

**1 February 2022**

Ms Anna Collyer  
Chair  
Australian Energy Market Commission

Submitted electronically

Dear Ms Collyer,

## **We think it's time to put an end to cynical 'win-back' offers across the country**

The Australian energy retail market has undergone significant reforms over recent years to make it fairer and easier for consumers to make better-informed decisions about retailers, offers and how to reduce their costs, while creating a transparent benchmark price for those who do not engage in the market. This means households can now shop around with greater confidence of finding a genuinely good deal, while helping to form a more competitive landscape for retailers like ReAmped Energy to compete and create a downward pressure on prices. At a time of favourable market conditions, it is full speed ahead for the retail market and consumers are benefiting from lower energy bills<sup>1</sup>.

But there are still some cynical practices, primarily undertaken by the incumbent retailers, that continue to put the brakes on the improved competition that is benefiting many consumers every day but could be benefitting even more. Customer 'win-back' offers are a barrier to healthy retail competition and effectively an unfair advantage that is preventing more retailers, the incumbents included, from truly engaging in the market in the transparent and level-playing-field environment they could and should be.

Now that win-back offers have been banned in Victoria, we think the time is right for the practice to be prohibited across the rest of the country and encourage the Australian Energy Regulator and the Australian Energy Market Commission to begin the process of seeking the legislation that will outlaw the practice in New South Wales, Queensland, South Australia, Tasmania and the ACT.

As noted by the Victorian government in May 2021<sup>2</sup>, customer win-backs offers "often include short term discounts but end up costing consumers more in the long run. This misleading tactic is used by retailers to stifle competition and by banning them customers will be able to judge the genuine best price in the market – and not just for a limited time".

As a retailer that competes at the sharp end of the market, we see first-hand the impact that win backs have. Over the last 12 months, as many as 10% of new customers signing up with ReAmped Energy each month have been won back by their old retailer. On average over the last 12 months, the number is around 6%.

The traditional view of win backs has been that consumers can benefit from personalised offers to keep them with their existing retailer, and while this could be true in the short term, the practice is unlikely to be in the best long-term interest of the customer and certainly not in the best interest of

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<sup>1</sup> <https://www.accc.gov.au/media-release/cost-of-supplying-electricity-to-households-at-an-eight-year-low>

<sup>2</sup> <https://www.premier.vic.gov.au/new-rules-energy-retailers-protect-households>

the market in general. Not all win backs are treated equally because the offers retailers are willing to make can be based on the 'value' of the customer to the retailer. The more energy a household uses, the more profitable it is to the retailer and therefore the more willing the retailer is to move the goal posts to keep them.

- **Customer impact:** The ability for the incumbent retailer to provide a win back offer means they do not have to provide their best price while they have the customer.
- **Inequity:** Because retention deals are based on 'value' to the incumbent, including credit history, vulnerable customers with a poor payment history will miss out on the benefits of competition.
- **The competition impact:** The incumbent retailers can compete in the switching market by leveraging the profits made on loyal customers, creating an unfair playing field.

When big power companies have teams dedicated to customer retention and have a greater focus on preserving their 'backbook' than competing in-market for new customers, you know the system could be improved. What's more, knowing that a large proportion of their base are unlikely to ever leave means retailers can make excess profits that are used to offer sharper prices to those who do threaten to switch. It is wholly unfair that those paying the highest prices are subsidising the savings of those who engage in the market.

Not only does the practice of win backs highlight the loyalty tax that many customers pay, but we are also concerned about the impact it has on switching behaviour. A consumer presented with a slightly improved deal to remain with their current retailer may be missing out on greater savings compared to new deals available by switching, but the retention offer may be enough to convince them that the hassle of switching is not worth it.

In addition, it is cheaper for the incumbents to re-price existing customers who attempt to switch, than having to be proactive in the whole market. This is not a sign of a healthy retail market.

At ReAmped Energy, we're committed to playing our part in creating healthy retail conditions where no household is taken for granted and where consumers are incentivised to switch to chase the best deals without getting a phone call from their existing retailer that has suddenly conjured up a better offer to prevent them leaving.

This undermines the purpose of a contestable market where retailer innovation and competition is proven to put a downward pressure on prices to the benefit of all consumers who engage and shop around.

Yours sincerely,



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# RE proposed change to National Energy Retail Rules from ReAmped Energy

## Name and address of person making the request:

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## Description of the proposed rules

ReAmped Energy proposes to amend the National Energy Retail Rules (NERR) to remove the ability for losing retailers to 'save' or provide 'win back' offers to switching customers.

We propose that losing energy retailers must not:

- Contact switching customers to offer them improved deals to stay, including by offering new or improved discounts or benefits, or by offering a new contract.
- Contact switching customers or market new products directly to them for a period of at least six months following notification of their intent to switch retailers.
- Direct a third party or other agent to contact switching customers with the intent to provide an improved discount, benefit or other incentive to enter into a new contract with the losing retailer for at least six months.

There should be an exception where the customer explicitly asks the losing retailer to make an offer for them to stay or return and the rule would not prohibit the losing retailer from marketing towards the customer through general marketing activity. But the losing retailer must not directly contact any switching customer at their home or by telephone for at least six months.

## Nature and scope of the issues with the existing rules

The energy retail market has become rather predictable, with a relatively small number of engaged consumers being able to take advantage of the cheapest deals in market, while the vast majority of households remain with the incumbents<sup>3</sup> who appear more interested in preserving their backbook than attracting new customers. Knowing that a significant proportion of their base is unlikely to ever switch and a certain percentage of those who do attempt to leave can be saved with retention offers means that the incumbents and large Tier 2 retailers are not incentivised to seriously compete at the sharp end of the retail market.

When retailers with the greatest market force and capacity to offer some of the cheapest deals in market do not have a compelling business case for doing so, something is clearly not working as it should. One of the Big 3 retailers with a gradually declining market share<sup>4</sup> is quite literally clinging onto its customer base, thanks in part to its ability to save switching customers, while its offers to new customers are generally uncompetitive compared with the cheapest deals in market. While it preserves the ability to save a proportion of switching customers – often with retention offers that are not as competitive as the deals customers could get by switching but may be just about enough to convince some customers that switching is not worth the hassle – it is effectively a slowly sinking ship having a detrimental impact on retail competition broadly.

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<sup>3</sup> [https://www.aer.gov.au/system/files/State%20of%20the%20energy%20market%202021%20-%20Full%20report\\_1.pdf](https://www.aer.gov.au/system/files/State%20of%20the%20energy%20market%202021%20-%20Full%20report_1.pdf)

<sup>4</sup> EnergyAustralia electricity market share (small customer) NSW down 28%-26%, Victoria down 18%-15% from 2018 to 2021 AER state of the energy market reports 2018 and 2021 <https://www.aer.gov.au/publications/state-of-the-energy-market-reports>.

We believe that, by removing the ability for incumbent retailers to plug the hole of their diminishing customer bases, it will force them to be more competitive in the market, to the benefit of all energy consumers.

The incumbent retailers that are maintaining or even increasing their market share are the greatest but most undeserving beneficiaries of the distinct advantage of preserving a proportion of switching customers with win back offers given that a majority of consumers favour the big energy companies because of perceptions around reliability and superior customer service<sup>5</sup>.

Customers who are convinced to remain with their existing retailer seem almost destined to fall back into the same trap of paying more than they need to once the benefit period of their improved offer expires, given that such retention offers usually only come with a temporary reduction in costs.

As a retailer doing its bit to drive price competition, we want to see the incumbents and all retailers offer their best deals to the market broadly, not just to customers who show a desire to leave. More than anything else, this practice epitomises the imbalance in the market where customers paying the highest prices are subsidising the savings of those who engage and chase the best deals.

### **How the proposed changes would address the issues**

By prohibiting the incumbents and other retailers from engaging in the cynical practice of win-backs, these retailers will be forced to engage more proactively in the market, offering sharper prices to all customers, not just those who threaten to leave. With the biggest retailers joining the small selection of price-competitive players at the budget end of the spectrum and forcing a downward pressure on prices across the board, more consumers will be able to benefit from this renewed competition.

We believe the change will also help to motivate and incentivise customers who have never or rarely switch providers in search of greater savings to do so while allowing those who have previously been saved from switching to maximise their potential savings, instead of accepting a marginally improved deal to stay with their existing retailer. While the industry reforms of recent years have undoubtedly had a positive effect for many consumers, most notably for those who do engage in the market who now pay a fairer price for power, the only downside is that these people now have less of a financial incentive to switch away from their respective incumbent. We believe the proposed change can only be a good thing in encouraging greater engaging in the retail market.

### **Expected benefits of the proposed change**

A recent study by St Vincent de Paul Society<sup>6</sup> found that Australians are missing out on \$500 million in energy bill savings by failing to shop around and switch to one of the cheapest deals in the market. This means that many Australian families are currently overpaying for power even though significant savings are easily accessible, but for whatever reason these customers do not compare offers. This is why ReAmped Energy is in favour of any industry rule changes that improve engagement in the retail market and encourage more consumers to take the opportunity to reduce their bills if they can.

The report from St Vincent de Paul Society notes that up to six million households in the contestable states could save as much as \$200 a year having failed to take advantage of the wholesale conditions that have seen energy bills drop for many engaged customers since mid-2020. It seems reasonable to assume that the majority of households missing out on savings remain with the incumbents and have not switched providers or plans in years. This would appear to be a compelling case for encouraging greater participation in the market, particularly for customers on the backbook of the incumbents.

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<sup>5</sup> <https://www.esc.vic.gov.au/media-centre/customers-stick-big-energy-even-when-they-might-find-better-deal-elsewhere>

<sup>6</sup> <https://www.abc.net.au/news/2021-02-17/australians-are-missing-out-on-500m-electricity-bill-savings/13108540>

We believe the removal of customer win-backs could also help improve trust and transparency in the industry more broadly. The practice of customer win-backs, whereby losing retailers cynically conjure up better deals to keep switching customers, epitomises the view that many Australians will hold of energy retailers. Improving trust can only benefit the overall objective of increasing switching rates.

### **How the proposed change will contribute to the achievement of the National Energy Retail Objective (NERO)**

The NERO states that: *“the objective of this Law is to promote efficient investment in, and efficient operation and use of, energy services for the long-term interest of consumers of energy with respect to price, quality, safety, reliability and security of supply of energy.”* (Ref: National Energy Retail Law, section 13).

ReAmped Energy believes that, by removing the ability of the incumbents and other large retailers to retain customers who show an appetite for switching to a cheaper deal – often with retention offers that are not as competitive as those the customer could switch to – this change would contribute to the long-term best interest of Australian consumers when it comes to the price they pay, in line with the aforementioned objectives.

Not only does it mean more active customers could switch to better offers rather than being saved by their existing retailer, but it encourages a culture of engagement in the retail market that stands to benefit customers in the long-term, while improving transparency in the sector as consumers are left in no doubt that the way to truly get the best deal is to shop around.