every multi-site customer offer is tailored for the customers circumstances and the offer covers numerous sites, including many small and sometimes a combination of small and large sites.

We note that the Commission's intent is to align closely with the AER in making fact sheets available to customers. However, the AER do not require multi-site customer Basic Plan Information Documents to be loaded into Energy Made Easy at all. Further, the AER recognises that selling to a multi-site customer is akin to selling to a large customer and the BPID guidelines do not apply. We urge the Commission to align to the AER's approach.

It is our view the Commission can cater for the exclusion of multi-site customers by explicitly limiting the scope of the energy fact sheet obligations as it has done for exempt sellers under 1.11 of the guidelines, removing the reference to multi-site offers as a restricted offer and specifying that the Energy Retail Code Division 5 does not apply to multi-site customers. We propose that the Commission considers a similar approach to defining multi-site customers as it has done for the exclusion to the 'best offer' obligations; such as

A customer purchases electricity from the retailer for more than one premises; and

1) the customer is or would be a small customer in relation to at least one of the relevant premises; and

2) the aggregate of the actual or estimated annual consumption level of the relevant premises is higher than:

(i) in the case of electricity—the upper consumption threshold provided for in an Order made under section 35(5) of the Electricity Industry Act;

(ii) in the case of gas—the upper consumption threshold provided for in an Order made under section 42(5) of the Gas Industry Act.

and that a retailer is not required to comply with the energy fact sheet provisions where the customer receives a single contract offer in respect of the provision of customer retail services at two or more premises.

² Essential Services Commission Energy Fact Sheet Guidelines, clause 4.4 page 11.



For clarity in the regulations, we strongly recommend that the Commission explicitly exclude multi-site business customers from the energy fact sheet obligations, given this customer group does not benefit from the use of energy fact sheets and VEC does not cater for the creation of multi-site business offers.

Please contact me if you would like to discuss this submission further.

Yours sincerely,

[signed]

Libby Hawker
Senior Manager Regulatory Affairs



Meridian Energy Australia Pty Ltd
Level 15, 357 Collins Street
Melbourne VIC 3000

9 April 2019

Essential Services Commission
Level 37, 2 Lonsdale Street
Melbourne, Victoria 3000
Email: RetailEnergyReview@esc.vic.gov.au

Dear Essential Services Commission

Technical consultation on the Victorian energy fact sheet – Draft Decision

Meridian Energy Australia Pty Ltd and Powershop Australia Pty Ltd (**MEA Group**) thank the Essential Services Commission (**ESC**) for the opportunity to provide comments on the 'Technical consultation on the Victorian energy fact sheet – Draft decision' (the **Draft Decision**).

The MEA Group is a vertically integrated generator and retailer focused entirely on renewable generation. We opened our portfolio of generation assets with the Mt Mercer and Mt Millar wind farms. Subsequently, in early 2018 we acquired the Hume, Burrinjuck and Keepit hydroelectric power stations, further expanding our modes of generation. We have also supplemented our asset portfolio by entering into a number of power purchase agreements with other renewable generators, and through this investment in new generation we have continued to support Australia's transition to renewable energy. The MEA Group has also been active in supporting community energy initiatives, including providing operational and market services for the community-owned Hepburn Wind Farm, supporting the Warburton hydro project, and funding a large range of community and social enterprise local energy projects through our Your Community Energy program.

With respect to the group's retail side, we also own and operate Powershop Australia, an innovative retailer committed to providing lower prices for customers and which recognises the benefits to customers in transitioning to a more distributed and renewable-based energy system.

As a general comment the MEA Group believes that consistent with Australian Competition and Consumer Commission recommendations in the Retail Electricity Pricing Inquiry—Final Report (**ACCC recommendations**), the ESC should harmonise its approach with the Australian Energy Regulator (**AER**) – by making use of the Energy Made Easy (**EME**) website and retailer portal.

We believe that having separate comparison websites in a national market is unnecessary and the ESC should take this opportunity to transition to EME. This would remove the unnecessary cost and process burdens associated with two government (tax payer) funded comparison websites. In the Draft Decision the ESC acknowledges that "these requirements largely mirror the equivalent national framework obligations".¹ It is on this basis that we believe the transition to a national framework could and should occur immediately.

The MEA Group sets out its responses to the Draft Decision below.

¹ Essential Services Commission, Technical consultation on the Victorian Energy fact sheet 2019, page 6

Draft decision 1: Scope of the Victorian energy fact sheet - Retailers must ensure fact sheets are available for all offers for small customers

MEA Group supports fact sheets being available for small customers that are simplistic and easy to use. The scope of the new requirements for fact sheets has not been tested to confirm that they result in benefits to Victorian customers. We note that feedback from industry has been for simplified and less regulated content, not increased regulation.

Draft decision 2: Exemption from fact sheet requirements for exempt sellers - Exempt sellers are not subject to the requirement to have a Victorian energy fact sheet available for all offers for small customers.

In 2016 the Australian Bureau of Statistics found that 1,214,372 Australian's lived in flats and units, with Victorians accounting for 12.3% of this figure.² This means at least 149,367 Victorians will not be provided with the same pricing information as those customers in Victoria connected to the NEM. The Draft Decision has not clearly explained why customers under an exempt seller arrangement should not be provided with the same pricing information.

The MEA Group finds the exclusion of exempt sellers deficient in providing the same adequate disclosure opportunities to all customers connected to the NEM; it is an unfortunate but preventable scenario. Consumers could be informed of, and have access to, better offers if the fact sheet requirements were made applicable across the board for all energy consumers.

The MEA Group understands that small operators (e.g. small regional caravan parks) have been excluded from the proposed requirements on the basis that the retailing of energy is not their core business. However, large commercial businesses that compete in this space as an on-seller of energy should be bound by the Energy Retail Code in its entirety, including the proposed price sheet requirements.

The Draft Decision highlights the need for consistency between Victoria and the national obligations. The ESC would be aware of the AEMC review into embedded networks which stated that "The new regime will improve consumer protections and access to retail market competition for embedded network customers by extending many of the arrangements for grid-supplied customers to embedded networks".³ We would urge the ESC to consider making similar changes in respect of Victorian embedded network customers so they may also access these offers and not be locked into arrangements that may not best suit their needs.

Draft decision 4: Ensuring fact sheet information is accurate and understandable - Retailers must ensure that data and information uploaded to the Victorian Retailer Portal website is accurate and designed to be readily understandable by customers.

The MEA Group will always aim to provide accurate data to the portal. However we note that if there is a technical issue with the portal and the data is presented incorrectly, retailers should not be held accountable for any such issue.

Draft decision 6: Fact sheet terminology to be consistent with the Victorian Energy Compare website - The terminology used in the Victorian energy fact sheet will be consistent with language used on the Victorian Energy Compare (VEC) website.

If the ESC believes their changes largely mirror those of the national framework obligations then consistency in language requirements and definitions are crucial. Harmonisation will benefit all customers but not if industry is made to adopt different language requirements in Victoria. Deviating away from AER language requirements makes administering regulatory requirements in Victoria confusing, without providing additional customer benefit.

Draft decision 10: Using the offer ID to identify energy offers - Retailers must be able to use the offer ID to identify the offer a customer is referring to when communicating with customers.

While the MEA Group sees no benefit for Powershop customers as a result of this requirement (we do not have a complex array of market offers), we support the requirement of offer IDs.

² <https://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/2071.0-2016-Main%20Features-Apartment%20living-20>

³ <https://www.aemc.gov.au/sites/default/files/2019-01/Draft%20report.pdf>

In closing, the MEA Group requests that the ESC consider mirroring the national framework by adopting the ACCC recommendations, that being for the AER and ESC to work together to incorporate Victorian data on EME. Adopting this approach will reduce the costs of administering separate price comparator websites. Maintaining the Victorian portal will not reduce complexity or create effective mechanisms of disclosure and is likely to increase confusion in the market. If the AER and the ESC were able to work together we believe that it would result in a very positive outcome for customers in Victoria. We would welcome being involved in such a program of work.

If you have any queries or would like to discuss any aspect of this submission please do not hesitate to contact me.

Yours sincerely

A handwritten signature in black ink that reads "H Jones". The signature is written in a cursive, flowing style.

Haiden Jones
Operations Manager
Powershop Australia Pty Ltd
Meridian Energy Australia

Onsite Energy Solutions Pty Ltd
ABN 92 164 385 693
Suite 21, 45-49 Bourke St
Melbourne VIC 3000
www.onsiteenergy.solutions

Contact: Bryn Dellar
Mobile: [REDACTED]

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

By email:
retailenergyreview@esc.vic.gov.au

Onsite Energy Solutions Pty Ltd – submission due 9th April 2019
Technical consultation on the Victorian energy fact sheet

To Whom It May Concern,

Please find attached OES's submission in relation to the ESC's draft decision on the technical consultation on the Victorian energy fact sheet.

Please do not hesitate to contact me [REDACTED] should you require any further information or clarification.

Yours faithfully,



Ronald (Bryn) Dellar
Chief Executive Officer / Executive Chairman
Onsite Energy Solutions Pty Ltd

Attachment:

OES' submission: Technical consultation on the Victorian energy fact sheet

Context for OES submission

In the past, OES, as a third-tier electricity retailer without “own generation” assets, has been unable to grow its retail business due to the lack of competitively priced wholesale price hedge contracts in the market.

With behind-the-meter (BTM) onsite solar storage technology becoming a viable alternative (in terms of generation cost), OES is now seeking to validate a new model whereby consumers generate their own electricity on site. OES' planning scenario envisions that BTM solar storage will be ubiquitously deployed by consumers in the future.

In the near future OES will gather more evidence, through a new residential pilot project to validate that there exists strong mass market consumer demand for BTM solar storage, coupled with long term, stable “fixed” customer pricing. OES will offer customised retail prices (\$ per month) uniquely determined for individual customer sites and tailored to the specific circumstances of that customer and their need(s).

Key parameters that will define the unique offer to each customer are:

- Size, orientation and performance specification of PV generation system installed at the customer's premise
- Size and performance of the storage system installed at the customer's premise
- Interval data profile of customer's usage history

With this new model it is anticipated that customer price variations will only apply when consumers significantly alter their appliance profile or behaviour. OES intends to assume and manage as much customer price risk “in-front-of-the-meter” as possible.

As a new market entrant, OES currently operates with a restricted licence to service a limited number of small-scale customers in Victoria.

Draft decision 1: Scope of the Victorian energy fact sheet

OES supports the Commission's decision requiring retailers to ensure fact sheets are available for all offers for small customers.

Draft decision 2: Exemption from fact sheet requirements for exempt sellers

OES supports the Commission's decision that Exempt sellers are not subject to the requirement to have a Victorian energy fact sheet available for all offers for small customers.

Draft decision 3: Fact sheets will be generated from information retailers upload to the Victorian Retailer Portal

OES support a mandatory requirement for Retailers to upload information to the Victorian Retailer Portal (VRP), relating to a generally available offers. OES does not support the requirement to upload information for restricted offers that are specifically individual offers.

OES's business model is to offer customised retail prices (\$ per month) uniquely determined for individual customer sites and tailored to the specific circumstances of that customer and their need(s).

Key parameters that will define the unique offer to each customer are:

- Size, orientation and performance specification of PV generation system installed at the customer's premise
- Size and performance of the storage system installed at the customer's premise
- Interval data profile of customer's usage history

The VRP does not necessarily support this kind of parameter information and/or would require Government investment. Therefore the resulting energy fact sheet generated may be confusing and not fairly and accurately reflect the individual offer provided to the customer.

OES also contends one of the principal benefits of using Victorian Retailer Portal to generate fact sheets is the portal's ability to generate a comparison usage profile based on the requisite methodology. However, the Commission's draft decision #5 has exempted the requirement for the Energy factsheet to provide a comparative mechanism for (restricted) offers where customer usage data is needed to price the offer and restricted plans will not be published on the VEC website.

Therefore, OES believe that unnecessary process cost will be incurred by requiring each individual offer to be uploaded to the VRP for little or no benefit.

For avoidance of doubt, OES support the overarching requirement for a retailer to provide a compliant Victorian energy fact sheet for individual restricted offers for small customers. However, it should not be mandatory for the retailer to ensure the factsheet is generated via the Victorian Retailer Portal for individualised offers.

Draft decision 4: Ensuring fact sheet information is accurate and understandable

OES support the requirement for the retailer to ensure a Victorian energy fact sheet is accurate and understandable.

OES reiterates our concern that a blanket requirement to use the Victorian Retailer Portal to generate the fact sheet for innovative, individualised offers may result in an energy fact sheet that is confusing and not readily understandable by the customer.

Draft decision 5: Exemption from requirement to include comparison mechanism in the fact sheet

OES support the Commission's decision that the comparison table on the Victorian energy fact sheet will not be required for small businesses, demand charges or offers where customer usage data is needed to price the offer.

Draft decision 6: Fact sheet terminology to be consistent with the Victorian Energy Compare website

OES support the Commission's decision that the terminology used in the Victorian energy fact sheet will be consistent with language used on the Victorian Energy Compare (VEC) website.

Draft decision 7: Timing requirements for displaying fact sheets on retailer and third party websites

OES support the Commission's decision that retailers and third parties must ensure a link to the fact sheet for a generally available plan is available on their website within two business days of the offer becoming available to customers.

Draft decision 8: Assisting customers to find the relevant fact sheet

OES supports the Commission's decision that retailers must ensure that the fact sheet that is applicable to a customer's circumstances is readily identifiable by that customer.

Draft decision 9: Customer access to fact sheet without providing technical or personal information

OES generally support the Commission's decision that retailers must not require a customer to provide technical or personal information for the customer to obtain a fact sheet, other than information required to determine if a customer is eligible for a particular plan.

This requirement is relevant for generally available plans or restricted plans with eligibility criteria.

In relation to individual (restricted) plan offers, care should be taken in developing the regulations to ensure retailers are not inadvertently prevented from gathering relevant technical and personal information to prior creating and providing to the customer, the individual offer and associated individual energy fact sheet.

Draft decision 10: Using the offer ID to identify energy offers

OES generally support the Commission's decision that retailers must be able to use the offer ID to identify the offer a customer is referring to when communicating with customers.

OES support the requirement that an offer-specific identification code is generated for each offer, however as per our submission relating to draft decision #3, the Victorian Retailer Portal should not be the sole mechanism to create energy fact sheets or offer-specific identification codes.



9 April 2019

Dr Ron Ben-David
Essential Services Commission
Level 37, 2 Lonsdale Street
Melbourne
Victoria 3000

Email: RetailEnergyReview@esc.vic.gov.au

Dear Dr Ben-David

RE: Technical consultation on the Victorian Energy Fact Sheet

Origin Energy (Origin) appreciates the opportunity to provide a submission for the Essential Services Commission (ESC) technical consultation on the Victorian Energy Fact Sheet (VEFS).

Origin supports proposed changes to align the Victorian Energy Fact Sheet (VEFS) requirements with the National Framework. We are concerned that the delivery timeframes proposed by the ESC are short and do not account for testing or consider the impact of multiple regulatory changes scheduled to commence on 1 July.

Origin's response to specific matters raised in the technical consultation paper are set out below.

Implementation timeframe

Origin recognises that the Victorian Government has asked the ESC to implement these reforms by 1 July 2019. However, we maintain that it is preferable not to rush these changes and risk a negative customer experience and increase costs for the Government and retailers.

Origin has previously suggested that the ESC follow the lead of the Australian Energy Regulator (AER) and undertake a three-step phased implementation approach. We believe that this would be a lower-risk approach as it accounts for the following regulatory changes being bedded down by 1 July 2019:

- Nationally, the Default Market Offer
- In Victoria, the Victorian Default Offer,
- Clear Advice Entitlement changes
- Bill content changes;
- GST inclusive pricing, and
- The ESC's flexible feed-in-tariff.

These changes affect retail businesses in highly specialist areas and puts excessive pressure on these specialists to deliver system and operational changes in an increasingly short timeframe.

In order to reduce the risk of negative customer experience and increased costs associated with these short implementation timeframes, we consider that it would be prudent to phase in the changes to Victorian Energy Compare (VEC) and retailer practices over six months.



The first step of a phased approach could commence with all retailers publishing their current 'Generally Available Offers' (GAO) (GAO having the meaning as described under the AER's AER Retail Pricing Information Guideline Version 3.0 (RPIG)) in the new format by 1 July 2019 (i.e. the PDF is published on the retailer website). Customers will immediately benefit by having access to new price fact sheets that include price estimates for each plan.

The Department of Environment, Land, Water and Planning (DELWP) have indicated that from their assessment, retailers will not have to include any new information when submitting the data to create fact sheets. This does not mean that there is no internal procedural change for retailers, or that testing can be avoided. One of the main reasons we do not consider the timeframes proposed are sufficient is that there does not appear to be time for appropriate system and data testing. However, a phased approach would give all parties time to ensure the new VEC system of uploading offers operates as intended. It also enables DELWP to receive any feedback on how the changes to the new system are proceeding.

The second step would involve transitioning to the new definition of GAO (as defined under the AER's RPIG Version 5.0), which will lead to additional offers being uploaded on the VEC. Retailers ought to be able to comply with this by 1 October 2019.

The final step, which involves third party comparators and agents, could be implemented by 1 January 2020. This provides retailers with additional time to ensure that our agreements and processes with third parties are compliant.

We consider that this phased approach doesn't dilute the aim of the VEFS changes, as it would capture a large majority of customers in the initial phase, and then expand in a logical and considered way.

Inconsistent Terminology

The Energy Retail Code currently allows retailers to prepare an Energy Price Fact Sheet in accordance with the content and format requirements set out in the Australian Energy Regulator's *AER Retail Pricing Information Guideline Version 3.0*. The AER Energy Price Fact Sheet may be prepared in lieu of the requirements to publish a Price and product Information statement in accordance with clause 15B(6) and clause 15B(7)(a).

The ESC argues that to ensure a consistent experience and minimise potential confusion for customers, it will apply the terminology used by VEC in its VEFS. In practical terms, this requires two changes from the AER's RPIG: "unconditional discount" to be used instead of "guaranteed discount"; and "no lock-in contract" to be used instead of "no contract term".

However, the Technical Paper expresses a preference for the process by which fact sheets should be generated and provided to customers to largely follow the AER's equivalent guidelines. The ESC also recognises the benefit in adopting the behavioural principles and evidenced research used by the AER in the development of its equivalent fact sheets.

On that basis, we believe that the ESC should align as far as practicable with the AER RPIG. We consider that the term 'guaranteed' is simpler and more readily understood by customers than 'unconditional'. Irrespective of the website using 'unconditional' to date, this update represents an opportunity to simplify language for customers and remove the existing potential for confusion.



Furthermore, applying consistent terminology will assist retailers in training staff base and ensure that our third-party providers understand their obligations as they are not required to use different terminology for the same pricing terms; which ultimately reduces costs and potential compliance breaches.

Other Matters

We also note that the proposed changes to the ERC will require changes to related guidelines. For example, the ESC's Compliance and Performance Reporting Guideline contain compliance links to proposed deletions from the ERC (e.g. RB1320 and RB1370).

Should you have any questions or wish to discuss this information further, please contact Courtney Markham on [REDACTED]

Yours sincerely

A handwritten signature in black ink, appearing to read "Sean Greenup".

Sean Greenup
Group Manager Regulatory Policy
[REDACTED]



PO Box 4136
East Richmond VIC 3121
T 131 806
F 1300 661 086
W redenergy.com.au

PO Box 632
Collins St West VIC 8007
T 1300 115 866
F 1300 136 891
W lumoenery.com.au



9 April 2019

Dr Ron Ben-David
Chairperson
Essential Services Commission
Level 37, 2 Lonsdale St
Melbourne VIC 3000

Submitted by email RetailEnergyReview@esc.vic.gov.au

Dear Dr Ben-David,

Re: Submissions to technical consultation on the Victorian energy fact sheet

Red Energy and Lumo Energy (Red and Lumo) welcome the opportunity to provide feedback to the Essential Services Commission (the Commission) on the technical consultation on the Victorian energy fact sheet (the Technical Consultation). Red and Lumo support the stated goals of the Technical Consultation to “help customers compare plans without having to answer a series of questions or provide granular smart meter data”¹ and to “mirror the equivalent national framework obligations”.²

However, the Commission is finalising these new obligations in parallel with the Victorian Government’s implementation of the Victorian Default Offer (VDO). We expect that both the Commission and the Government will communicate the changes that will be implemented on 1 July 2019. We urge the Commission to ensure that these initiatives will complement each other and improve Victorian consumers’ ability to engage with the competitive market and compare offers more easily.

Energy Price Fact Sheets and Drafting Amendments

Prior to the introduction of the Basic Plan Information Document, all energy retailers and consumers referred to an energy offer statement that included prices and was produced by a government comparison site as an ‘energy price fact sheet’. In 2014, the Commission made amendments to align to the national framework, and allowed retailers the choice in either use energy price fact sheet or price and product information statements. The whole market adopted the nationally consistent option because it was a simple and accurate description.

It is unclear why the Commission have decided to drop the word ‘price’ in the drafting of the Energy Retail Code (ERC) as price is a crucial word in describing the type of fact sheet a customer is receiving. An energy fact sheet could relate to how the market works, or even relating to solar, however, an energy price fact sheet clearly articulates what the customer can expect when requesting or receiving the document. We strongly urge the Commission to revert to the existing terminology that has been in use since 2014.

Red and Lumo have also proposed a number of drafting amendments to the draft ERC as published in the Technical Guidelines. Specifically, these amendments (in Attachment A) streamline the use of existing terms, such as price comparator and retail marketer, instead of trying to describe the same matter using different terminology. We have also identified some clauses in the ERC that are not required as they are superfluous or are already requirements in different Victorian instruments. Red and Lumo welcome the opportunity to work with the Commission on the drafting, should it have any questions on the amendments proposed.

¹ Essential Services Commission, Technical consultation on the Victorian energy fact sheet, 12 March 2019, p6

² Ibid

Victorian Energy Compare

The Technical Consultation has noted that Victorian Energy Compare (VEC) will generate energy fact sheets for retailers. Red and Lumo strongly support this decision and as it is the best avenue for information to be consistently and effectively presented to Victorian consumers. However, we remain concerned regarding whether the Victorian Retail Portal (VRP) is able to deliver this by 1 July 2019. We welcome the inclusion in the draft ERC in 70Y that a retailer is not in breach of the ERC where the system is not available. We question whether this clause will cover retailers should the VRP be delivered late.

Further, we question whether the Commission will pursue retailers for errors on the energy price fact sheets that are caused by the VRP website, rather than the result of any retailer error. While we understand and accept that retailers are responsible for the input of data into VRP and ensuring that this data is uploaded correctly and accurately, we hold no control over the generation of the energy price fact sheet and the information that is presented. We recommend that the specific clause included in 70Y is extended to include this error, as the risk on this scenario can not be borne by retailers.

Victorian Default Offer

From 1 July 2019, it is expected that the VDO will not only be a regulated price for the Victorian market and replace standing offers for consumers but will also “be established as the basis for retail discounts”.³ Red and Lumo note that there is no information in the Technical Consultation on how the energy price fact sheets will present this information nor the related discount obligations. Given the absence from the ERC, we expect that the Commission and the Victorian Government are ensuring that this is covered off in the information that retailers are required to input into VRP.

Consideration of customer experience and coordination between the Commission and the Victorian Government is requisite to avoid confusion as consumers will experience the following changes in the energy market from 1 July 2019:

- introduction of the VDO
- different energy price fact sheets
- presentation of offers on VEC
- best offers on bills
- retailer advertising using the VDO as a reference price.

We understand the Victorian Government is preparing an Order in Council that will outline the VDO's implementation obligations. However, this Order won't be finalised until May. In the absence of this detail and careful coordination, we believe there is a strong likelihood that consumers will be confused as they seek an offer that best suits their circumstances.

Red and Lumo request in the final decision the Commission provide clear information on how the VDO impacts the presentation of the Victorian energy price fact sheets and advise of any consequential amendments that are likely to be made to the ERC in the next round of updates.

Implementation

We understand the Commission and Victorian Government wish to implement these new measures as a priority. However, we encourage the Commission to ensure there is no inconsistency between the new obligations and that retailers and our third parties have a reasonable lead time for implementation. As already noted, we have concerns the potential to impact customer experience and have stressed the importance of the VEC's technical readiness.

Inconsistent messages and technical problems will undermine the Victorian Government's stated policy objectives and potentially erode confidence in the retail energy market. As a result, the Commission must review the commencement date or ensure flexibility (and potentially expand it in 70Y) if there is any doubt that the technical aspects will not be resolved to allow for a smooth implementation on 1 July 2019.

³ Ibid. pg 6



About Red and Lumo

Red and Lumo are 100% Australian owned subsidiaries of Snowy Hydro Limited. Collectively, we retail gas and electricity in Victoria, South Australia, New South Wales and Queensland, and electricity in the ACT to over 1 million customers.

Should the Commission wish to discuss or have any enquiries regarding this submission, please contact Stephen White, Regulatory Manager on [REDACTED]

Yours sincerely

A handwritten signature in black ink, appearing to be "Ramy Soussou". The signature is written in a cursive style with a long horizontal line extending to the right.

Ramy Soussou
General Manager Regulatory Affairs & Stakeholder Relations
Red Energy Pty Ltd
Lumo Energy (Australia) Pty Ltd
Att.

Attachment A - Specific amendments to the draft Energy Retail Code

Note for the Commission: Additions have been made in [blue](#), deletions in ~~red~~, defined terms requiring italics have been made in [yellow](#) and comments have been made in [grey](#).

Additions to definitions:

energy [price fact sheet](#) means the document generated by the [Victorian Retailer Portal website](#) that contains key information in relation to a *generally available plan* or *restricted plan*.

Victorian Retailer Portal website means the retailer interface for the [price comparator](#) ~~Victorian Energy Compare website~~, via which retailers are required to upload information, including for the purposes of generating an *energy [price fact sheet](#)* for a *generally available plan* or a *restricted plan*.

Division 5 – Customers entitled to access information on the features and prices of energy plans

70U Requirement

A *retailer* is required to perform its obligations under this Division in a way that promotes the objective of this Division.

70V Objective

The ~~o~~Objective of this Division is to provide *small customers* with a mechanism to consider and compare the features and prices of different energy plans so as to assist the *small customer* to assess the suitability of, and select, a *customer retail contract*.

70W Application of this Division

This Division does not apply to *exempt persons*.

70X Requirement to provide information via the Victorian Retailer Portal website and obtain an energy [price fact sheet](#)

- (1) A *retailer* must input into the *Victorian Retailer Portal website* accurate details of each current *generally available plan* and *restricted plan*, including all relevant details in the form required by that internet site.
- (2) A *retailer* must obtain from the *Victorian Retailer Portal website* an *energy [price fact sheet](#)* for each current *generally available plan* and *restricted plan*.

~~All information uploaded to the *Victorian Retailer Portal website* must be written in plain English and designed to be readily understandable by *customers*.~~

Comment: This is a self-explanatory requirement on retailers and should not be required to be included in the Code.

- (3) A *retailer* must co-operate with relevant parties in implementing a system to create and sustain reliable links from the [price comparator internet site nominated by the Minister](#) so that a *customer* can:
- (a) easily view the same or more offer information on the *retailer's* website; and
 - (b) potentially accept that offer or another offer.

70Y Retailers to make energy [price](#) fact sheets accessible to relevant customers

~~(1) A *retailer* must ensure that an *energy fact sheet* for each current *generally available plan* and *restricted plan* is available to relevant customers within two *business days* of the *plan* becoming available to *customers*.~~

Comment: This obligation is covered in the AMI Tariffs Order, clause 12(1)(b). It does not need to be duplicated in the Code.

~~(2)~~(1) A *retailer* will not contravene [this Code clause \(1\)](#) if it has been unable to obtain the relevant *energy price fact sheet* from the *Victorian Retailer Portal website* through no fault of the *retailer*.

~~(3)~~(2) Where a [retail marketer](#) ~~*retailer*~~ provides, ~~either directly or via arrangements with another person,~~ information about a current *generally available plan* on a website, the *retailer* must ensure:

- (a) a clear link to the *energy price fact sheet* relevant to that *generally available plan* is published in a prominent position on that website; and
- (b) the link is labelled “energy [price](#) fact sheet”.

~~(4)~~(3) Where a *generally available plan* is available through an online sign-up process, the *retailer* must ensure that a clear and prominent link to the relevant *energy price fact sheet* is provided in close proximity to where the *customer* signs up to the [generally available plan](#).

~~(5)~~(4) A *retailer* must ensure that the *energy price fact sheet* for a *generally available plan* that is applicable to a *customer's* circumstances is readily identifiable by a *customer*.

~~(6)~~(5) When a [retail marketer](#) markets ~~ing~~ a *generally available plan* by any means, ~~and regardless of whether the marketing is done by the *retailer* directly or another person,~~ a *retailer* must ensure that the *customer* is:

- (a) informed that an *energy price fact sheet* containing the key details of that [generally available plan](#) ~~plan~~ is available; and
- (b) provided with the location of the relevant *energy price fact sheet* for that [generally available plan](#) ~~plan~~ on the *retailer's* website.

~~(7)~~(6) When a [retail marketer](#) markets ~~ing~~ a *generally available plan* on mass media channels, ~~and regardless of whether the marketing is done by the *retailer* directly or~~

~~another person~~, a *retailer* must ensure that the following statement is included in any advertisements in a clear and easily readable text:

~~(8)~~(7) “Fact sheets available at [insert link to the website where the energy price fact sheet is available. For clear advice to help you decide if this is a suitable plan for you, contact [us/the name of the relevant retailer] on [insert contact details for the relevant retailer].”

~~(9)~~(8) Where a generally available plan ~~plan~~ is advertised using a medium with character limitations that prevents the text required by subclause (7), a *retailer* must ensure the text is included in a prominent location on the first webpage linked to the advertisement.

~~(10)~~(9) Where a *retailer* provides information about a *restricted plan* to a **customer**, or when a retail marketer market~~s~~ing a *restricted plan* by any means, ~~and regardless of whether the information is provided or the marketing is done by the retailer directly or via arrangements with another person~~, a *retailer* must ensure that the *customer* is informed that an energy price *fact sheet* containing key details of the ~~plan~~ restricted plan is available and will be provided on request.

~~(11)~~(10) A *retailer* must ensure that, if a *customer* requests an energy price *fact sheet* for a *generally available plan* or *restricted plan*, the *customer* is sent, either by post or electronically, the relevant energy price *fact sheet* within five *business days* of contact with the *customer*.

~~(12)~~(11) When a retail marketer market~~s~~ing any plan, ~~and regardless of whether that marketing is done by the retailer directly or another person~~, a *retailer* must ensure that the offer ID generated by the *Victorian Retailer Portal website* is able to be identified and referred to in communications with *customers*.

70Z Compliance

- (1) A *retailer* must maintain records that are sufficient to evidence its compliance with this Division.
- (2) The *retailer* must ensure that the records required to be maintained pursuant to subclause (1) are retained:
 - (a) For at least 2 years; or
 - (b) For as long as the *retailer* has at least one *customer* on a *generally available plan* or a *restricted plan* for which it has an obligation to provide an energy price *fact sheet* under this Division.

9 April 2019

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

Via email: RetailEnergyReview@esc.vic.gov.au

Re: Technical draft decision on the Victorian energy fact sheet 1 July 2019 – Draft Advice

Simply Energy welcomes the opportunity to provide feedback on the Essential Services Commission's (ESC) technical draft decision on the Victorian energy fact sheet.

Simply Energy is a leading second-tier energy retailer with over 680,000 customer accounts across Victoria, New South Wales, South Australia, Queensland and Western Australia. As a leading second-tier retailer focused on continual growth and development, Simply Energy actively supports open market competition and energy affordability.

Simply Energy considers that updating the format and content of Victorian energy price fact sheets should assist consumers compare energy offers, and provide them with greater clarity around rates, charges and other terms and conditions more generally.

Simply Energy is, however, concerned with how the new pricing information transparency requirements will interact if they all come into force on the same date. Providing clear advice, the deemed best offer messages and Victorian energy fact sheets without first engaging and educating consumers may lead to confusion. This is contrary to the objective of these new regulatory initiatives, which are intended to provide customers with clear, and readily understandable information.

In view of this, Simply Energy proposes the requirements outlined in this draft decision should not come into effect until 1 January 2020. This will provide the ESC and the industry sufficient time to implement the new regulatory requirements in a manner that aligns line with the interests of energy consumers. In achieving this end, the following submission evaluates and provides Simply Energy's positions on the ESC's draft decisions in its technical implementation paper.

Draft decision 1: Scope of the Victorian energy fact sheet

Retailers must ensure fact sheets are available for all offers for small customers.¹⁵

Simply Energy agrees that that the scope of Victorian energy fact sheets should include all small customers. This will provide greater clarity of offers in the market and allow comparability for all small customers in Victoria.

Draft decision 2: Exemption from fact sheet requirements for exempt sellers

Exempt sellers¹⁸ are not subject to the requirement to have a Victorian energy fact sheet available for all offers for small customers.

Simply Energy understands the rationale behind excluding exempt sellers from this requirement is based on the Energy Retail Code review 2018 (obligations for exempt sellers) and the ESC's related decision.

Draft decision 3: Fact sheets will be generated from information retailers upload to the Victorian Retailer Portal

Retailers must upload information to the Victorian Retailer Portal website¹⁹ in accordance with the Energy Fact Sheet Guidelines²⁰ in order for the fact sheet to be generated.

Simply Energy agrees that retailers are responsible for uploading information to the Victorian Retailer Portal website in accordance with the Energy Fact Sheet Guidelines. However, it must be kept in mind that the industry has only recently been engaged by the Department of Energy Land Water and Planning to provide information on proposed technological solutions. The initial forum on proposed solutions is scheduled for the 15 April 2019. With an effective date of 1 July 2019, Simply Energy considers that the timeframe for development and appropriate industry testing is not sufficient to ensure that this change is delivered in line with the terms of reference.

Draft decision 4: Ensuring fact sheet information is accurate and understandable

Retailers must ensure that data and information uploaded to the Victorian Retailer Portal website is accurate and designed to be readily understandable by customers.

Simply Energy agrees with the ESC that retailers are responsible for uploading accurate information. However, it must be made clear that retailers are no longer responsible for the design of the energy fact sheet. The overall responsibility for the design and the degree to which the energy fact sheet will be readily understandable by customers lies with the Department, who is responsible for administering the Victorian Retailer Portal.

Draft decision 5: Exemption from requirement to include comparison mechanism in the fact sheet

The comparison table on the Victorian energy fact sheet will not be required for small businesses, demand charges or offers where customer usage data is needed to price the offer.

Simply Energy agrees with the ESC that comparison tables are likely to confuse and not aid consumers in selecting an offer, where an offer includes demand charges, or is for small business. Future innovative offerings should be assessed to determine whether providing comparison information will assist customers. For this reason, ESC should have the discretion to exemption other offers types on a case by case basis.

Draft decision 6: Fact sheet terminology to be consistent with the Victorian Energy Compare website

The terminology used in the Victorian energy fact sheet will be consistent with language used on the Victorian Energy Compare (VEC) website.

Simply Energy considers that the Victorian fact sheet terminology should be consistent with the AER Retail Pricing Information Guidelines language requirements. For retailers operating in jurisdictions outside Victoria, the maintenance of multiple language requirements is onerous. Simply Energy proposes that, rather than requiring retailers to maintain multiple sets of language requirements, the Victorian Energy Compare website should align with the AER mandated terms as set out in the Retail Pricing Information Guidelines version 5.0.

As a retailer that operates across multiple jurisdictions, Simply Energy considers consistent messaging is vital. Consistent messaging reduces confusion and increases understanding across the market.

Draft decision 7: Timing requirements for displaying fact sheets on retailer and third party websites

Retailers and third parties must ensure a link to the fact sheet for a generally available plan²⁴ is available on their website within two business days of the offer becoming available to customers.

Simply Energy agrees that the timing requirements for ensuring the link to a generally available plan is published be aligned with the timeline outlined by the AER in the Retail Pricing Information Guidelines Version 5.0.

The draft code changes (Amendments to the Energy Retail Code: Market Integrity: Energy Fact Sheets 70Y (7)) reference a statement that must be included in any advertisement. Simply Energy agrees that the inclusion of a standard statement directing customers to energy fact sheets is a positive change for consumers in Victoria.

Simply energy does not agree that the statement must include the following statement: “For clear advice to help you decide if this is a suitable plan for you, contact [us/the name of the relevant retailer] on [insert contact details for the relevant retailer]”. Simply Energy considers that this misrepresents the function of an energy retailer. Retailer do not advise a customer to take up a particular offer. The purpose of the clear advice entitlement is to communicate information, not provide recommendations as to which offer the customers should take up. Simply Energy is of the firm belief that consistency between the AER Retail Pricing Information Guidelines Version 5.0 and the proposed Energy Retail Code changes are in the interests of consumers and retailers alike. Considering this, Simply Energy proposes the following standard statements based on clause 100 in the AER Retail Pricing Information Guidelines Version 5.0, which links to the pricing fact sheets. Examples are outlined below.

A. ‘A fact sheet for this plan is available at [insert link to the retailer/agent website where the fact sheet is located]’ or

b. ‘Fact sheets are available at [insert link to the retailer/agent website where the BPID is located].’

Draft decision 8: Assisting customers to find the relevant fact sheet

Retailers must ensure that the fact sheet that is applicable to a customer's circumstances is readily identifiable by that customer.

Simply Energy agrees that fact sheets applicable to a customer's circumstances should be readily identifiable. However, Simply Energy considers that this draft decision may not align with the requirements under draft decision 9. Simply Energy foresees cases where a generally available offer may include some eligibility restrictions including, but not limited to, auto club membership and sports club membership.

Simply Energy proposes that the relationship between these two decisions needs to be clarified by the ESC in order to aid compliance and better consumer outcomes.

Draft decision 9: Customer access to fact sheet without providing technical or personal information

Retailers must not require a customer to provide technical or personal information for the customer to obtain a fact sheet, other than information required to determine if a customer is eligible for a particular plan, for example:

- the minimum level of information necessary to allow the retailer to determine the customer's distribution zone (electricity), distribution supply area (gas) or climate zone, and/or
- metering configuration information.

Simply Energy agrees that retailers should not require a customers to provide technical or personal information to obtain a fact sheet. Allowing customers to anonymously engage with offers in the market is important for awareness and comparability across retailers. That said, retailers should allow customers to refine their search results based on defined criteria. Simply Energy sees a potential solution for meeting both the intent behind draft decision 8 and draft decision 9 is to provide fact sheets for all offers based on limited information, without requiring customers to specify details related to the eligibility criteria of particular offers.

Draft decision 10: Using the offer ID to identify energy offers

Retailers must be able to use the offer ID²⁵ to identify the offer a customer is referring to when communicating with customers.

Simply Energy agrees with that retailers should use the offer ID to identify an offer when communicating with customers.

CONCLUSION

In conclusion, Simply Energy welcomes the changes to Victorian energy fact sheets and considers that access to readily understandable information on offers will enhance consumer interactions in the market. That said, appropriate time needs to be taken to ensure that these important changes are implemented properly.

Simply Energy welcomes further discussion in relation to this submission. To arrange a discussion or if you have any questions please contact James Ell, Compliance Officer, on, telephone, [REDACTED]

Yours sincerely

A handwritten signature in blue ink, appearing to read 'James Barton', with a horizontal line underneath.

James Barton

General Manager, Regulation

Simply Energy