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**Australian Energy Market Commission**

**P0 Box A2449**

**Sydney South NSW 1235**

**Lodged via the AEMC Website**

**7<sup>th</sup> November 2019**

**AEMC Draft rule determination - Reducing customers' switching times (RRC0031)**

ReAmped Energy Pty Ltd (**ReAmped**) welcomes the opportunity to respond to the draft rule determination on reducing customers' switching times published on 26 September 2019 (**determination**).

We are one of several small energy retailers that have invested significantly in building streamlined and efficient business models that allow us to consistently offer our customers lower prices. This is reflected by our market leading position on Energy Made Easy. The Australian Competition and Consumer Commission (**ACCC**) noted in its August 2019 Report that improving competition in the retail market should drive down prices<sup>1</sup>.

However, as was found in the ACCC's Retail Electricity Pricing Inquiry in June 2018 (**REPI**), competition in the energy retail market is not occurring on a level playing field<sup>2</sup>.

The ACCC observed, large incumbent retailers enjoyed significant advantages of scale and can make very attractive offers to retain customers, effectively through cross subsidies paid by their large inactive customer cohort. They can compete selectively, with a disproportionate focus on efforts to retain profitable customers, rather than win new ones. This means the full extent of costs associated with attracting and retaining customers are borne by inactive or loyal customers and those unable to navigate the complexities of the market<sup>3</sup>.

By contrast, the smaller retailers invest large sums to attract and acquire new customers. In the same report (REPI), based on feedback from the smaller retailers to the ACCC, 20% of newly acquired customers are lost due to saves and win-backs<sup>4</sup>.

ReAmped broadly supports the determination as it constitutes a move towards a level playing field in the retail market by reducing 'save' activity by incumbent retailers. It will put pressure on all retailers to compete for their customers which will allow competitive forces to drive prices lower.

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<sup>1</sup> Inquiry into the National Electricity Market—August 2019 Report – ACCC p 16.

<sup>2</sup> P 151 REPI

<sup>3</sup> P 142 REPI

<sup>4</sup> P 142 REPI



While the effectiveness of the rule change is contingent on AEMO procedural changes, we believe the determination is consistent with the National Energy Retail Objective as it will:

- Immediately increase efficiency for consumers being provided energy services;
- Improve current inefficiencies associated with move-in scenarios; and
- Facilitate competition resulting in cheaper electricity prices for customers.

### **The ‘win back’ and ‘save’ distinction**

While ReAmped supports the proposed rule changes, we consider that alone they are insufficient to create the desired level playing field in the retail market. If implemented effectively, the determination in its current form should prevent ‘save’ activity – i.e. retailers acting on a notice that a customer intends to transfer to another retailer, before the transfer can be completed. However, we submit that this will have only a limited impact on improving competition, as there are no restrictions on ‘win-back’ activity – i.e. retailers offering a former customer a lower price after they learn that customer has switched to a competitor.

The proposed rule change will do very little to prevent retailers from engaging in the conduct that the rule change aims to prevent, because it merely pushes the opportunity to retain the customer to a later time. Put simply, it prevents ‘saves’ but not ‘win-backs’. Therefore, a result of the change will likely be an increase in customer win back activity, even if customer saves are reduced or eliminated.

### **Impact on competition**

We understand there is a view that the presence of both win back and save activity is an element of a functioning market and may help a small number of savvy customers achieve the best possible electricity prices. However, we submit win-back and save activity also:

- favours large retailers, particularly the incumbents;
- disadvantages smaller retailers who waste acquisition costs;
- indirectly increases the tariffs of non-switching customers due to cross-subsidisation; and
- is entirely unsuitable in a recently de-regulated market dominated by three large incumbents.

In its REPI, the ACCC noted that “[i]n retrospect, the creation of three very large retailers was not the best starting point for a competitive market”. This is why, despite the arguments for and against the practice of winning back customers, given the current state of the retail market and history of its formation, it is well recognised that the practice should be curbed for a time to ensure competition can flourish.

Despite the timing distinction between ‘saves’ and ‘win backs’, the policy reasons for preventing them are the same, and these reasons have been supported by the ACCC, AEMO and the AEMC. Therefore, it is puzzling that the proposed rule change only addresses the practice of saving a customer but does little to prevent them from being won back shortly after a transfer. It only addresses half of the problem that has been recognised.

### **Restriction on win backs**

To address the issue in its entirety and ensure a level playing field for smaller retailers, ReAmped submits that a six-month restriction on ‘win-back’ activity should also be considered. Such a restriction could be implemented as a temporary measure and would allow smaller retailers to gain a foothold



in the market and ultimately force down prices being offered by the incumbents. Given the potential for customer savings, other regulatory bodies have recommended a similar approach.

Based on the findings from an independent review commissioned by the NZ Minister for Energy and Resources, the Electricity Authority in New Zealand (EA) have proposed a six-month ban on retailers trying to win back customers. The CEO of the EA offered the following statement:

*“We have a competitive electricity industry, but this (six-month ban) will do more to encourage innovation and increase competitive pressure. This is about setting a foundation so all retailers – large and small, old and new – have equal opportunity to compete for customers. This proposal puts the pressure on retailers to fight for their customers and offer them something new and different”.<sup>5</sup>*

Further, the following suggestion was also put forward as the only recommendation of the Independent Pricing and Regulatory Tribunal (**IPART**) in its 2018 Market Monitoring Report:

*The NSW Government submit a new transitional rule change to the AEMC to prohibit retailers from engaging in retention and win-back activities for six months following a switch. The proposed rule should be in place for a fixed transitional period (for example, three years) while competition continues to develop.<sup>6</sup>*

As we have set out above, the problem is well recognised - the ‘big three’ electricity retailers have a financial advantage over new entrants meaning they can offer cheap win-back or retention offers to their customers who have switched retailers. A symptom is that their long-standing customers suffer.

ReAmped strongly supports the determination insofar as it prevents ‘save’ activity, but if this well-recognised problem in the National Electricity Market is to be resolved, ‘win back’ activity also needs to be addressed.

Yours sincerely

Jason Donald

Founder & Chief Executive Officer  
ReAmped Energy Pty Ltd

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<sup>5</sup> <https://www.ea.govt.nz/about-us/media-and-publications/media-releases/2019/electricity-authority-welcomes-electricity-price-review-report-2/>

<sup>6</sup> IPART 2018 Market Monitoring Report