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Ms Lisa Shrimpton
Australian Energy Market Commission
PO BOX A2449
SYDNEY SOUTH NSW 1235

REDUCING CUSTOMERS' SWITCHING TIMES – CONSULTATION PAPER

Dear Ms Shrimpton,

Energy Consumers Australia is the national voice for residential and small business energy consumers. Established by the Council of Australian Governments (COAG) Energy Council in 2015, our objective is to promote the long-term interests of energy consumers with respect to price, quality, reliability, safety and security of supply.

We appreciate the opportunity to respond to the Australian Energy Market Commission's (AEMC) *Reducing Customers' Switching Times, Consultation Paper*.

High prices for energy continue to cause significant and ongoing detriment for households and small businesses, despite the recent easing of price pressures in the last twelve months. In the latest Energy Consumer Sentiment Survey (ECSS), less than half the surveyed households and small businesses were satisfied with the value for money of their electricity services.¹ Only around one in three respondents to the June 2019 survey indicate that they believe the market is working in their interests.²

In this context we welcome this rule change proposal to act on recommendations 8 (rules for 'save' activity by retailers) and 9 (speeding-up customer transfers) of the Australian Competition and Consumer Commission (ACCC) Retail Electricity Pricing Inquiry Report. Making switching faster and easier is good for consumers and can increase the competitive pressure on retailers to deliver better and more affordable services.

We therefore support the intent of the rule change and offer suggestions about the detailed design to improve the effectiveness of these important reforms. Specifically:

1. Preserve the 'cooling off' period but run it in parallel to a compressed customer transfer process, to deliver a faster and more convenient switching experience for consumers while maintaining important consumer protections.
2. Support new reporting requirements in relation to switching timeframes to allow market bodies to monitor implementation, with the AER to provide advice to the AEMC about non-compliance and enforcement action.
3. Extend the coverage of the Sustainable Payment Plans Framework and improve reporting about retailers' debt management activities.

¹ ECA, Consumer Sentiment Survey June 2019, p.8. Available at <https://energyconsumersaustralia.com.au/wp-content/uploads/Energy-Consumer-Sentiment-Survey-Report-June-2019.pdf>

² ECA, Consumer Sentiment Survey June 2019, p.7.



It is important to note however that improving switching is not a panacea. Progress on implementing the ACCC's 56 recommendations has been mixed, and big questions remain about the sector's commitment to energy service innovation. Consumers are telling us they want much greater control over their energy use and their bills. This goes well beyond an easier experience at the point of sale, but to the provision of real-time information and feedback about their consumption, and tools (apps etc.) to allow them to more easily and cheaply do what they need to do in their homes and in their businesses.

Issues raised by the proposed rule change

Cooling off periods

Energy Consumers Australia notes that the high-level design is intended to “enable a process that allows a customer to transfer retailers within two days after the end of the cooling off period”³. The current cooling off period is set at 10 business days⁴.

Under the current National Energy Retail Rules, Rule 57 allows retailers to transfer a customer prior to the completion of the cooling off period. The transfer can be reversed if the customer exercises their right to withdraw from the contract. However, we understand that the retailers' practice to date has been to wait until the completion of the cooling off period before commencing the transfer process. This would mean that after the Rule Change takes effect, a customer would still be waiting around two and a half weeks (or up to 18 calendar days) before a transfer is complete. While 18 days is a substantial improvement on the current arrangements for customers without a remotely-read meter, we support incentives which encourage retailers to make greater use of Rule 57 in order to deliver a better consumer outcome. We note this aligns with the intent of the Australian Energy Market Operator (AEMO) high-level design which states that “AEMO proposes to remove reference to the cooling-off period in [Market Settlement and Transfer Solutions] Market Settlement and Transfer Solutions (MSATS) procedures in order that they do not unreasonably restrict a prospective retailer from undertaking a customer transfer within the cooling-off period”.⁵

Indeed, it can be argued that not progressing the transfer until the end of the cooling off period frustrates the intent of this period. Under Rule 58 the retailer must within five business days of a transfer completing, give notice to the customer that the retailer is now supplying energy – this notice usually takes the form of a ‘welcome pack’. The household or business receiving the welcome pack from their new retailer within the cooling off period provides the end user with an important reminder to consider their decision and also provides early advice in cases where the person who initiated the switch may not have consulted with other members of the household or with other responsibilities in the business.

Energy Consumers Australia would prefer the default condition to be that the transfer is affected immediately, without in any way compromising the cooling off period. If industry thinks the change to this default would require revised rules and procedures to facilitate change of mind reversals within the cooling off period, then we encourage them to submit them as part of this process.

We anticipate that other stakeholders may request the AEMC to consider reducing the length of the cooling off period as part of this process. Any such considerations should also look at related changes in the broader energy market. We note that many retailers have now voluntarily removed exit fees

³ AEMC, Reducing customers' switching times, Consultation paper, 4 July 2019, p.3.

⁴ Under rule 47 of the National Energy Retail Rules.

⁵ AEMO Rule change request and proposed high level design, p.23.



from their products, allowing consumers to switch at any time, without financial penalty. However, as exit fees are still permitted under the rules, there is potential for them to be reintroduced in the future.

In addition, the cooling off period can provide comfort to some consumers who are transferred following an unsolicited agreement or a pressurised sales call. Removing or reducing the cooling off period may result in the further erosion of trust in the energy market.

Compliance and enforcement

The joint AEMC-AEMO advice to the COAG Energy Council noted that their analysis of the existing process for customer transfers found a range of issues, some of which relate to retailer behaviour and non-compliance. In particular, the analysis found participants were raising a substantial number of non-compliant objections to customer transfer, such as objecting on the basis of customer debt, which is not a valid objection outside of Victoria.⁶

We support AEMO's proposal that the Australian Energy Regulator (AER) consider including new reporting requirements in the Retail Performance Reporting Procedures and Guidelines, to require retailers to provide information on the time taken from the date of first customer contact to the date of transfer for reporting purposes.⁷ This will be an important step in understanding the impacts of the proposed changes and in monitoring compliance with the new changes.

However, it is concerning that retailers have shown such substantial, and long-term non-compliant behaviour. Noting that any changes to the MSATS Procedures would be subject to civil penalty provisions, we ask that the AEMC consider whether this level of performance monitoring, and available compliance and enforcement actions will be adequate. We further request that the AER provide advice to the AEMC as part of this rule change on this non-compliance and relevant enforcement action.

Debt recovery

One benefit of improving the switching process is that consumers who are struggling to pay their bills will be able to transfer to a lower tariff more quickly. However, these consumers may also have outstanding debts with their old retailer. Previous experience has shown that energy retailers can be quick to transfer these debts on to debt collectors, potentially resulting in the consumer having a default listed on their credit report.

Concerningly, the most recent AER Annual Report on Compliance and Performance of the Retail Energy Market 2017-18 found that although fewer residential consumers are incurring debts,

"[T]here has been a significant increase in the amount of average electricity debt residential customers are accruing (excluding hardship program customers). The amount of debt has increased steadily over the past three financial years across almost all jurisdictions."⁸

These increasing debt levels will only serve to compound this issue for affected consumers.

Under the AER's Sustainable Payment Plans Framework, retailers must give inactive account customers (customers who no longer have a current account with a retailer but who still have a debt with that retailer) a reasonable opportunity to repay the amount owed, taking into account what they

⁶ AEMC and AEMO, Advice: Implementation options for ACCC recommendations 8 and 9 – customer transfers, p.4

⁷ AEMO Rule change request and proposed high level design, p.30.

⁸ AER Annual Report on Compliance and Performance of the Retail Energy Market 2017-18, p.51.



can reasonably afford. In negotiating a reasonable repayment plan, the retailer must apply the Framework's principles of flexibility, consistency, empathy and respect.

Consumer Action Law Centre's analysis⁹ of the 1867 calls to the National Debt Helpline from July 2017 to May 2019 found that debts from closed energy accounts were a concern, with the Centre receiving customer calls every month but one in this year. The risk to vulnerable consumers from debt collection are significant - unaffordable payment plans, excessive fees, adverse credit listings, and even bankruptcy for debts over \$5000.

This approach appears to be a pragmatic solution, ensuring that the consumer continues to pay their outstanding debt to their old retailer, but allowing them to switch to a tariff that better suits their needs. However, the Sustainable Payment Plans Framework is voluntary and therefore does not apply to all consumers, with only 18 retailers adopting the Framework to date.

The AEMC may wish to consider whether similar protections could be applied to all energy consumers. In addition the AEMC should include requirements for the reporting by retailers on the number of debts from former customers that have been transferred to debt collection agencies and an aging profile of these debts.

If you have any questions about our comments in this submission, or require further detail, please contact Jacqueline Crawshaw, Associate Director, by email at jacqueline.crawshaw@energyconsumersaustralia.com.au or by phone on 02 9220 5520.

Yours sincerely,

Rosemary Sinclair AM
CEO
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⁹ Consumer Action Law Centre, Energy Assistance Report, July 2019, p 19. Available at <https://consumeraction.org.au/energy-assistance-report/>