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Mr Tom Redmond
Project Leader
Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

13 April 2018

Dear Mr Redmond

Submission to the Australian Energy Market Commission (AEMC): Preventing Discounts on Inflated Energy Rates

The Energy and Water Ombudsman (SA) Limited ("EWOSA") welcomes the opportunity to comment on the Australian Energy Market Commission's Consultation Paper on the *Preventing Discounts on Inflated Energy Rates* rule change request.

EWOSA is an independent Energy and Water Ombudsman Scheme in South Australia. It receives, investigates and facilitates the resolution of complaints by customers with regard to (*inter alia*) the connection, supply or sale of electricity, gas or water.

We support the AEMC's proposal for a joint recommendation (with the Australian Energy Regulator (AER)) to the COAG Energy Council to make retailers' non-compliance with the Retail Pricing Information Guidelines (RPIG) provisions on the presentation of market and standing offer prices subject to a civil penalty under the National Energy Retail Law (NERL).

We believe a civil penalty would provide additional incentive for retailers to comply with the RPIG, over and above the possibility of legal proceedings under the Australian Consumer Law. A civil penalty would also be quicker to apply and not involve costly legal proceedings when there has been non-compliance by a retailer.

While we consider the AEMC's initial position to be the minimum necessary regarding the prevention of discounts on inflated energy rates in market retail contracts, we believe a rule change that reflected the indicative drafting by the AEMC would be in the long-term interest of energy customers compared to if no rule change was implemented. Customer confusion about discounts in market retail contracts would mostly likely fall as a result. It would also lead to fewer complaints being received by EWOSA regarding discounts.

Our main concern with the AEMC's initial position is that the prohibition of discounts in a market retail contract – only where all of the charges are greater than those which apply in an equivalent standing offer and where all of the payments (such as feed-in tariffs) are equal to or lower than those which apply in an equivalent standing offer – still leaves some scope for consumers to pay higher bills on a market retail contract with discounts than on standing contracts, where there is at least one charge that is higher than the charges in an equivalent standing offer.

However, we believe that the inclusion of civil penalty provisions in sections 25 and 37 of the NERL would significantly reduce the risk of retailers structuring their market retail contracts so as to avoid the suggested prohibition yet still be able to apply discounts to inflated energy rates. It would be necessary for the AER to closely monitor retailers' compliance with the new rule as well. We also note the data from the AEMC analysis in the Consultation Paper that shows most retailers would already be in compliance with the new rule, as suggested in the AEMC's initial position.

We believe the commencement date for the rule change should be the date upon which the rule is made. However, if any delay is necessary to allow retailers to implement changes to their systems, we suggest a commencement date of 1 July 2018. This would coincide with the date that changes are likely to be made to a significant number of retailers' standing offers.

We support the inclusion of retail gas offers in any rule made associated with this rule change request.

Should you require further information or have any enquiries in relation to this submission, please email me at antony.clarke@ewosa.com.au or telephone me on (08) 8216 1851.

Yours faithfully

Antony Clarke

Policy and Research Officer

Energy and Water Ombudsman SA