Minutes

Retail Market Review – Stakeholder Reference Group Meeting #19

Date and Time: Thursday 31 October 2019, 9:30 am – 11:00 am

Location: Boardroom, Level 37, 2 Lonsdale Street, Melbourne VIC 3000

Present:

Name	Organisation
Ben Barnes	AEC
Con Hristodoulidis	AGL
David Bryant	Brotherhood of St Laurence
Jake Lilley	CALC
Katherine Harris	ESC
Sarah McDowell	ESC
Sugi Sivarajan	ESC
Zac Gillam	EWOV
Alan Love	Powershop
Stefanie Macri	Red Energy
Anh Cao	AER (observer)
Lashae Roulston	DEWLP (observer)
Matthew Giampiccolo	DEWLP (observer)

Apologies: Larissa Nicholls (Monash University), Bryn Dellar (Onsite Energy Solutions), Gavin Dufty (St. Vincent de Paul), Susan Quinn (VCOSS)

Agenda items

1.1. Recommendation 3A discussion

- To give effect to Recommendation 3A, commission staff noted existence of reference price mechanisms in the national framework and the Victorian Default Offer (VDO) Order requirements provided a consistent basis for marketing of electricity plans.
- Commission staff noted we have been giving consideration around how to give effect to Recommendation 3A for gas. We invited stakeholders to a workshop to discuss considerations in the development of a methodology for a gas reference price. Through this process stakeholders had identified several difficulties in establishing a methodology for the development of a gas reference price.
- Given this and given there is no mandate from the government to develop a gas VDO at this time, commission staff consider there may be merit in deferring consideration of a gas reference price at this time.
- A consumer group noted their strong preference for a reference price for gas, highlighting that it is still challenging for customers to compare gas offers without a reference price.
- Retailers noted that there was some support for a gas reference price, prior to the commission workshop. However, retailers reflected on the complexity of developing a reference price in practice, particularly given there is no VDO for gas. On this basis they were comfortable with deferring consideration of a gas reference price at this time.
- Retailers committed to work with the commission and consumer groups to identify how to support customers in comparing gas offers before a gas reference price is introduced.
- Reference group member also reiterated a suggestion made at the workshop that proposed using the new Victorian energy fact sheets. Further consideration may need to be given to how to make customers aware of fact sheets and encourage their use.

1.2. Recommendation 4A discussion

- Commission staff noted consumer research that had been undertaken with around 2,000 Victorian customers relating to preferences for price movements. The question and results are included below for reference.

Question:

Energy prices can change at any time, unless you are on a fixed-term contract. In some industries, the price you pay is fixed for a year. And in others – like health insurance – all the prices change at once on a single date and stay fixed for the year. What would you prefer for energy prices?

Remember, we're not asking about the size of the change – just about when the change happens.

Results:

- 23% responded ‘things should stay the same - energy prices can change at any time’
- 38% responded ‘things should change so that energy prices are fixed for a year when you sign up to a new plan, and after that they can change at any time’
- 38% responded ‘things should change so that energy prices can only change once a year, and they all change on the same date’.
- Commission staff presented three specific options for discussion in implementing recommendation 4A:
  - Option 1: Fix prices for 12 months (from when customer signs up) on all contracts
  - Option 2: Require retailers to offer at least one 12 month fixed-price product (excludes VDO)
  - Option 3: Prices can only change when VDO changes.

Option 1

- Members noted that this option was closest to recommendation 4A in the Commission’s terms of reference.
- Concerns were raised that this option could lead to overall prices rising across the market.

Option 2

- Retailers noted that the VDO was for customers not wanting to engage, and so it should be included as an option for a fixed-price product for option 2. This would then mean that there is no need for retailers to develop other types of plans.
- Members questioned how the price of fixed price products might compare with the VDO. A retailer considered that prices would be aligned as retailers are required to reference all prices to the VDO. A consumer groups noted that a retailer could price a fixed option so high that no customer would want to sign up.
- Consumer groups noted that option 2 does not achieve anything further than what the VDO already achieves. Option 1 and 3 provide more price certainty.
- Retailers also questioned how the calculation for a best offer would work, if a customer signed up to a more expensive 12-month fixed price, but there is a cheaper alternative available. They noted that this could undermine price certainty if a customer sees there is a cheaper plan available and switches to it.

Option 3

- Retailers suggested that there is limited price certainty if a customer signs up to product today (late in the calendar year), and that price will change on 1 Jan. Retailers suggested implementation of this option from 1 July 2021, to reduce the amount of price changes due to the VDO in 2020.
- Commission staff commented that this option would provide certainty in the timing of any price changes, which customers currently do not have.
- Retailers noted that this option creates a price-change cycle, which could be a lower risk. Retailers also noted that for this option, retailers will know the price of the VDO and optimise products based on that.

- Consumer groups noted the advantages of this option, in terms of simple messaging for customers, and that 1 July was a better time than 1 January for customers to engage in the market. However, EWOV noted the complaints around bait and switch practices. But if customers are getting clear advice, there is certainty of when the future price change would occur (and commission staff noted new rules on advanced price change notifications). Although consumer groups were wary of relying too heavily on the clear advice entitlement for price change certainty.
- Retailers noted that there was no evidence of continued bait and switch practices post 1 July 2019, and questioned whether a regulatory response to this issue is still required.
- Commission staff noted potential impacts on particular business models and products, such as allowances for pricing structures that are not compatible with price changes once a year. Commission staff welcomed suggestions from members as to how to account for such products in any new framework.

1.3. Recommendation 4E discussion

- Commission presented two options for implementing recommendation 4E:
  - the commission developing a cap based on 'reasonable costs'
  - retailers ensuring discounts are cost-reflective and justifying this to the commission.
- Members provided feedback on both options. One retailer supported the commission setting costs, as there would be a large compliance burden for retailers to justify these costs. Another retailer supported a process for retailers to set the cap. Retailers noted that discounts are a function of a retailer's cost base and there are many considerations they take into account when deciding how to set their discounts.
- Members considered that factors to take into account in setting a cap could include wholesale costs, costs to serve, the number of bad-debt customers of a retailer, the risk appetite of a business etc.
- Retailers also noted that there are fewer large discounts in the market and questioned whether this recommendation was still needed.
- Commission staff noted that there are still some sizeable discounts on offer for gas contracts. Retailers suggested focussing any cap on gas offers only, though a consumer group indicated their preference for a cap covering both electricity and gas.

1.4. Recommendation 4C discussion

- Commission staff presented specific options for types of offers that customers could roll onto at the end of a benefit or contract period:
  - VDO (for electricity)
  - Best offer
  - Cheapest overall offer (incl. restricted offers)

  - Cheapest equivalent offer
  - Retailer discretion

- Commission staff sought reference group members' views on the most appropriate option for gas offers, given there is no gas VDO.
- Members questioned how many gas offers in particular have fixed components, noting that this may not be a large issue.
- Members noted that the last 3 options were ruled out during considerations as part of the 'best offer' reforms, but that retailer discretion may be a plausible option in this case.
- Members questioned how the best offer option might work in practice. If the retailer is telling the customer about the best offer every 4 months and then ultimately rolls the customer onto it at the end of the contract, the customer might as well have been rolled onto it on the first day of the contract. members also raised issues of how explicit informed consent would work after 12 months of being on a contract.
- Members also noted that this recommendation was a protection for disengaged customers. There are many different reasons for customers who are disengaged (or are not capable of engaging), and price notifications do not work for all customers.
- Members highlighted the difference in protection between the standing offer and the best offer, which is a market offer.

  - Some members noted that standing offers have better protections in terms and conditions. The terms and conditions of a market offer could be fundamentally different from standing offers, such as having fees, conditional discounts, etc.
  - Other members noted that the standing offer would not be a good outcome from a pricing perspective. Consumer groups suggested to consider recommendation 4C and D depending on how recommendation 4E is decided on.

- One retailer suggested that the standing offer is the minimum, but a retailer could provide something better than the standing offer at its discretion.
- It was suggested that the end of benefit notification obligation could be removed, if the roll over contract for gas was the best offer.