19 September 2019

Australian Energy Market Commission
PO Box A2449
SYDNEY SOUTH NSW 1235

Lodged online: www.aemc.gov.au

Regulating conditional discounts – RRC0028

Alinta Energy welcomes the opportunity to make a submission regarding the Australian Energy Market Commission's (**AEMC**) consultation paper *National energy retail amendment (Regulating conditional discounting) rule* released on 1 August 2019 (**the consultation paper**).

Alinta Energy is an active investor in energy markets across Australia with an owned and contracted generation portfolio of nearly 3,000MW, including 1,700MW of gas-fired generation facilities and 1,070MW of thermal generation facilities, and in excess of 1.2 million electricity and gas customers including more than 600,000 in east coast markets, and is therefore well placed to provide comments on the rule change request.

On 18 February 2019 the Honourable Angus Taylor, Minister for Energy & Emissions Reduction (**the proponent**), submitted a rule change request to regulate conditional discounting practices by energy retailers (**the rule change request**). The rule change request is titled *'Improving consumer outcomes and competition by regulating conditional discounting'* and is primarily supported by findings within the Australian Competition and Consumer Commissions (ACCC) Retail Pricing Inquiry – Final Report 11 July 2018 (**the REPI**). The proponent identifies two key issues with the energy market relating to comparability of offers and the ability for consumers to understand the impacts of not meeting conditional terms when considering offers. To mitigate these issues, the proponent's two key policy objectives are;

i. remove the excessive penalties on customers (particularly vulnerable customers) who pay after the due date, which are effectively resulting in those customers paying the highest prices in the market, and
ii. improve the comparability of market offers by simplifying and reducing conditional discounts, thereby reducing barriers to effective consumer engagement and enhancing competition.

Both the rule change request and the REPI are based on market data up to and including June 2018. Alinta Energy would urge the AEMC to consider that the contemporary materiality of these issues has significantly diminished since the introduction of the Default Market Offer (**DMO**) and the Electricity Retail Code of Conduct (**the Code**) in 1 July 2019. Since the introduction of the DMO consumers now have a greater ability to understand and compare offers in the market empowering them to select the most suitable offer based on price and associated terms. Furthermore, with the introduction of a transparent and comparable energy market, energy retailers have also organically changed the nature of their offers. Since the introduction of the DMO and the Code, retailers have significantly shifted their energy offers away from conditional discount offers. This is due in part by retailers having a price cap on their standing offers and removing the ability for retailers to advertise headline discounts from a higher standing offer rate. Coupled with the fact that all offers must disclose the percentage discount from the reference price in their offers, the percentage discount associated with the offer (conditional or otherwise) becomes secondary when consumers are considering the most suitable offer.

To that end, Alinta Energy is confident that the policy objectives raised by the proponent have become redundant since the introduction of the DMO and the Code. We urge the AEMC to consider the contemporary data provided as part of our submission when considering the materiality of the issues raised in the consultation paper.

The proposal to limit conditional discounts to the reasonable costs to retailers would be extremely problematic to develop, implement and monitor. Given that the materiality of the issue has significantly decreased since the introduction of the DMO and the Code, we would urge the AEMC to consider that this rule is no longer required.

Our further detailed comments on the consultation paper are set out below. Should you require any additional information or wish to discuss any aspect of our submission please contact Ante Klisanin, Retail Regulation Manager on (03) 8533 7344 or via email: ante.klisanin@alintaenergy.com.au

Yours sincerely

Shaun Ruddy
Manager National Retail Regulation

EMC – Regulating conditional discounting – consultation paper

Offer comparability

As noted in the proponent's policy objective, improving comparability would improve consumer engagement and ultimately lead to effective competition relating to pricing. Since the introduction of the DMO (referred to as the reference price) and the Code, all retailers are required to use consistent language with consumers, when communicating information relating to their offers. Regardless of the product construct, retailers are required to disclose two simple reference points to consumers, the annual lowest possible cost and the percentage difference between the annual total cost of the retailer's unconditional price and the reference price. This percentage difference between the reference price and the unconditional price must be conspicuously disclosed during the advertising and marketing process to ensure that customers are provided consistent, transparent information when selecting the most suitable offer.

This process allows consumers to make an informed and balanced decision, whereby consumers consider what the lowest possible cost could be, if all conditions are met, while identifying what the unconditional percentage amount off the reference price is if they do not meet the conditional terms.

Reviewing the regulation impact statement regarding the DMO and reference price reforms, the Department of the Prime Minister and Cabinet noted;

> *There are two objectives that the reform is seeking to meet.*
> *1. To place limits on standing offer prices to prevent retailers from taking advantage of disengaged consumers by increasing the prices of standing offers – well above the costs of supplying a customer on standard retail contracts.*
>
> *2. To increase transparency in the retail electricity market to allow consumers to easily compare offers and remove the confusion arising from pricing practices including discounts.*[1]

Looking at the policy objectives of the DMO, it is self-evident that the introduction of the DMO and reference price obligations were developed to achieve the same objectives as the consultation paper, particularly when considering the ease of comparability with energy offers in the market. Although the process to advertise offers in the market has become more labour intensive for retailers, in our view the DMO and reference price reforms have vastly improved the ability of consumer to compare offers in the market.

[1] Department of Prime Minister and Cabinet, Regulation impact statement – the introduction of a Default Market Offer (DMO) price cap and reference bill on retail electricity prices, 5 April 2019, p. 13.

Furthermore, Alinta Energy also note that the number and type of offers available in the market have changed considerably to evolve with the new regulatory framework. This further supports Alinta Energy's view that the rule change request is unnecessary in the current energy market as the number of conditional discounted offers have significantly reduced from 1 July 2019. Contemporary market data supporting this view is presented in Question 3 of our submission.

Excessive penalties

Alinta Energy has concerns as to the scope of the consultation paper, particularly as a conditional discount is considered a benefit. The consultation paper seems to associate and consider capping the loss of benefits and conditional discount with late payment. Although Alinta Energy considers conditional discounts as the tangible benefit a consumer receives by meeting conditional terms, we do not believe any other form of benefit should be captured as part of the consultation paper. We appreciate that the policy objective of the rule change request is targeted at vulnerable customers but offers that provide non-price related benefits are generally not designed to attract vulnerable customers. Any limitation on these types of non-price related benefits would hinder innovation and choice in the energy market.

Furthermore, Alinta Energy considers conditional discounts as a way for consumers to access lower cost offers in the energy market. Since the introduction of the DMO and the Code, a majority of retailers have removed conditional discounted offers from the market in entirety. Contemporary market data supporting this view is presented in Question 3 of our submission.

The impact of these withdrawn conditional discounted offers has led to marginal price disparity and a lesser impact on consumers for meeting conditional terms. This outcome is highlighted in the *St Vincent de Paul Society's tariff tracking report* (***St Vincent report***),

> *Since the introduction of the DMO, however, many electricity retailers have moved away from pay on time discounts to offer guaranteed discount or no discount at all. Consequently, the difference between the average bill (across all retailers) paid late versus on time is now low (approximately $110 per annum).*[2]

Alinta Energy reaffirms the point that the energy market has changed significantly since the introduction of the DMO and the Code and any excessive penalties have organically been removed by retailers since 1 July 2019. The figure below, represents a time series of the maximum conditional discount percentage offer in the New South Wales, Queensland and South Australian markets.

[2] St Vincent de Paul Society, New South Wales Energy Prices July 2019, An update on the NSW Tariff-Tracking Project, p. 21

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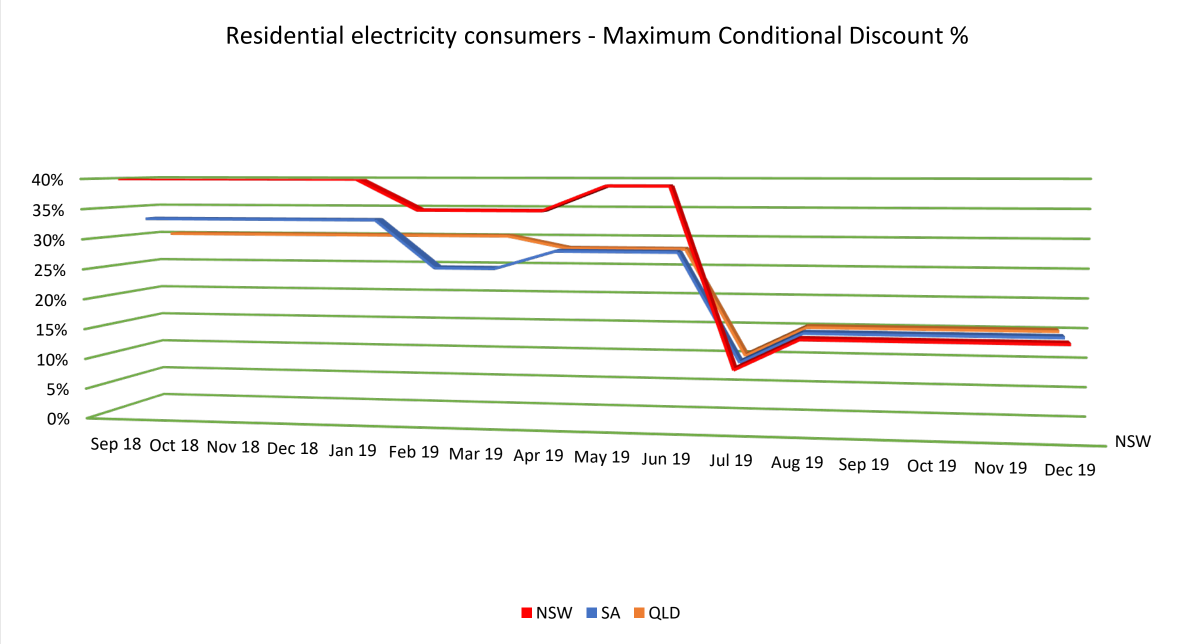


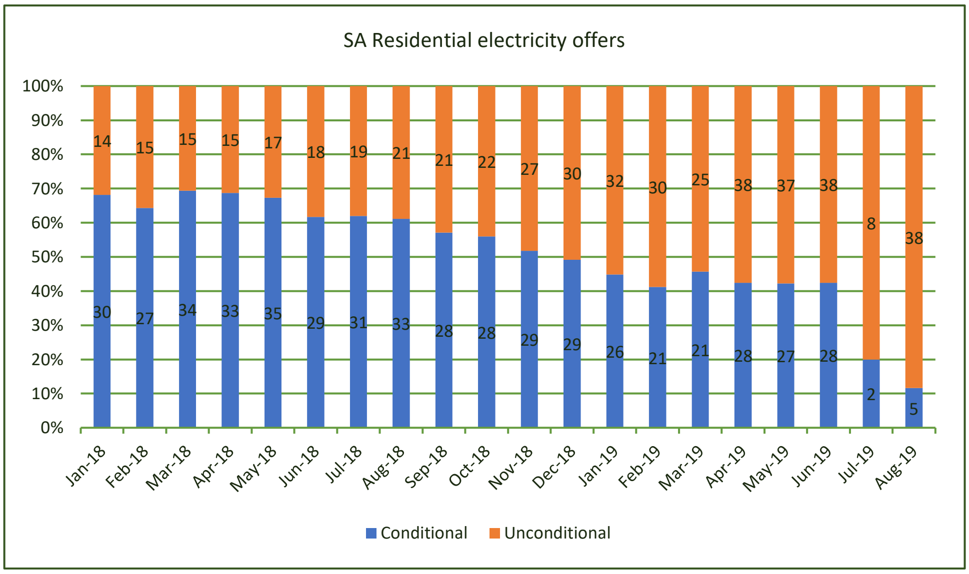
The figure above illustrates the significant reduction in conditional discount percentages since 1 July 2019. Currently in all three markets, the highest conditional discount is 15%, when compared to conditional discounts ranging from 30 to 40% prior to 1 July 2019.

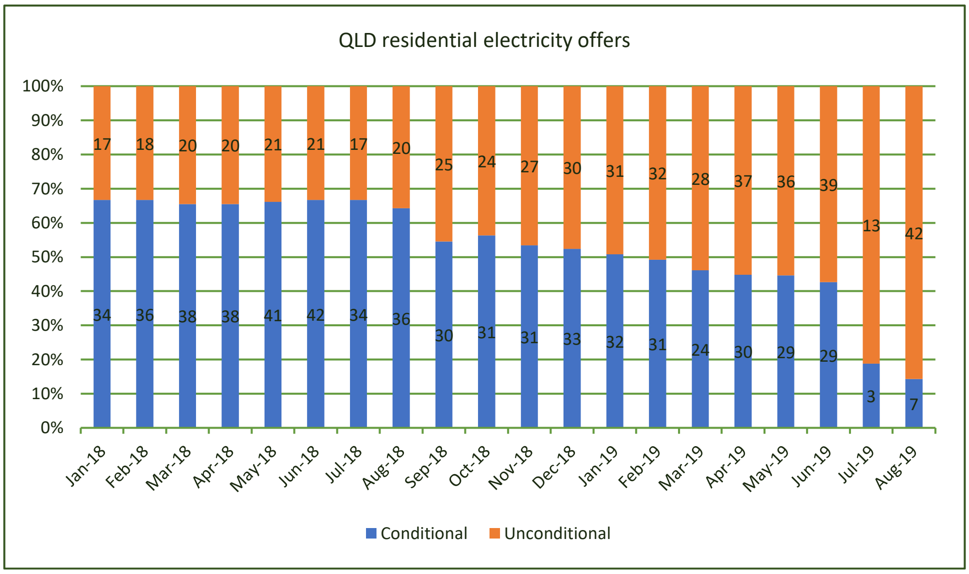
The consequence of this reduction in conditional discount offers in the energy market results in far less of a financial impact on not meeting the conditional terms. As discussed in the St Vincent report, the average financial consequence, compared to the DMO, of not meeting a conditional term of offers in the NSW market has significantly reduced to $110 per annum. Similar reductions would be consistent in the Queensland and South Australian markets.

Key data needed to establish materiality

In addition to the percentage of conditional discounts reducing in the energy market, we note that the number of conditional discount offers being offered in the market has also significantly reduced. The Tables below illustrate the time series of the number of conditional and unconditional offers in the energy market.


NSW residential electricity offers
100%
90%
80%
70%
60%
50%
40%
30%
20%
10%
0%
Jan-18
Feb-18
Mar-18
Apr-18
May-18
Jun-18
Jul-18
Aug-18
Sep-18
Oct-18
Nov-18
Dec-18
Jan-19
Feb-19
Mar-19
Apr-19
May-19
Jun-19
Jul-19
Aug-19
63 66 69 72 78 78 66 72 83 80 85 93 91 91 76 103 103 110 30 120
112 118 127 127 136 109 106 111 91 100 102 98 98 89 74 101 101 104 15 35
Conditional
Unconditional


SA Residential electricity offers
100%
90%
80%
70%
60%
50%
40%
30%
20%
10%
0%
Jan-18
Feb-18
Mar-18
Apr-18
May-18
Jun-18
Jul-18
Aug-18
Sep-18
Oct-18
Nov-18
Dec-18
Jan-19
Feb-19
Mar-19
Apr-19
May-19
Jun-19
Jul-19
Aug-19
14 15 15 15 17 18 19 21 21 22 27 30 32 30 25 38 37 38 8 38
30 27 34 33 35 29 31 33 28 28 29 29 26 21 21 28 27 28 2 5
Conditional
Unconditional


QLD residential electricity offers
100%
90%
80%
70%
60%
50%
40%
30%
20%
10%
0%
Jan-18
Feb-18
Mar-18
Apr-18
May-18
Jun-18
Jul-18
Aug-18
Sep-18
Oct-18
Nov-18
Dec-18
Jan-19
Feb-19
Mar-19
Apr-19
May-19
Jun-19
Jul-19
Aug-19
17 18 20 20 21 21 17 20 25 24 27 30 31 32 28 37 36 39 13 42
34 36 38 38 41 42 34 36 30 31 31 33 32 31 24 30 29 29 3 7
Conditional
Unconditional

Having identified that the conditional discounted percentages have significantly decreased since 1 July 2019, the tables above also confirm that the number of conditional discounted offers in the market have also significantly decreased. To illustrate this shift in materiality, 60% of market offers in all three states were conditional discounted products. As opposed to August 2019, were conditional discounted offers make up 17% of offers in Queensland, 12% of offers in South Australia and 22% of offers in NSW. We would urge the AEMC to consider that this rule is no longer required.

Solutions

At this stage in the evolution of the energy market, Alinta Energy views that it would be prudent to not proceed with a rule change. Allowing retailers, the flexibility to introduce conditional discounts may be a key driver to driving prices down, reinvigorating competition and stabilising their credit risk across their energy portfolio. Linking the consultation paper back to the original two objectives; comparability and removing excessive penalties, Alinta Energy are confident that the DMO and the Code have achieved these objectives from 1 July 2019 onwards.