

1 February 2008

Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

Retail Competition Review – Second Draft Report

Thank you for the opportunity to comment on the Australian Energy Market Commission's Review of the Effectiveness of Competition in Electricity and Gas Retail Markets in Victoria – Second Draft Report.

Simply Energy welcomes the finding reached by the Commission in its First Final Report that competition is effective, and the draft recommendations in the Second Draft Report that the regulation of standing offer retail prices should cease from 1 January 2009 and that there be no extension of the existing reserve price powers.

Simply Energy supports the views expressed by the Energy Retailers' Association of Australia. This letter addresses a number of matters not covered by the ERAA.

Obligation to offer to supply and sell energy

The Commission's third draft recommendation is that the obligation to offer to supply and sell energy to a residential customer at a premises where there is an existing connection should rest with the FRMP for the relevant premises. Simply Energy disagrees with this recommendation.

In short, Simply Energy does not consider that a compelling case has been made for changing the existing obligation which requires incumbent retailers to offer to supply. The existing model ensures universal access to supply on reasonable terms and conditions, it presents a fair allocation of responsibilities between retailers, and has the least impact on market entry for new retailers.

The obligation on incumbent retailers to offer to supply and sell energy has, since the market was opened for competition, been effective in ensuring access to supply for all residential customers. It ensures that, in all areas of Victoria, a retailer with solid financial backing, significant retail experience and the necessary systems and processes, will provide a safety net for customers who, for whatever reason, will not enter into a market contract.

The existing obligation to offer to supply was a feature of the retail market when the Victorian energy retail businesses were privatised. Accordingly, the costs of the obligation were accounted for, and priced, when private entities purchased the businesses from the Victorian Government. It is relevant to point out that incumbency carries with it not only an obligation to offer to supply, but also a considerable base of loyal franchise customers. While many Victorian customers have moved onto market contracts since contestability was introduced, it is not true to say that the concept of a host or incumbent retailer is no longer relevant. Incumbent retailers still have the largest market share in their local areas, and the component of their customer base still on standing offer contracts still confers a significant benefit. The investment profile for an incumbent retailer and a second-tier retailer is therefore very different. Removal of the obligation to offer to supply on incumbent retailers in favour of an obligation on the FRMP could be seen as a windfall gain to incumbent retailers, at the expense of second-tier retailers.

In addition, incumbent retailers already have the systems and processes in place that are necessary for managing an obligation to offer to supply. By contrast, introducing an obligation to offer to supply on the FRMP would require second-tier retailers to develop and implement new systems and processes at significant cost. For example, second-tier retailers typically do not require security deposits. However, introduction of an obligation to supply would put second-tier retailers in a position where they would be required to take security deposits or face significantly increased risk. The end result is either increased prices for consumers (to recover the additional costs) or lower margins for second-tier retailers. In short, this will lead to second-tier retailers being less competitive as compared with incumbent retailers, and raise the barrier to entry.

The removal of price regulation is not, in itself, a reason to change the existing obligation to offer to supply. The recommendation to remove price regulation derives from the conclusion that competition in the energy retail sector is effectively competitive. This means that there is confidence that market forces will put downward pressure on energy tariffs such that they reflect the costs of supply. This will continue to be the case for standing offers made by incumbent retailers in their local area – there is still a large number of customers on standing offer contracts in Victoria, and so there will be a strong incentive for incumbent retailers to maintain standing offer prices at levels that reflect the underlying cost to supply.

Designated retailer for new connections

In respect of new connections, Simply Energy again supports maintaining the status quo – incumbent retailers should continue to have the obligation to offer to supply new connections. As the Commission points out, the universal model and the defined area model would disproportionately increase the wholesale risk and administrative costs for new retailers. Again, incumbency and the larger customer base mean that host retailers are in a better position to manage the obligation to offer to supply new connections than second-tier retailers.

Deemed supply arrangements

The Commission also supports maintaining the deemed supply arrangements. Simply Energy notes that there are a number of shortcomings in the existing deemed supply arrangements design. Among these are the uncertainties surrounding the contractual position, and the rights of both the retailer and customer, at the end of the 6 month deemed contract.

Publication of standing offers


The Commission recommends development and implementation of a guideline regarding how the retailers' standing offer prices should be published. While Simply Energy acknowledges that the publication of standing offer prices would promote transparency, it cautions against publication guidelines that increase the amount and complexity of regulation for retailers. In addition, overly prescriptive regulation has the potential to dampen attempts at innovation by retailers.

Simply Energy considers that the most effective way of publishing product information is to have information available at the door (for door-to-door sales), over the phone or on a retailer's website. Publication in a Government Gazette does very little to contribute to dissemination of product information because very few consumers are aware of, or would know how to access, gazetted information. In addition, very few people would take notice of energy product information published in a newspaper, and given that this information would only be available on the day of publication, customers would not be able to access it in this form at a later time when they actually need it.

Energy comparator tools are a useful means of promoting competition. However, Simply Energy believes that the market will naturally develop such tools for comparing market offers, and that it is not the role of the regulator to promote market comparisons in an effectively competitive market.

Should you have any further questions, please contact Alex Fleming, Legal & Regulatory Manager, on (03) 8807 1132.

Yours sincerely



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