



Government of South Australia
Department for Energy and Mining

Mr John Pierce
Chairman
Australian Energy Market Commission
PO Box A2449
SYDNEY SOUTH NSW 1235

Regulating Conditional Discounting – Consultation Paper (RRC0028)

Dear Mr Pierce

The Energy and Technical Regulation Division (the Division) of the South Australian Department for Energy and Mining thanks you for the opportunity to comment on the Regulating Conditional Discounting – Consultation Paper.

The Division agrees the practice of discounting by energy retailers has been an issue in recent years. Generally, we consider the problem has been that there is insufficient information for consumers to make an informed choice on whether an offer with associated discounts is the best offer for them.

The Division considers that in assessing the rule change proposed it is important to take note of the extent of change that has recently occurred in the retail energy market. A number of changes have progressed to address the problem.

The introduction of the reference price as part of the Electricity Retail Code of Conduct under the *Competition and Consumer Act 2010* should overcome many of the concerns the rule change proponent raises. Each conditional discount mentioned in an offer by a retailer must now state the difference between the unconditional price and the conditional price, and express this as a percentage of the reference price.

Similarly, the Code places restrictions on retailers' discounting practices with retailers now prevented from advertising a conditional discount as the most conspicuous price-related matter in an advertisement.

These developments are in addition to a National Energy Retail Rule change in May 2018 which prevents energy retailers from offering conditional discount rates set above standing offers.

Given these recent changes, it is unclear if further amendments are necessary to address the problem. The new protections ensure that consumers are not worst off compared to the standing offer if they do not achieve the conditional discount. Consumers should now more easily be able to compare the price they would receive if they do meet the associated conditions versus if they do not and against the

reference price. This should also reduce the magnitude of any discount compared to the inflated offers made by retailers in previous years.

Evidence is suggesting that these changes have already had an impact on the practice of retailers offering conditional discounts.

The AER suggests there has been a downward trend in the proportion of electricity offers with conditional discounts across most NEM regions, with South Australia observing the largest decrease in the proportion of offers with conditional discounts.

The Commission's review of Retail Energy Competition Review reports also shows that conditional discounts in NSW, SA and South East Queensland peaked at 78% of market offers in 2017, and decreased to 47% in the year to June 2019.

Further, the *ACCC Inquiry into the National Electricity Market – August 2019* report shows that retailers are moving away from advertising conditional discounts based on inflated and inconsistent base rates.

The ACCC have observed a significant shift away from the use of conditional discounts after 1 July 2019, reporting that around 85% of residential market offers in South Australia had no conditional discounts, as at 12 July 2019. They have also noticed that, where discounts are presented, they are lower than those offered prior to 1 July 2019.

Deeper analysis of the data received as part of this rule change assessment may reveal further reductions in these types of offers as the impact of recent changes in the retail market continue post 1 July 2019.

A review of Energy Made Easy by the Division in early September 2019 revealed that only a limited number of conditional discount offers were currently being made by retailers in South Australia.

For electricity, only five offers across two 2nd tier retailers offered a pay on time discount. These discounts ranged from a moderate 5% off of total usage to 10% off of the total bill. There were no contracts offering a direct debit discount.

Similarly for gas, only four offers from one 2nd tier retailer offered a pay on time discount. This discount was for 10% off of the total bill. Again, there were no contracts offering a direct debit discount. This suggests the Commission's statement that retailers generally advertise electricity and gas offers in similar forms is accurate. It also supports the view that a reduced prominence of conditional discounting for electricity may result in a similar reduction in the retail gas market.

Given the analysis conducted to date we consider that improvements are already occurring in this space. With this in mind we consider that additional regulation may not be required at this time.

In addition to the recent improvements made to the retail market, current legislation under the National Energy Retail Law, requires retailer's hardship policies to include processes to review the appropriateness of a hardship customer's market retail contract. This provision should be ensuring that a retailer is already reviewing how appropriate a conditional discount is for a hardship customer who has a history of

failing to meet the conditions, and making necessary adjustments to the offers provided to these customers.

While additional regulation at this time is not supported, if further analysis of retail gas market data on discounting practices by the Commission suggests an issue with conditional discounts exists, the Division would support further consideration of the issue.

The South Australian Government thanks the Commission for the work undertaken on the rule change.

Should you have any questions in relation to this submission, please contact Ms Rebecca Knights, Director - Energy Policy & Projects, Energy and Technical Regulation Division, on (08) 8429 3185.

Yours sincerely



Vince Duffy

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