

9 July 2007

Australian Energy Market Commission
PO Box H166
Australia Square NSW 1215

Retail Competition Review — Response to Issues Paper

The Victorian Council of Social Service (VCOSS) has served Victorians as the peak independent coordinating body of the social and community services sector for over 60 years. VCOSS raises awareness of the existence, causes and effects of poverty and inequality and advocates for the development of a sustainable, fair and equitable society. As well as promoting the wellbeing of those experiencing disadvantage and contributing to initiatives seeking to create a more just society, VCOSS also provides a strong, non-political voice for the community sector.

VCOSS works together with its members on issues of poverty and inequality and seeks to ensure that community resources and services are accessible and affordable. VCOSS promotes community participation and strengthening the value of citizenship in our community. VCOSS advocates on behalf of disadvantaged Victorians through:

- policy development and analysis;
- direct advocacy to government;
- evidence based research;
- reports, media releases and submissions;
- an annual State Budget submission; and
- strengthening the community sector with collaborative initiatives and by providing a range of services to member organisations.

VCOSS appreciates the opportunity to contribute to the Review of the Effectiveness of Competition in Gas and Electricity Retail Markets. Having been closely involved with many aspects of the Victorian energy industry for several years, we are cognisant of the significance of this review in the continuing development of the market, and eager to share our understanding of its different facets. The following considers in turn most of the issues raised in the Issues Paper, followed by some summative comments.

Independent rivalry and behaviour of retailers

There is no doubt that a considerable degree of rivalry exists between energy retailers in Victoria. However rivalrous behaviour does not *of itself* indicate effective competition. In complex markets — and energy is one of the most complex retail markets — traders may compete fiercely to sell misunderstood products to ignorant consumers via predatory marketing. It is our concern that this is happening to some extent in Victoria, and we urge the Commission to investigate this thoroughly during the review.

Price-based competition

We do not believe that there is any significant price-based competition in the Victorian domestic retail market. Even when sales staff tell prospective customers that a new offer is cheaper, the claim is sometimes spurious,¹ and the difference usually marginal.² A recent study by the Footscray and Essendon Community Legal Centres found that while a quarter of ‘switchers’ did so for a cheaper price, not one actually compared the new price with their existing contract. Furthermore, those who subsequently found that their bills had risen believed that they had been misled — none considered whether their consumption might have increased. Widespread ignorance about the price of electricity and how tariffs, standing charges and consumption interact to produce the final cost leads to an environment in which price-based competition simply does not occur in any meaningful way.

Non-price competition

We believe that churn in the Victorian market is largely driven by non-price offerings. Research undertaken in Victoria in 2005³ and 2007⁴ supports this conclusion. There are two distinct types of non-price offerings:

- **Inducements** such as consumer goods (DVD players are the current favourite), vouchers, or discounts. Inducements are especially attractive to low-income consumers; however conditions are not always clear, and many are particularly difficult for disadvantaged consumers to meet (such as always paying bills on time or by direct debit; or having to spend \$400 to redeem a \$50 voucher⁵).
- **Green energy.** This has largely been taken up by middle and higher-income consumers for whom price is not critical. While consumers choosing green energy are generally making a more considered choice than those swayed by inducements, we note that some companies are exploiting consumer ignorance by obscuring whether or not it is accredited GreenPower — meaning that even these considered choices by consumers with some market power are often not producing the expected outcomes.

¹ Footscray Community Legal Centre (2007) *Retail competition review of the effectiveness of competition in gas & electricity retail markets: response to the issues paper*, 2007

² Essential Services Commission (2006a) *Energy Retail Business Comparative Performance Report for the 2005-06 Financial Year*, 2006

³ A Sharam (2005) *Changing Energy Retail Project Report*, CUAC, 2005

⁴ Footscray Community Legal Centre (2007) *op. cit.*

⁵ G Brody (2007) personal communication

Marketing strategies and conduct

Most marketing activity is via telemarketing or doorknocking. This fact alone suggests that the retail energy market is still immature — this type of marketing is generally used to stimulate demand in passive markets. We also note that doorknocking is proscribed in the financial services and credit industries, in recognition of the inappropriateness of an unsolicited doorstep interview for making a considered decision about a complex product with significant financial implications. Energy certainly has similar characteristics.

Considerable anecdotal evidence suggests that misleading marketing is rife in the Victorian energy industry. No comprehensive study of marketing practices has yet been undertaken, and we urge the Commission to do this as part of this review. Data on inappropriate marketing from the Energy and Water Ombudsman Victoria (EWOV), alarming as it is, understates the problem because it is based only on cases reported to the Ombudsman. Most customers (especially disadvantaged customers) will not bother to report such issues, even when they have caused detriment. We also commend the Footscray Community Legal Centre's submission to this review to your attention⁶, documenting as it does both the incidence of misleading and inappropriate marketing to a particular population, and the reluctance of affected consumers to take formal action against it.

Furthermore, when a small group of consumer advocates met earlier this year to plan a joint submission to the Commission on the Draft Statement of Approach to this review, they reported the following false and misleading claims made to them personally by energy retailers' doorknockers and telemarketers:

- Your local electricity retailer is closing down and if you don't sign with us you will have no electricity
- If you sign with us and you have a concession card you will get a special 17.5 per cent concession during winter and a 13 per cent concession for the rest of the year
- With us, you won't actually be on a contract at all

It is also worth noting that all those who did choose market contracts (not, I should add, due to doorknockers or telemarketers but as a considered choice) discovered significant contract terms during the final sign-up that were not revealed previously.

Conclusion

The overwhelming dominance of non-price based competition in the Victorian energy market strongly suggests that it is not mature enough to itself discipline the price. Marketing strategies — doorknocking, telemarketing, and unacceptable levels of misinformation — reflect the general absence of demand-side activity. (Only with regard to green energy (an entirely differentiated product) is there any significant active demand. But even in this area lack of consumer knowledge is exploited via misleading marketing.) The rivalry evident between energy retailers is chiefly premised on feeding misinformation to a largely ignorant and uninterested public.

⁶ Footscray Community Legal Centre (2007) *op. cit.*

Customer choice and behaviour

Victorian consumers are generally aware of the existence of the competitive energy market and that they have a choice of retailers. However they don't as a rule understand how the market works, and there is little knowledge of pricing structures and, indeed, what constitutes a reasonable price for electricity or gas. We believe that most Victorian consumers don't see energy as a product *per se*, and don't really care who they buy it from; they just want to have their lights and appliances working. (Green energy, of course, is the exception.)

Customers seeking market offers

Customer transfer data collected by the ESC does not differentiate between customers switching retailers out of necessity (e.g. when moving house) or choice. Furthermore, without a thorough analysis of why choices were made, it is impossible to determine how many sought to choose, and how many were pressured or induced by unsolicited marketing. We urge the Commission to undertake a detailed analysis of customer switching behaviour to investigate whether the transfer was solicited or not, what were the reasons for switching, and whether the outcome was the one that was sought.

Our experience suggests that there are two broad groups of customers who voluntarily seek a market offer:

- Environmentally aware people seeking Green Energy. These are predominantly middle and upper income households for whom price is not an issue. Despite being on the whole well-educated and articulate, many of these consumers have been misled as to the efficacy of their choice, as the accreditation scheme is not widely known and some retailers obscure the distinction.
- Consumer advocates and community services workers switching to retailers perceived as being socially progressive in dealing with customers in hardship. This is clearly a pretty small group, but is one way that some consumers are differentiating between energy retailers. Once again, price is not the prime concern.

That said, some consumers will take the opportunity of moving house to more consciously choose a retailer, based on one of the above criteria or perceived self-benefit with regard to price. This may include consideration of the value of discounts or inducements in addition to tariffs. However research both here and in the UK (broadly comparable to the Victorian energy market with regard to competition and customer churn⁷) indicates that many consumers are ill-equipped to make sense of pricing and tariff structures, and inadvertently choose more expensive contracts.⁸ Furthermore, as has been already noted, inducements are not always as they appear.

⁷ P Grey & P Lewis (2006) *World Energy Retail Market Rankings: second edition June 2006*, First Data Utilities & VaasaEMG Utility Customer Switching Research Project, 2006

⁸ A Sharam (2005), *op.cit.*; Footscray Community Legal Centre (2007) *op. cit.*; CM Wilson and CW Price (2007) *Do Consumers Switch to the Best Supplier?*, Centre for Competition Policy, London, 2007

Differences in choice, participation, and access to information across customer groups

In the ESC's 2004 review of the effectiveness of competition, tenants were identified as a group with very limited choice in the Victorian energy market. This is still true in 2007. Despite increasing numbers of evergreen contracts, most offers are still for fixed terms and carry termination fees. This is inherently problematic for private tenants, as the average duration of tenancies is around eighteen months,⁹ and tenants can be evicted with as little as 14 days notice.¹⁰ Additionally, many green energy contracts require the installation of a water-saving showerhead, which a tenant cannot do without breaching the terms of their lease.

We also note that it is very difficult for consumers to access the type of information necessary to make an informed choice. Notwithstanding the difficulty in finding tariff information without actually requesting an offer from a retailer (and numerous cases have come to our attention whereby a customer seeking an offer for comparative purposes was in fact transferred), anyone wanting to make a considered choice needs a working understanding of how energy is priced and sold, plenty of time, and access to the Internet. If an offer is received from a retailer, it is still difficult for someone without specialist knowledge to make a price comparison unless they know about and use the price comparator on the ESC's website. And this still requires Internet access — challenging for the two-thirds of low-income households and the one-third of middle-income households who don't have it at home¹¹ — and still excludes many of the 17.5 per cent of people with a print disability (including vision impairment, learning disabilities, cognitive impairment, literacy difficulties, and those whose primary language is not English and who cannot adequately process written English).¹²

Additionally, as noted above, while discounts or inducements are attractive to low-income consumers, it is difficult for them to realise the value of many of them due to the facilitating conditions. With less access to information, low rates of home ownership, poor credit ratings, less secure tenure and few financial resources, low-income Victorians' energy choices are significantly constrained.

What motivates choice?

As discussed above, some consumers actively choose based on non-price qualities, chiefly green energy. Some choose seeking a price benefit, but what little research has been done suggests high rates of poor price outcomes, probably due to the difficulty most consumers have comparing prices in what is actually a highly complex market. Many consumers — especially low-income households — seem to be motivated by inducements and discounts. Even where the value of these is realised we question the overall benefit to these households, as the cost of ongoing consumption is a burden for low-income households. If the value of a DVD player is more than the additional price the customer will pay, they are still worse off. If the

⁹ Tenants Union of Victoria (2006) personal communication

¹⁰ *Residential Tenancies Act 1997*

¹¹ Australian Bureau of Statistics (2006a), 8146.0 — *Household use of information technology, 2005-2006*

¹² Vision Australia (2006) 'Including all consumers: communicating and transacting with people with a print disability', Financial Literacy, Banking and Identity Conference, RMIT University, 25-26 October 2006

value of a consumer good *must* be offset against a higher energy bill for market efficacy assessment purposes, the price used should be what a pawnbroker will pay for it; for that is where it will end up when the customer can't pay their bill.

Conclusion

Though Victorian consumers know they can choose energy suppliers, most transfers seem to be involuntary or at least unsolicited. Some customer groups actively seek market offers, but many more transfer only after being approached by retailers' sales staff. Because insufficient expertise and poor information provision make price comparisons difficult, other factors have a greater influence on guiding choices. Inducements and one-off or conditional discounts appear to drive many transfers. We consider this to be an indicator of an immature retail market, as a mature market would be primarily focused on price or integral product features. Additionally, some customer groups — notably tenants, who constitute around 20 per cent of households — are to a large extent locked out of the competitive market.

Price and service quality outcomes for customers

We see little evidence of positive price outcomes for Victorian energy consumers. According to the ESC's Retail Comparative Performance Report for 2005-6, most market contracts differ only marginally from the capped price, and are evenly distributed on either side of it.¹³ Reports suggesting that market contracts are mostly cheaper than the standing offer (such as the media release that accompanied the Comparative Performance Report¹⁴) offset the monetary value of inducements and discounts against the price paid for energy. But this does not truly reflect the price outcome for the consumer, as inducements may be incidental rather than sought-after, and they may be linked to conditions that can't be met. We are strongly of the opinion that an effective competitive market should bring consumer benefit through price and product or service quality, not bonus gifts and conditional discounts.

The difficulty the average consumer has in even understanding how energy is priced — and the fact that the vast majority of consumers have no idea how much a kW of electricity costs — mitigates against price-based competition. We would be unsurprised if the removal of price caps sees some retailers charging exorbitant rates several orders of magnitude above the efficient long run costs of supply. Without a consistent and mandated mechanism enabling consumers to readily make comparisons between different offers (which must be more accessible than the ESC's Comparator, which can't be accessed by consumers with a print disability or without an Internet connection), it is hard to imagine real price competition in the Victorian energy market.

Some consumers seeking non-price outcomes are faring well. Those seeking convenience have access to dual-fuel contracts and automatic direct debit bill payments. Note, though, that direct debits are disadvantageous for low-income households, who are left vulnerable to default fees when, inevitably, they have insufficient funds when a bill is due.

¹³ Essential Services Commission (2006a), *op. cit.*

¹⁴ Essential Services Commission (2006b) 'Customers Seeking Competitive Deals In Retail Energy Market', media release no. 15/2006, 13 December 2006

Similarly, consumers seeking environmental outcomes have a range of options for purchasing renewable energy at a premium. As noted above, these are primarily consumers for whom price is not critical. The Victorian market offers a range of renewable energy products, including tariffs with differing proportions of 'green' and regular energy, priced accordingly. However, as noted above, consumer knowledge about the significance of accreditation of green energy is low, and some retailers exploit this ignorance — so many consumers who think they are helping to reduce greenhouse emissions have been misled.

Conclusion

The Victorian energy market has not in itself provided positive price outcomes overall for Victorian consumers. Price-based competition is virtually nonexistent. As already noted, non-price competition predominates, and the consumers who *are* benefiting from competition are those consciously and knowledgeably seeking non-price outcomes. It is of great concern, however, that non-price offerings are being used to induce consumers onto market contracts that may disadvantage them with regard to price or terms and conditions. Clearly the competitive market is not yet of itself delivering positive price and service quality outcomes to the majority of participating consumers.

The role and impact of retail price regulation

The Victorian consumer safety net has been extremely effective in both ensuring access to supply and promoting competition right across the domestic market. A key aspect has been the role of the price cap in disciplining the market. As has been discussed above, price-based competition is virtually non-existent in Victoria due to the complexity of tariffs and poor knowledge among consumers of both consumption levels and unit costs. The regulated price has become a benchmark of sorts and is used by retailers as a comparison point for market contract tariffs: either as a price from which a new offer is discounted, or a base price to which a premium for green energy, for example, is added. Without it, most consumers would have no idea what a reasonable price for energy would be; and this basic precondition for effective competition would be absent. In the absence of such a benchmark price, we would be unsurprised to see energy tariffs several orders of magnitude in excess of the efficient long run costs of supply.

Other elements of the consumer safety net — such as standard contract terms and conditions, and protocols around disconnection and dealing with customers in financial hardship — have a similar effect. The steady reduction in disconnection rates¹⁵ and consumer demand for emergency assistance with utilities bills¹⁶ over the last several years is a strong indication that that the systematic strengthening of consumer protections over the same period has improved affordable access to essential energy for Victorian consumers, especially vulnerable and disadvantaged consumers. The steady rise in churn rates over the same period,¹⁷ together with international recognition of the Victorian energy market as the most contestable in

¹⁵ Essential Services Commission (2006a), *op. cit.*

¹⁶ St Vincent de Paul Society (2007) personal communication; Government of Victoria (2007) *State concessions and hardship programs 2005–2006*, Concessions Unit, Office for Children, Victorian Government Department of Human Services, Melbourne, March 2007

¹⁷ TRU Energy (2006) Consumer Protection in the Retail Context, National Consumers' Roundtable on Energy Masterclass, Hotel Rendezvous, Melbourne, 3 October 2006

the world¹⁸ and the significant number of new market entrants since full retail contestability, suggests that this has not been at the expense of market efficiency or robustness. This is unsurprising, since the safety net serves to underpin consumer confidence in the energy market: and consumer confidence is an essential ingredient for a competitive market.¹⁹

The assertion that the price cap limits flexibility and increases costs for consumers is, in our opinion, unfounded. Retailers are free to set prices above the cap, and frequently do.²⁰ Fluctuations in the spot price are dealt with effectively by judicious hedging, a fundamental element of competitive energy markets. Price determinations allow for operating costs and appropriate retail margins. And because a regulated tariff is required for RoLR provisions, the cost of price determinations will always need to be factored into the energy market, so it can't realistically be considered a cost specific to the capped standing offer tariff.

On the other hand, the failure of energy retailers to pass on the December 2006 reduction in charges as lower retail tariffs until the price cap was renegotiated six months later suggests that the market is not yet in a position to settle at the lowest efficient price without intervention. Furthermore, research on demand elasticities indicates that consumers cannot respond meaningfully to price signals.²¹ Consequently we have grave concerns about the capacity of the market to deliver a reasonable price without a regulated cap.

Conclusion

The consumer safety net has been fundamental in securing affordable access to supply for Victorian consumers, especially disadvantaged ones. It has not stymied competition or innovation; and in fact we believe it has bolstered it by undergirding consumer confidence and providing a necessary reference point in a complex and poorly understood market. Additionally, it must be remembered that for some consumers, choice of energy suppliers and access to a range of innovative products is unsought and unneeded — simply having secure access to supply is enough. The Victorian regulatory framework delivers this without causing detriment to other consumers, constricting the market, or discouraging investment.

Impact of competition on vulnerable customers

Because energy is essential and non-discretionary, and because electricity in particular has no real substitutes (electricity can — and often does — substitute for gas for cooking, heating and hot water, but it is a poor substitute, being more expensive and generally less effective), low-income and disadvantaged households are extremely vulnerable to serious detriment if access is lost or constrained due to market failure or affordability problems.

¹⁸ P Grey & P Lewis (2006) *op. cit.*

¹⁹ L Sylvan (2004) 'Activating Competition: the Consumer-Competition Interface', *Competition & Consumer Law Journal*, 2004 (12); R Bannerman (1984) *Trade Practices Commission Annual Report 1983-1984*, Australian Government Printing Service, Canberra, 1984

²⁰ Essential Services Commission (2006a), *op. cit.*

²¹ M Langmore & G Dufty (2004) *Domestic electricity demand inelasticities: issues for the Victorian energy market*, June 2004

Who is vulnerable?

Anyone can be vulnerable to energy-related hardship. Research shows that although low-income and otherwise disadvantaged households are particularly vulnerable to 'utilities stress' (defined as inability to pay for at least one utility bill in a given year), 8 per cent of middle to upper income households also experience it.²² However those most at risk are households with characteristics that make them susceptible to other forms of disadvantage, chiefly:

- Indigenous households;
- sole parent families;
- unemployed people;
- aged pension recipients;
- large families;
- tenants; and
- people with physical or mental illnesses.²³

There are numerous reasons why households with these characteristics are particularly vulnerable. The primary commonality, of course, is low income relative to expenditure; and the most significant ancillary factor is poor quality housing and older, inefficient appliances — both of which have a tendency to cause unnecessarily high consumption.

Furthermore, it must be realised that these are characteristics, not groups. While at any one time the number of households definable by these criteria may be a low, fixed number, over time households move in and out of periods of disadvantage — experiencing, as part of the life cycle, the onset of acute or chronic illness, short or long term unemployment, family breakdown, and so on. For this reason, targeting assistance schemes or vouchers based on strict demographic criteria is problematic.

How does the market contribute to vulnerability?

The consumer protection framework extant in Victoria has a number of features that mitigate vulnerability to a significant extent. The obligation to supply has prevented the 'redlining' of customers that has been evident in other jurisdictions.²⁴ Regulations mandating flexibility in dealing with customers having payment difficulties and limiting grounds for disconnection have done much to secure access to supply for disadvantaged and vulnerable households. However there remain some areas that do contribute to vulnerability, especially with regard to market contracts. This is why removal of the standing offer and its capped price poses a serious threat to equitable access to energy.

- **Information asymmetry:** Most households experience information asymmetry in the energy market, as discussed above. The problem is more serious for disadvantaged and vulnerable households, with less access to the Internet,²⁵

²² Australian Bureau of Statistics (2004) 4159.2.55.001 — *General Social Survey 2002 (Victoria)*, Commonwealth of Australia, 2004

²³ P Siminski (2004) 'Poverty, hardship and utilities-related financial stress in Victoria' in *Utility debt spiral report*, Committee for Melbourne, 2004

²⁴ See, for example, University of Newcastle upon Tyne (2000) *Private sector service withdrawal in disadvantaged neighbourhoods: findings*, Joseph Rowntree Foundation, York, 2000

²⁵ Australian Bureau of Statistics (2006a) *op.cit.*

higher rates of print disability,²⁶ and lower levels of education.²⁷ As has already been discussed, due to the complex nature of energy pricing comprehensive information is vital if consumers are to determine whether a new market offer will be beneficial. Without it, they are at risk of inadvertently increasing the cost of their energy use. The implications of higher energy tariffs are, of course, much more serious for households who already struggle financially.

- **Predatory marketing:** We have already discussed marketing practices. Disadvantaged households are more responsive than other households to doorknocking and telemarketing, and more likely to be swayed by inducements. As inducements are often used to offset higher tariffs,²⁸ this again serves to put them at particular disadvantage.
- **Unattractiveness of certain customer groups:** This has not yet been a significant problem in Victoria, but we expect to see it grow as the market matures, and if price-based competition begins to predominate. Low-consuming and low-income customers are less attractive to retailers due to, respectively, less scope to sell significant volume of product, and more likelihood of payment difficulties. Presuming that an obligation to supply remains but at an unregulated price, vulnerable households may well be stuck with a basic service at a higher price as market contracts that race toward a long run efficient price leave them behind. This happened in the UK energy market, which shares many characteristics with Victoria's — significant stratification occurred, with affluent customers being 'cherry picked' by new market entrants offering discount prices, special offers and service flexibility,²⁹ while low-income customers were paying the highest tariffs with little payment flexibility and, on the basis of having prior debt, unable to choose another supplier.³⁰

These problems can be minimised by a comprehensive consumer protection framework which includes guaranteed access to energy supply with standard terms and conditions (including provision for payment flexibility and stringent protections against disconnection except as a last resort) and a capped price. This is currently the case in Victoria. We urge its retention.

How does vulnerability impact participation?

As discussed above, households with low incomes and poor credit histories are unattractive to energy retailers. As the market matures, these households will be less able to access market contracts. Those who do access energy through market contracts are much more vulnerable to detriment from disadvantageous conditions (such as compulsory direct debit payments, which leave them vulnerable to bank dishonour fees), higher tariffs, and exit fees (which can be unavoidably incurred due to lower security of tenure).

Another significant issue is the association of disadvantaged and vulnerable households with poor quality housing and older or cheaper appliances. Although low-

²⁶ Vision Australia (2006) *op.cit.*

²⁷ Australian Bureau of Statistics (2006b) 4102.0 — *Australian Social Trends, 2006*

²⁸ Essential Services Commission (2006a), *op. cit.*

²⁹ W Baker (2001) *Competitive energy markets and low income customers*, National Right to Fuel Campaign & Centre for Sustainable Energy, London, 2001

³⁰ House of Commons Select Committee on Public Accounts (2000) *Eighth Report*, (<http://www.publications.parliament.uk/pa/cm/199900/cmselect/cmpubacc/171/17102.htm>), 2000 (accessed 30 March 2007)

income households generally consume less energy than those with middle or higher incomes,³¹ many still consume more than necessary due to poor thermal efficiency of housing and poor energy efficiency of appliances. Although this has been recognised by Government,³² so far there has been no comprehensive policy response to the problem. Tenants in particular are constrained by split incentives and lack of flexibility in the *Residential Tenancies Act 1997* and other legislative instruments and assistance program eligibility criteria from accessing what assistance is available to address efficiency issues.³³

Finally, as noted above, financial precariousness and chronic hardship mitigate against households having the desire and capacity to participate actively in the market. For many households, simply retaining basic access to affordable essential energy is difficult enough and all that is required — choice of retailers and access to marginal service or product benefits is unsought and unneeded. These households cannot help but be disadvantaged if active participation and choice is necessary to secure supply on beneficial terms. This is ultimately why a secure affordable supply that meets essential needs must be available to all who need it, irrespective of the state of the energy market.

How effective are existing strategies at facilitating participation and meeting the needs of vulnerable consumers?

Although there is room for improvement, the Victorian energy market is currently serving the needs of vulnerable consumers adequately. The Energy Retail Code ensures that all consumers have access to flexible payment and protection from disconnection due to incapacity to pay if it is warranted. The price cap ensures that, in conjunction with the concessions framework, energy is affordable for most consumers; the standing offer ensures that if consumers inadvertently accept a market offer that disadvantages them, they can revert to an appropriate contract (though the exit fees that many market contracts impose can be a hurdle for some).

Many retailers deal sensitively with customers having payment difficulties, and offer generous repayment terms to help them deal with debt and manage, over time, their ongoing consumption. In particular, the incumbent retailers generally have effective hardship programs and internal systems that ensure most customers in hardship receive the assistance that they need. Many of the second tier retailers, however, are still developing this awareness and the necessary systems.

Importantly, though, these good outcomes have largely been driven by the comprehensive regulatory regime and the flow of information between consumer advocates and energy retailers that it has facilitated. Of considerable concern to VCOSS and other consumer advocates is the likelihood that a relaxation of regulatory oversight will shift this balance and increase disadvantaged households' vulnerability to financial stress and fuel poverty. For this reason, though we recognise the benefits full retail contestability has brought to consumers generally, we do not

³¹ Roy Morgan Research (2002), *Victorian Utility Consumption Survey 2001, Final Report*, Department of Human Services, Melbourne, June 2002

³² Department of Sustainability and Environment & Department of Primary Industries (2007) *Victorian Energy Efficiency Target Scheme Issues Paper*, Department of Primary Industries, Melbourne, March 2007

³³ Tenants Union of Victoria (2007) 'Submission to VEET Issues Paper', <http://www.dpi.vic.gov.au/dpi/dpinenergy.nsf/LinkView/EFCB7F0347F68C6BCA2572F400182B45866B51F390263BA1CA2572B2001634F9>

support any lessening of the consumer protection framework — of which the price cap is an integral part — that has both helped realise these benefits, and protected consumers — whether or not they are chronically disadvantaged or vulnerable — from serious detriment.

Summary

In its assessment of the effectiveness of competition in the Victorian energy market, the Commission must investigate:

- The degree to which churn is driven by active shopping, rather than unsolicited marketing;
- The motivations for switching;
- The extent to which customers seeking price benefits achieve them when switching;
- The level of satisfaction with a new contract after switching; and
- The incidence and significance of any correlation between characteristics of particular market contracts and:
 - the various modes of marketing (doorknocking, telemarketing, direct mail, web-based, television or radio); and
 - particular demographic characteristics.

When assessing any aspects of consumers' experience engaging with the energy market, the Commission should look for correlations or differences with regard to a range of demographic characteristics including:

- socio-economic status;
- household size and structure;
- ethnic and cultural background;
- housing tenure;
- geo-spatial characteristics (chiefly metro-regional-rural-remote); and
- access to substitute fuels (electricity, natural gas, LPG).

In preparing this submission, it has become apparent that there is very little detailed research on the experiences of energy consumers with regard to different aspects of the contestable retail market. This has been an impediment to consumer advocates attempting to document what we are well aware of through reports from financial counsellors, emergency relief providers, and other community services professionals working daily with people who have experienced hardship and disadvantage. We urge the Commission and other relevant bodies to undertake such research.

Notwithstanding this, the vulnerability of many consumers to serious detriment in the energy market is very clear, as is the role of the consumer protection framework in averting those impacts for most consumers. There is no clear evidence that these protections have impeded the growth of competition or the development of the market toward maturity — in fact, we believe that the consumer confidence and price benchmarking engendered by the framework has assisted it. Additionally, the need in any case for a certain degree of regulation — including effective RoLR provisions that must include, among other things, a regulated price — means that there are few if any cost savings to be made by abolishing the price cap. We urge the Commission to recommend the retention of the price cap in order to provide a necessary discipline

on the market, a price benchmark by which consumers can assess competing market offers, and a secure 'safety net' contract for consumers who can't access or benefit from market offers.

If you have any questions about this submission, please contact Dean Lombard, Utilities Policy Analyst, at dean.lombard@vcoss.org.au or on (03) 9654 5050.

Yours sincerely

A handwritten signature in black ink that reads "Cath Smith". The signature is written in a cursive, flowing style.

Cath Smith
Chief Executive Officer