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31 July 2019

Mr John Pierce  
Chairman  
Australian Energy Market Commission  
PO Box A2449  
Sydney South NSW 1235

By online submission

Dear Mr Pierce

**Submission to AEMC's *Reducing customer's switching times (retail)* consultation paper**

The Australian Energy Regulator (AER) welcomes the opportunity to make a submission in response to the Australian Energy Market Commission (AEMC) *Reducing customer's switching times (retail)* consultation paper.

The AER works to put consumers at the centre of the transitioning energy market, as we play our part in delivering a secure, reliable and affordable energy future for Australia.<sup>1</sup> Our work is guided by five key strategic objectives, including driving effective competition, equipping consumers to engage effectively, and protecting those who are unable to safeguard their own interests. The AER also operates the Energy Made Easy (EME) price comparison website that enables customers to compare energy plans, and empowers customers to make confident and informed decisions about what energy plan is right for them.

We note this rule change proposal has been initiated by the Australian Energy Market Operator (AEMO) following joint AEMO and AEMC advice to the COAG Energy Council Standing Committee of Officials in December 2018. The joint advice noted that changes should be made to the existing customer transfer process, and these changes should be broader or extend beyond recommendations 8 and 9 from the ACCC's *Retail Electricity Pricing Inquiry Final Report*. The advice proposed a number of actions to improve the customer transfer process and address 'a range of issues...that may be allowing for, or contributing to, opportunities for parties to delay a customer transfer to conduct 'save activity''.<sup>2</sup>

We are supportive of the proposed rule change and its objective to streamline and provide greater transparency of the customer transfer process. We consider the rule change, if made, will effectively reduce delays and improve the existing customer transfer process. It is consistent with the AER's interest in promoting better customer outcomes, as it will provide for greater customer choice, engagement and confidence in the retail market by facilitating more effective switching.

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<sup>1</sup> Australian Energy Regulator, *Statement of Intent 2017-18*, <https://www.aer.gov.au/system/files/AER%20Statement%20of%20Intent%202017-18.pdf>.

<sup>2</sup> AEMC, *Reducing customers' switching times*, consultation paper, 4 July 2019, p. 3.

We note the proposed changes will enable customers to access a new retail offer, product or service within two business days regardless of location or metering type. The AEMC noted in its *2019 Retail Energy Competition Review* that the proposed changes will improve incentives on retailers to continuously offer customers products and services that they want because customers will be able to change retailers more effectively if retailers do not meet their needs.<sup>3</sup> We also agree that an efficient and seamless customer transfer process will provide customers with more flexibility, empowerment and choice, fostering greater competition in the retail market. In addition, being able to access new offers, products and services quickly will encourage greater customer engagement in the retail market and improve access to more competitive offers and services.

We understand the rule change proposal aims to address issues in the customer transfer process contributing to delays and an increased focus on save and win-back activity by retailers. We agree with the ACCC that the prevalence of save and win-back activity in the market may not be in the long-term interest of all customers and support limiting the ability of retailers to engage in this activity. We remain concerned by the lack of transparency and customer visibility around save and win-back plans, as discussed below.

Increasing the transparency of energy plans in the retail market was a key consideration in our 2018 review of the *AER Retail Pricing Information Guidelines*. To facilitate greater transparency, we broadened the scope of plans considered to be 'generally available'<sup>4</sup> to ensure customers are better able to compare energy plans and find a plan to suit their needs.

However, following consultation, save and win-back offers were excluded from being generally available given the 'highly discretionary and fluid'<sup>5</sup> nature of these plans. As a result, retailers are not required to publish these plans on EME given the potential for customers to have a 'sub-optimal experience if they tried to switch to a plan that was not available to them'.<sup>6</sup> This reduces the effectiveness of EME which is intended to provide customers with comparable and transparent information about energy plans in the market.

In addition, we consider limiting save and win-back activity will increase the incentive for retailers to offer better deals to their existing customers rather than waiting until a customer threatens or takes steps to switch retailers.

Whilst some customers can benefit from save and win-back activity (as these plans contain some of the most attractively priced terms in the market), we understand that these plans are usually offered only to 'valuable' customers. Our view is this activity does not benefit all customers, rather a limited few, and as previously noted we consider the 'targeted market segmentation of high-value customers raises equity concerns'.<sup>7</sup> With this in mind, it will be important for the AEMC to closely consider and ensure that the proposed changes benefit and provide improved outcomes and protections for vulnerable customers. This should ensure that the customer transfer process operates fairly and in the interests of all end users, including vulnerable customers and those experiencing payment difficulties due to hardship.

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<sup>3</sup> AEMC, *2019 Retail Energy Competition Review*, Final report, 28 June 2019, p. 12.

<sup>4</sup> Under the *AER Retail Pricing Information Guidelines*, all plans that are available to any customers in the appropriate distribution zone with the appropriate metering configuration are generally available unless they are a restricted plan. Save and win-back plans are classified as restricted plans.

<sup>5</sup> Australian Energy Regulator, *Notice of Final Instrument: AER Retail Pricing Information Guidelines*, Version 5, April 2018, p. 33.

<sup>6</sup> *Ibid.*

<sup>7</sup> *Ibid.*

The AEMC has noted in its Review that there has been an increase in the number and proportion of 'no discount' offers available in the market<sup>8</sup>, and that retailers are generally moving away from discounting practices.<sup>9</sup> Alongside this, there are a number of recent developments in the retail energy market that are having or will likely have an impact on how prices and particularly discounts are offered and advertised to consumers, including as a consequence of the introduction of the AER's Default Market Offer (DMO) and the *Competition and Consumer (Industry Code – Electricity Retail) Regulations 2019* (the Electricity Code) on 1 July 2019.

In light of these developments and the evolving market, it will be relevant for the AEMC to consider the extent to which the issues identified in the rule change proposal remain 'live' or ongoing for consumers and the market, to minimise the potential for any unintended consequences of a rule change in an evolving retail market. We consider the ongoing monitoring and data about the impact of the 1 July changes will provide an opportunity for the AEMC to consider any related current or emerging customer detriment issues during the AEMC's consultation processes.

As noted in the consultation paper, the customer transfer process is associated with a number of key retailer obligations and customer protections under the National Energy Retail Law and National Energy Retail Rules (NERR). This includes the provision of information, explicit informed consent, cooling off periods, billing and contract requirements.

We understand that the proposed rule change will provide additional clarification of the obligations and rights of parties in the context of the customer transfer process. However, it is important the AEMC ensures any proposed changes to the regulatory framework do not result in a lessening of these critical customer protections.

We note the AEMC are considering the inclusion of related reporting requirements in the AER's Retail Performance Reporting Procedures and Guidelines, and agree there are benefits in monitoring when retailers have first contact with a customer for a transfer. We will further consider how these requirements could be implemented in our Guidelines to support greater transparency and visibility over the customer transfer process.

Please contact Bronwen Jennings on (03) 9658 6417 or myself on (03) 9290 6965 if you would like to discuss our submission in more detail. We support the proposed improvements to the customer transfer process, and look forward to providing additional comments upon the release of the AEMC's draft determination in September 2019.

Yours sincerely,



Sarah Proudfoot  
General Manager  
Consumers & Markets Branch

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<sup>8</sup> Ibid., p. 53.

<sup>9</sup> Ibid., p. 36.