



30 September 2014

Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

Dear Sir/Madam,

Retailer Price Variations in Market Retail Contracts

Consumer Action Law Centre and Consumer Utilities Advocacy Centre submit the following additional comments to the *Draft Rule Determination: Retailer Price Variations in Market Retail Contracts*.

No definitive information is available to consumers or consumer advocates about how frequently retailers increase or otherwise change the prices or other terms and conditions in the course of a fixed term contract. Anecdotally, we understand that residential energy contract prices rise at least twice over the term of a two year contract. We recommend the Commission seek this information directly from energy retailers to ensure the final Determination reflects the realities of the market.

The frequency and magnitude of price changes are relevant in determining whether, as claimed by retailers, a fixed term contract offers consumers savings over other contracts (including fixed price contracts), and to what extent customers' expectations of a contract providing for stable conditions are unfulfilled.

My Power Planner (MPP), the independent Victorian energy price comparator service, provided Consumer Action with data about the number of energy offers available to Victorian consumers between the months of October 2013 and July 2014 inclusive.

The data included a daily summary of changes to offers available to residential consumers in the MPP database, specifying the number of new offers entering the database, the number of offers removed from the database, and the running total of available offers on that particular day.

The information provided was de-identified, meaning it's not possible to know which retailers added or removed the most offers, or which changed their product offerings most frequently. It was also not possible to determine what specifically differentiated an offer that was removed from the database from a newly entered offer. It seems likely that some major element of the offer—such the price or the discount being applied—was changed, requiring a new offer to be submitted to MPP.

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In the 10 full months of data made available to us, the sum total of offers fell slightly from 1,952 to 1,795 available. The maximum number of available residential offers at any given time was in mid January 2014, when 2,613 offers were available to Victorian households; the minimum number of offers was two weeks prior on the last day of 2013, when 1,684 offers were listed. January 2014 saw a high of 1,263 new offers entered into the planner. It was also the month where the most were retired (805 offers).

Our understanding is that January is a common time for retailers to implement price rises, which would explain the high replacement rate of offers.

What is remarkable is that in that 10 month period, a total of 3,831 new offers entered the MPP database and 3,875 were removed. On average this means that offers made to Victorians in the MPP database were changed almost twice over in a 10 month period. For consumers who are simply buying a combination of kWh and a daily supply charge for an essential service, it would be somewhat mystifying that offers are made available and then removed again so frequently, given that the actually underlying product—energy—remains unchanged.

The data cannot tell us how many times the average Victorian energy consumer has a major element change, such as the price of their energy, without the ability to exit that revised contract without penalty. But if the level of product turnover indicated in the sample provided by MPP was extrapolated to a typical two year residential energy contract, consumers may have perhaps 4-5 major changes to their energy contract over the life of their so-called 'fixed' contract.

This estimate is equal to, or slightly higher, than our estimate that consumer energy contracts change about twice a year. The only way to conclusively know how frequently contracts change is, of course, to get this data from energy retailers.

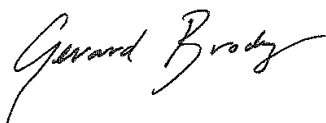
Making public the average number of contract changes over a fixed term per retailer would allow consumers to take this into consideration when choosing a contract, and could exert a competitive pressure in favour retailers who change their contracts less frequently after a consumer has signed a contract.

However simply disclosing this additional information does little to reduce the complexity that faces consumers attempting to make a clear choice between one offer and another at the point they decide to shop around.

We firmly believe that prohibiting price changes for all fixed term contracts is the best way to fully address this issue and enhance consumer protections (and benefit the market overall).

Please contact Sarah Wilson on 03 9670 5088 or at sarahw@consumeraction.org.au if you have any questions about this submission.

Yours sincerely



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for Jo Benvenuti, Executive Officer
Consumer Utilities Advocacy Centre