

Minutes

Retail Market Review – Stakeholder Reference Group Meeting #21

Date and Time: Tuesday 17 December 2019, 9:30 am – 11:00 am

Location: Brussels Room, Dialogue Conference Centre, 50 Lonsdale Street, Melbourne VIC 3000

Present:

Name	Organisation
Ben Barnes	AEC
Elizabeth Molyneux	AGL
Bronwen Jennings	AER
David Bryant	Brotherhood of St Laurence
Jake Lilley	CALC
Aaron Yuen	ESC
Katherine Harris	ESC
Sugi Sivarajan	ESC
Sophia Dong	ESC
Zac Gillam	EWOV
Michael Beneviste	Powershop
Stefanie Macri	Red Energy
Gavin Duffy	St Vincent de Paul Society
Lashae Roulston	DELWP (observer)
Matthew Giampiccolo	DELWP (observer)
Brooke McKail	VCOSS

Apologies: Onsite Energy Solutions

Agenda items

1.1. Reflection on 2019 (facilitated by Sarah McDowell, Director, Energy)

- Sarah noted that 2019 has been a significant year, with many regulatory changes resulting from the independent review into electricity and gas retail markets, and the review of the Electricity Distribution Code. In 2020, we expect that much of our reform work will focus on distribution.
- We have two new commissioners, Simon Corden and Sitesh Bhojani, both bringing significant experience in economics and enforcement to the commission. The commission as an organisation has also expanded, having received \$27 million from the Victorian government to undertake its functions.
- Going forward, we are open to ways to improve, particularly in the way we engage with our stakeholders on new reforms, and invite stakeholder feedback.

Discussion

- Many stakeholders felt the SRG meetings useful in having open discussions and to hear from industry, consumer bodies and commission staff. Stakeholders felt that the SRG was a step in the right direction for stakeholder engagement, however, many expressed a desire to hear more about the commission's thinking and ideas in discussions.
- Stakeholders indicated a preference for more open and honest conversations next year regarding overall policy objectives and long-term goals. Stakeholders expressed how the group could be better used to test out policy ideas, or how the industry can best approach future reforms. Stakeholders noted that some earlier meetings were useful in this regard, but some of the meetings throughout the year were used to provide updates regarding process.
- In the coming year stakeholders would like more opportunities in the forum to discuss how reforms interact with each other and wider market and what it means for the next reforms.
- Stakeholders noted that it may be important to expand the Stakeholder Reference Group to include distributors, Commission staff noted that many of the 2020 reforms will relate to distribution.
- Stakeholders sought more clarity of reforms relating to government policy or regulations, or those of the commission's codes and guidelines. Stakeholders suggested that the commission could be clearer on what aspects of policy can or cannot be changed.
- Stakeholders found the many workshops held during the year to be very useful and helpful in their work. They encourage more forward planning about exactly what discussions will be on and more transparency in discussions especially between the commission and other government bodies.
- Retailers suggested more discussion regarding timeframes of implementations to ensure that all businesses can successfully implement new regulatory policies.

1.2. Clean and fair contracts draft decision

Our draft decision was released on 10 December and will be open for submissions until 21 January 2020.

1.2.1. Recommendation 3A – reference pricing and presentation of offers

Retailers indicated a preference towards a harmonised approach but encouraged the commission to consider the problems and implementation issues learnt from the equivalent obligations relating to the Default Market Offer (DMO). This includes rushed code changes, not considering the impacts and interactions with customers and how generic information using average customer and profile figures could lead to customer confusion. Providing a generic nature of the profile when a retailer knows the customer is very confusing and could be unhelpful. Retailers suggested more consultation with industry about issues from the DMO and how to ensure these do not apply to Victoria.

- Commission staff noted that this obligation was intended to be a general requirement for mass marketing such as on bus stops and billboards. If a customer is known to a retailer, it is assumed retailers will discuss offers in a personalised approach (in line with the clear advice entitlement).

Will this replace what is currently in the Victorian Default Offer (VDO) Order in Council?

- Yes.

Retailers indicated a need to distinguish between recommendation 3A and clear advice, to help clarify the differences between the two obligations and how retailers are meant to comply with both. Retailers suggested that the obligations may only apply under certain circumstances, for example, recommendation 3A would apply under mass marketing or advertising, while clear advice entitlements would occur when a retailer is in discussion with a customer (for example, over the phone).

Stakeholders noted methodological differences when estimating an annual bill for a customer, particularly the methodology used to rank or compare an offer under recommendation 3A, and the methodology based on a customer's estimated consumption when providing a best offer calculation.

- We take note of this problem and understand there is a trade-off between what is simple to understand and what is highly accurate and personalised for a customer.

Retailers questioned whether all retailers are required to use the same consumption profile for the ranking of the bill under recommendation 3A. Commission staff noted that this was the intention.

1.2.2. Recommendation 4A-B - fixing market contract prices

Retailers questioned the policy intent of this draft decision.

- Commission staff noted that the policy objective was to give customers a level of clarity about the price they are getting and when that price may change. It also provides customers with a guarantee price level they are committing to for a certain period.
- The policy will also be a simple call to action for customers to engage with the market and consider a new energy offer.

Retailers noted that if prices can only be adjusted on 1 January, some products will no longer be offered to the market. This will reduce competition and innovation and create a generic approach to dealing with a customer. Retailers also noted that this rule is regulating something that the market is already doing as many retailers only change their prices once a year.

- Commission staff noted that this recommendation aims to find a balance between customer protections, clarity and innovation in the market and ensuring that customers know when the price change will occur. Retailers will still be able to provide for market offers and are able to compete on price.

Retailers are concerned that this recommendation will result in extensive advertising by the industry right before the price change occurs, encouraging customers to only engage in that period and resulting in these customers paying a higher price due to higher risk premiums. It may also allow for bait and switch to occur in the market where retailers may put a customer on a cheaper contract later in the year and increase prices shortly after in January.

- Commission staff noted that this was explored in our considerations, and that we would expect retailers to disclose to customers the extent of potential price increase in January, if it was known to the retailer when in discussion with a customer.

Retailers raised concerns about changing prices on 1 January when many people will be on holidays and will create huge pressure on customer service. This may become a large issue for larger retailers who will have all their customers calling over this period. A solution could be to allow retailers to stagger their price changes over a few months.

Retailers questioned whether they could implement a price change for a customer if a customer has a network tariff change from the distributor.

- Commission staff noted this, and will consider.

Consumer bodies support this recommendation as it is simple and easy to understand and will encourage consumers to engage.

Retailers also raised concerns about the number of new reforms which may result in three different price changes a year as a result of Victorian government obligations.

Retailers questioned how this obligation would apply to retail gas price changes.

- Commission staff noted that price changes for gas would also be aligned with the times of the electricity VDO.

Stakeholders reiterated that the commission should carefully consider the implementation issues with this recommendation and the consequences it could bring to the market.

1.2.3. Back-billing

Stakeholders questioned whether the commission had received the Terms of Reference for back-billing.

- Commission staff noted that a terms of reference had not yet been received. The commission understands that it is a strong policy position of the Victorian government, and is expecting a terms of reference.

Retailers note that there are many occurrences where they have no control over back-billing and it is often a fault of the distributor. This rule may result in retailers bearing the costs of a distributor's errors. They also raised that this will lead to higher prices for customers as retailers will incorporate this risk into prices.

Retailers questioned whether the Electricity Distribution Code and Gas Distribution Code would be changed to implement the back-billing rules.

- Commission staff acknowledged a number of comments from industry regarding this, and will be considering this further.

Stakeholders also raised the concern that for gas, retailers will only have two bills to recover any undercharge.

Stakeholders encouraged the commission to explore implementation issues and consider a more holistic approach including what is the least cost implementation method for customers when making the final decision.

Retailers questioned whether a change to the cost of back-billing would be considered in the VDO.

- Commission staff noted that this can be raised as part of the next VDO price determination.

1.3. Clean and fair contracts draft decision

1.3.1. Other businesses

A retailer questioned the need to mirror the Australian Consumer Law provisions of adding a requirement that energy retail marketers must not engage in misleading or deceptive conduct considering that retailers are already complying with the Australian Consumer Law.

Appendix A - Agenda

No.	Item	Presenter	Duration
1	Clear & fair contracts		
	A) For our draft decisions on:	Aaron Yuen (Chair)	80
	<ul style="list-style-type: none">• What are the customer outcomes that might result?• What are some potential implementation issues we should consider?		
	Draft decisions		
	<ul style="list-style-type: none">• Ensuring customers can easily compare offers (3A)• Fixing market contract prices (4A, 4B)• Protecting customers at the end of benefit and contract periods (4C, 4D)• Regulating conditional discounts (4E)• Including information about the VDO on bills• Reducing allowable back-billing period		
	B) How could the recommendations (past and proposed) work together?		
2	Other		
	<ul style="list-style-type: none">• Any other business	Aaron Yuen (Chair)	10