

Paul Hayes

11 December, 2024

Anne Collyer
Chair
Australian Energy Market Commission
Level 15, 60 Castlereagh Street
Sydney, NSW. 2000.

Also submitted online

Dear Ms Collyer,

Consultation Paper: *The Pricing Review: Electricity Pricing for A Consumer Driven Future*

I refer to AEMC's above Consultation Paper.

I now provide a feedback submission on that Paper in the attached.

Yours sincerely,

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Feedback Submission to the Australian Energy Market Commission (AEMC) on questions raised in its Consultation Paper *The Pricing Review: Electricity Pricing for a Consumer-Driven Future* dated 7 November, 2024 (*The Consultation Paper*).

INTRODUCTION

This submission addresses some of the questions contained in the Consultation Paper but not others.

By way of an overarching comment, it is unfortunate that the Consultation Paper uses language that is often difficult to follow and full of unnecessary jargon.

The aim of avoiding possibly pejorative terms, while admirable, sees the Consultation Paper stray a long distance from plain English. For example, nowhere does it talk about poor people or even the more contemporary “people from a low socio-economic background.” Instead, it uses opaque phrases like “vulnerability to cost-of-living pressures”, “vulnerable customers” and “low resources”.

Similarly, a tendency to rely on bureau-babble makes it difficult – if not impossible – for members of the public to provide meaningful responses to particular questions. For example:

“Do you agree that engagement is the primary axis of differentiation among electricity customers?”

FEEDBACK TO PARTICULAR QUESTIONS

Question 1: Do you consider that we should make any changes to our proposed approach to this review?

Yes. The Pricing Review needs to pay much greater attention to the electricity cost pressures experienced by poor people and people who have limited capacity to change their electricity use (normally working families).

The review also needs to explore those areas of the current system that take agency way from the customer and provide the customer with nasty surprises.

The Consultation Paper includes a number of vignettes which are, at best, atypical and somewhat fanciful. It omits an obvious scenario that currently applies and which will also apply in the future: the working family. Here, for your consideration, is a working family vignette:

Sandra and Marco live in Whyalla and have two young children. They both have office jobs which are reasonably well paid. However, like many young families, they are experiencing cost of living pressures. They have to pay childcare while they work. They are renting and their rent has increased very significantly in the last two years. They dream of buying their own home one day but are struggling to put money aside for a deposit.

Sandra is surprised to discover that her electricity retailer has changed her over to a smart meter without her and Marco’s consent. When she contacts the retailer, she is told that her standard market contract waived her rights to object. Sandra is also surprised to find her retailer has put her on a time-of-use contract without her knowledge or consent. She only finds this out when the next bill comes in.

Sandra notes the high tariff that applies during Peak Periods. She and Marco consider whether they can change their electricity use to avoid some of the Peak Periods.

Sandra is shocked to find out that in South Australia the Peak Periods run from 6.00 am to 10.00 am and 3.00 pm to 1.00 am. Sandra and Marco's work commitments mean they are not at home on weekdays between 10.00 am and 3.00 pm; and they are generally asleep between 1.00 am and 6.00 am.

They have a washing machine that does not have a pre-timing setting; but they go to Bunnings to buy a plug-in timer. They try this at night but the noise of the washing machine disrupts the family's sleeping patterns.

The use of a plug-in timer makes it possible for them to do a single load of washing while they are at work but if they need the clothes the following day – for school or for work – they are forced to operate an electric dryer during the Peak Period.

Due to the vicissitudes of modern life, they have to do additional loads of washing during Peak Periods. Both the volume of washing they have and their preference to separate out the loads (whites, coloured items, etc), combined with the complexities of two working parents, mean that the attempt to scheduling washing during the day is frequently unsuccessful.

The dishwasher is supplied by the landlord and does not have a pre-timer setting. Their plug-in timer cannot fit into the narrow cavity under the sink where the power point is located. So Sandra and Marco can only operate the dishwasher when they are home during Peak Periods.

Sandra and Marco cannot install solar panels as they are only renting.

Sandra and Marco look around for retailers offering flat tariff contracts. Only two of the 26 providers offer a flat rate and in both cases the flat rate is prohibitively expensive.

Sandra and Marco are at their wits end and feel trapped in a cycle of electricity bills that are actually higher under the smart meter/time-of-use regime. They are also at their wits end about their complete lack of agency in ending up in this position. Because they both work, they don't qualify for subsidies that are available to unemployed people and pensioners.

Sandra and Marco's parents grew up in an era when electricity involved no consumer decisions because it was owned by the Electricity Trust of South Australia. Consumers were conformable that they were not being ripped off because the industry was government-owned and not driven by motives of profit and price gouging and Orwellian language that constantly infects the retailers' communications with them. Sandra and Marco long for those simpler times.

This vignette is realistic, would cover a significant portion of customers and has no neat technological solution.

Conclusion

The review needs to very clearly address the vignette of working families who have very limited ability to change their electricity use to lower their consumption and avoid higher bills. In three places, the Consultation Paper makes only very brief allusion to this scenario notwithstanding that this scenario will play out across Australia with a very significant percentage of the population.

Question 2: What are your views on our proposed Consumer Preference Principles?

The Principles have two significant omissions. Consumers want a regime that entails no surprises when they engage with it and they want a regime that gives them a high degree of agency.

The current regime has significant surprises in store for customers where they have little or no agency. Here are five specific real-life surprises arising from actual lived experience.

1. Customer is surprised to find out that they are getting a smart meter without their knowledge or consent.

How can this be given the consumer notification requirements in National Energy Retail Rule (**NERR**) 59A? Well, that would be because the retailer has written into their standard market contract a waiver by the customer of all their 59A notification and choice rights. Of course, in reality, the customer has no consciousness of having waived these rights as the retailer has never brought them expressly to the attention for the customer; until the moment that the customer wants to enquire and seek some sense of agency in the matter.

This misleading and deceptive conduct by the retailer is expressly encouraged by the rule 59A(8) exception. These statutory rights should not be capable of being waived or contracted out of.¹

2. Customer is surprised to find out they have been moved onto a time-of-use tariff without their knowledge or consent.

Again, how can this be given the consumer notification requirements for tariff changes under NERR 46? Well, that would be because the retailer has no prior notification requirements as Rules 46(4C) is an exception where the distributor has carried out a tariff reassignment. The only obligation of the retailer is to notify the customer by not later than the next billing cycle. There should be no such exception.

3. Customer is surprised to find out their retailer is moving them unilaterally from a quarterly billing cycle to a monthly billing cycle. The retailer's standard correspondence communicating this change does not ask if this would suit the customer and gives no indication that the customer has any choice in the matter.
4. South Australian Customer is surprised to find out that they really have very little to no opportunity to adjust their peak electricity use to non-Peak Periods. Customer is shocked to find out how long the peak tariff periods are in SA; 14 out of 24 hours and no relief on weekends.

Customer works during the day. Customer is at home in the morning getting ready for work and then comes home in the evening to cook the meal, watch some television and do the washing. So Customer is not at home during the shoulder period of 10.00 am to 3.00 pm. Only choice for customer to adjust their use is to get up at 5.00 am in the morning to do the washing etc or stay up until 1.00 am in the morning. Customer is surprised and outraged and notes this is very draconian compared to peak tariff period in all other distribution networks. Customer is surprised to find out this was proposed by SA Power Networks and approved by AEMC.

¹ Similar to the prohibition against the waiving of other consumer rights found in the Australian Consumer Law (eg: see section 64A).

5. Customer is surprised when retailer advises of tariff changes with deceptive language “Good change is coming your way” and the only changes are that all charges are going up. There is not one change that is good for the customer.

Conclusion

The Customer Preference Principles need to be supplemented with the following two extra Principles:

No surprises: Customers should never encounter surprises in dealing with their retailer.

Agency: Customers should have a high level of agency in any changes a retailer wants to make to their electricity supply arrangements.

Question 3: What are your views on our proposed Consumer Archetypes

The proposed Consumer Archetypes suffer from overly broad categories expressed in unnecessary abstruse jargon and/or bureau-babble. They should be reworked and clearly cover the following two types which are not captured properly or clearly by the Consultation Paper’s arcane classifications:

- Customers whose lifestyle and obligations mean they have very limited capacity to change their electricity use and therefore are substantially prejudiced by time-of-use contracts especially in distribution networks like South Australia where the Peak Periods are punishingly long and unavoidable. (See above vignette)
- Customers who want a greater sense of agency in their arrangements and find it disturbing when changes are made by retailers or distribution network providers without their knowledge or consent and these changes result in higher charges.

Conclusion

This should all be converted into Plain English (eg; Customer Types) and they need to clearly include as significant types Customers who want agency and Customers who cannot easily change their electricity use.

Question 5: How could electricity products, services, and pricing structures be presented to serve future consumers?

Retailer accounts and correspondence should not use misleading and deceptive language such as “good change is coming your way”² and then propose a raft of charges which are all higher than the current charges. Any proposed charging regime should be expressed in clear and neutral terms with all advertising and propaganda terminology prohibited.

Any retailer proposing an amended tariff regime should disclose the current charging regime, and the new regime in tabular form so the customer can readily understand which changes are beneficial to them. This is similar to the insurance industry where the insurer, when quoting the premium for the next year is now obliged to show the premium that was charged for the current year.

All retailers should be obliged to offer an easily understood flat rate option.

² On 18 November 2024, I received a letter from Origin Energy with the title “Good change is coming your way”. When I called Origin, they confirmed that all of my tariffs were increasing and that, in fact, there was no “good” change.

Conclusion

Products, services and communications should not be misleading and should have much greater simplicity and transparency and include options of a flat rate tariff regime.

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