

19 February 2015

Mr Chris Spangaro  
Senior Director  
Australian Energy Market Commission  
PO Box A2449  
Sydney South, NSW 1235

Dear Mr Spangaro

### **Submission to the 2015 Retail Competition Review Approach Paper**

The Consumer Utilities Advocacy Centre Ltd (CUAC) is a specialist consumer organisation established in 2002 to represent Victorian energy and water consumers in policy and regulatory processes. As a consumer organisation focused specifically on the energy and water sectors, CUAC has developed an in-depth knowledge of the interests, experiences and needs of energy and water consumers.

We appreciate the opportunity to comment on the the approach to the Australian Energy Market Commission (AEMC) 2015 Retail Competition Review. CUAC supports the submission made by the Consumer Action Law Centre dated 16 February 2015 (RPR0003)

<http://consumeraction.org.au/submission-2015-retail-competition-review-approach-paper/> In addition we would like to provide further comment on the following issues.

#### **Level of customer activity in the market**

The Australian energy market has evolved markedly over the past two decades. Across Australia, governments have implemented significant energy market reforms to improve the sustainability and efficiency of the energy markets and to increase consumer benefits. Victoria has been at the forefront of this reform process, completing disaggregation and privatisation of the energy industry, the introduction of a competitive market and retailer choice and retail price deregulation. While informed and savvy consumers are benefiting from this choice in the form of lower retail prices there is considerable evidence that the complexity of the market and information asymmetry between consumers and energy retailers is preventing many consumers from effective participation. Ten per cent of the market remains disengaged for various reasons, a considerable proportion of which are lower income and vulnerable consumers who could most benefit from lower prices.

CUAC believes that there are a number of factors that currently undermine the benefits of the competitive market. These include:

- The complexity of offers and market information - Smart meters and the introduction of flexible pricing have made navigating an already complex market more challenging for consumers.
- The nature of the market offers can be misleading (e.g. commonly a discount off a standing offer tariff for payment on time or by direct debit). The standing offer “base line” can be increased from time to time, providing the opportunity for the retailer to provide what appears to be a larger discount, when in effect this price has been manipulated. If the consumer fails to pay on time they may experience a number of penalties, including reversion to a high tariff.
- It is extremely difficult for consumers to develop the kind of energy market knowledge that assists them in making good decisions for their market offer choices.

- The benefits of the Victorian competitive market should be reflected in better retail pricing outcomes for consumers. Their choices of good offers – should, all things being equal, be driving down retail prices. We support more research by the AEMC to understand the retail pricing implications for consumers in Victoria and in other jurisdictions, in order to better understand and inform the rule change process.

Despite the high churn rate, we understand that around 10 per cent of consumers remain on standing offers with higher than market offer prices. Some research suggests that apathy appears to be a significant reason why consumers have not entered into the energy market.<sup>1</sup> However, CUAC's research indicates that this could be an over-simplification. Further work is needed to understand the 'lived experiences' and outcomes for consumers who have tried to negotiate the market. This includes examining the impact of complexity on the choices made and the actual price outcomes of consumers.

### **Customer satisfaction with market outcome**

Energy market reforms, to date, have led to mixed outcomes for consumers. CUAC research has revealed concerns about the effectiveness of consumer participation in the energy retail markets and the quality of information available to consumers to facilitate their choices.<sup>2</sup>

Increased levels of competition in the energy market have not translated into improved outcomes for all consumers. In Victoria, consumer complaints to the Energy and Water Ombudsman (Victoria) (EWOV) have increased to worrying levels. EWOV received over 84,758 cases this past financial year (an average of 339 cases daily), which was an increase of 10 per cent from the previous financial year.<sup>3</sup> For the period 2013-14, more than 1 in 5 EWOV cases was about credit; an average of 72 cases daily. In Victoria the case trend has increased substantially since the introduction of retail price deregulation in September 2009. Since 2005-06, disconnections have been steadily increasing and are now approaching the historically high rates of the 1990s. Victoria's electricity disconnection rate is now the highest in Australia.<sup>4</sup> At EWOV, during the period 2013-14, the credit sub-issue of disconnection/restriction replaced high bill as the top complaint issue overall for the first time.<sup>5</sup> In the past 5 years, wrongful disconnection payments have also steadily increased. Commensurate with the rising disconnection rate, the number of customers in hardship programs has increased, more customers enter hardship programs with higher debt levels and remain in the program for a shorter length of time, and more customers fail hardship programs.<sup>6</sup>

Affordability of essential services has become a major problem for many Australians. The Essential Services Commission held a forum for energy retailers and consumer advocates in March 2014, alerting the industry to this trend in increasing disconnections and prompting the industry to take action to address this. Since then the Energy Retailers Association of Australia has held a national forum and instituted a series of industry and consumer working groups to develop a way forward. The Commission is also conducting a Hardship Review which was launched by the Minister for Energy and Resources on 18 February 2015. The Minister has acknowledged that the number of consumers being disconnected is too high and that there is a need to make sure energy companies have best practice hardship programs in place to help those who are struggling with their bills.<sup>7</sup>

### **Competitive retail energy prices**

We are not convinced that competition in retail markets has given consumers in Victoria access to better deals on price as expected in a well functioning competitive market. A recent report from the St Vincent de Paul Society, [National Energy Market - Wrong Way, Go Back?](#) found that while Victoria's deregulated market had led to

<sup>1</sup> Wallis Strategic Market & Social Research, *Victorian's Experience of the Electricity Market 2013 – Final Report*, at 24; available at: <http://www.esc.vic.gov.au/getattachment/e9d3a916-1448-4e6e-bea5-48f3efc5c68a/ddd.pdf>.

<sup>2</sup> [CUAC, Improving Energy Market Competition through Consumer Participation, Dec 2011](#); [CUAC, Highlights from Improving Energy Market Competition through Consumer Participation, Dec 2011](#); [CUAC, Market Power in the Victorian Retail Energy Market, Dec 2012](#).

<sup>3</sup> Energy & Water Ombudsman Victoria (2014), *EWOV Annual Report 2014*, p2-3.

<sup>4</sup> Essential Services Commission, *Energy Retailers Comparative Performance Report – Customer Service 2013-14, December 2014*, p23.

<sup>5</sup> Energy & Water Ombudsman Victoria (2014), *EWOV Annual Report 2014*, p24.

<sup>6</sup> Essential Services Commission, *Energy Retailers Comparative Performance Report – Customer Service 2013-14, December 2014*, p9.

<sup>7</sup> <http://www.premier.vic.gov.au/energy-company-hardship-practices-to-be-reviewed>; <http://www.theage.com.au/victoria/soaring-power-costs-leads-to-record-number-of-disconnections-in-victoria-20150218-13i4lt.html>.

lower network charges, the retail component of bills was significantly higher than anywhere else in the NEM.<sup>8</sup> These observations support earlier work by the Essential Services Commission of Victoria on *Retailer Margins in Victoria's Electricity Market*, which found large and growing retail margins in Victoria. The analysis of electricity retail prices and retail margins suggested that, host retailer standing offer prices (single rate) typically increased by more than 70 per cent between 2006-07 and 2011-12 and increases in market offer prices (single rate) were typically between 55 and 60 per cent over the same period.<sup>9</sup> *Wrong Way, Go Back?* also notes that 'the vast generalisation of networks counting for 50% of the bill.....drives governments' narrow focus on 'fixing the network issues.'<sup>10</sup> We agree with the *Wrong Way, Go Back?* report that competitive pressures in Victoria have not resulted in prices trending to the efficient cost of retail services, and this is worthy of consideration.

### Regulatory reform

The energy market has been undergoing a considerable amount of change including greater numbers of consumers moving to market contracts and taking up new products and services as a result of smart meters and other technological advancements such as storage. The AER is undertaking consultations on innovation energy selling business models. We note that the Energy Council is looking into new products and services. There is a need to investigate how these new developments impact on the energy market to provide a comprehensive perspective of competition.

CUAC believes that the retail customer protection framework is significantly outdated and is in urgent need of review. Some of the protections now in place are no longer relevant to the experiences of consumers in the market and there are significant gaps. Increasing or high levels of customer complaints and disconnections are key indicators of the need for regulatory review. CUAC believes that a wide ranging review of the National Energy Customer Framework is due to ascertain how it is working, its relevance in protecting consumers and in enhancing effective consumer participation.

Yours sincerely,



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Research & Policy Advocate

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<sup>8</sup> St Vincent de Paul Society, *National Energy Market – Wrong Way, Go Back?* See Chart 6, p11.

<sup>9</sup> Essential Services Commission, *Retailer Margins in Victoria's Electricity Market – Discussion Paper, May 2013, p15* see also SKM MMA, *Analysis of Electricity Retail Prices and Retail Margins 2006-2012, Report for Essential Services Commission, May 2013.*

<sup>10</sup> St Vincent de Paul Society, *National Energy Market – Wrong Way, Go Back?*, p14.