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Australian Energy Market Commission
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By email: submissions@aemc.gov.au

Retail Competition Review — First Draft Report

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 welcomes the opportunity to comment on the *First Draft Report of the Review of the Effectiveness of Competition in Electricity and Gas Retail Markets in Victoria*. Having been closely involved with many aspects of the Victorian energy industry for several years, we are cognisant of the great significance of this review in the continuing welfare and security of Victorian energy consumers. The following comprises an overview of our grave concerns with the process, methodology and conclusions of the review.¹ VCOSS was concerned that many issues raised by

¹ Resource constraints have prevented this submission from being more comprehensive. Aspects of the review not addressed herein should not be assumed to have our support.

consumer representatives in submissions to the Issues Paper were not addressed in the First Draft Report, and urges the Australian Energy Market Commission to take account of these important issues in the preparation of the Final Report. If competition is supposed to facilitate better consumer outcomes, it is critical that consumer outcomes are properly examined when assessing its effectiveness.

The framework for analysis

The framework for analysis is underpinned by “three core characteristics of effective... competition” of which the second is “informed and active consumers seeking to obtain energy products, prices and other terms and conditions of supply which best meet their needs.”² However, the customer survey undertaken by Wallis Consulting for the review found that:

- around *half* of domestic customers who received offers didn’t understand them;³
- 89 per cent of customers who switched used *one* (most often the retailer they switched to) or *no* sources of information when making the decision;⁴
- *only 5 per cent* of customers compared a new offer with their existing contract;⁵ and
- *90 per cent* of domestic customers have not approached an electricity retailer (ninety-six per cent for gas) in the last *five years*.⁶

Clearly Victorian consumers are overwhelmingly uninformed and passive with regard to energy products. VCOSS does not understand how the AEMC can consider competition to be effective when one of the three key criteria is categorically unmet.

Interpretation of findings

The conclusions that the Commission has drawn from some of its findings are difficult to understand using logical frameworks. In some cases the only explanation seems to be a determination to support a preordained outcome. For example:

Very few market contract customers used more than one source of information when making the decision to switch. This suggests that when switching customers do not shop around or make extensive price comparisons. The relatively large proportion of customers that appear to rely solely on information provided to them by retailers in making their decision to switch suggests that the direct marketing efforts of retailers is an efficient method for encourage switching which has enhanced competitive outcomes from the perspective of both retailers and customers alike.⁷

Clearly these marketing practices have enhanced competitive outcomes for retailers; but *no* indication is given as to how the Commission has concluded that this remarkably one-sided situation is equally beneficial to customers. In other industries characterised by unique, complex products (such as financial services and insurance), independent advice from disinterested third parties is considered critical to facilitating positive consumer outcomes where ‘shopping around’ is problematic.

² AEMC (2007) *Review of the Effectiveness of Competition in Gas and Electricity Retail Markets in Victoria: First Draft Report*, October 2007, Sydney (p.26)

³ AEMC (2007), op. cit. (pp. 100-01)

⁴ AEMC (2007), op. cit. (p. 99)

⁵ AEMC (2007), op. cit. (p. 99)

⁶ AEMC (2007), op. cit. (p. 95)

⁷ AEMC (2007), op. cit. (p. 99), my italics

Assessing consumer outcomes

In our submission to the *Draft Statement of Approach* for this review, we urged the Commission to assess the actual outcomes for a sample of customers who switched retailers.⁸ After learning that the customer survey to be undertaken by Wallis Consulting would not be examining actual outcomes, we advised the Commission of research in other jurisdictions that indicated poor price outcomes for too many customers and again urged the Commission to incorporate this type of analysis into the review.⁹ We are disappointed the Commission has still not undertaken this work.

Research in the UK found that between a fifth and a third of all customers who switched retailers seeking a lower price ended up paying more.¹⁰ While some incidence of poor consumer decision-making is to be expected in even the most effective competitive market, detrimental outcomes on this scale are of serious concern. The absence of this kind of data for Victoria is a critical flaw in the review.

The only assessment of customer outcomes used in the review was having survey respondents rank 'satisfaction' on a scale of 1-10. We question the efficacy of this approach — the 'low engagement' nature of energy as a product means that few respondents would be expected to feel strongly one way or the other. This conclusion is supported by the Footscray Community Legal Centre's survey, which by posing it as an open question forced respondents to give more considered answers, with significantly different results — primarily, that many customers who switched seeking cheaper prices were dissatisfied (because they believed their bills had risen), while all of those who switched for Green Energy were satisfied.¹¹ This accords with our existing perception that clean energy is the only significant differentiated product that is meeting specific consumer needs. But the effectiveness of competition in meeting the needs of this niche market is insufficient justification for broader generalisations about consumer benefit in the competitive market.

The role of the standing offer in the competitive market

Perhaps the most fundamental flaw in the Draft Report is the failure to examine the role of the existing regulatory framework in the competitive market. Rather it rests on an implicit assumption that the very existence of a regulated price inhibits competition — hence the intention to remove price regulation once competition is found to be effective. This could be disastrous if — as many believe — the regulated price actually facilitates competition.

The regulated price does not prevent retailers from charging higher prices. Nearly half of the electricity market contracts in 2005-06 had higher tariffs than the standing offer.¹² The regulated price does, however, seem to function as a robust benchmark giving customers and new market entrants alike a reference point. Most market offers

⁸ CUAC, VCOSS, ATA & St Vincent de Paul (2007), submission to AEMC *Draft Statement of Approach in the Review of the Effectiveness of Competition in Gas and Electricity Retail Markets*, 11 April 2007

⁹ CUAC, CALC, VCOSS & St Vincent de Paul (2007), letter to Chair of AEMC, 12 June 2007

¹⁰ Chris Wilson & Catherine Waddams Price (2007), *Do Consumers Switch to the Best Supplier? CCP Working Paper 07-6*, Centre for Competition Policy, University of East Anglia, April 2007

¹¹ Footscray Community Legal Centre Inc. (2007) submission to AEMC *Review of the Effectiveness of Competition in Gas & Electricity Markets — Issues Paper No. 1*, 29 June 2007

¹² Of 26 residential electricity market contracts assessed by the Essential Services Commission for 2005-06, only 12 were priced lower than the regulated tariff. Two were the same and 12 were higher. (*Energy Retail Business Comparative Performance Report for the 2005-06 Financial Year*, ESC, November 2006. Comparison of GD/GR tariffs, Figures 8 through 10 on pp. 12-14. Comparisons do not include the value of non-price offerings (such as one-off discounts and free gifts) because although these may be beneficial to customers they do not represent a true saving on ongoing usage.)

use the regulated price as a baseline from which they offer either a discount or (for green energy, for example) a premium.

A regulated price is also needed for the Retailer of Last Resort scheme, the obligation to supply, and probably plays a role in maintaining consumer confidence in the market — consumers' knowledge of the existence of price oversight gives them the security to 'take the plunge' into a market contract. We have been unable to find any evidence that the regulated price is an impediment to competition. If anything, the ranking of Victoria as the world's hottest energy market¹³ suggests that the opposite is true.

The Commission may dismiss these as assumptions not backed by robust analysis; but the Commission's assumptions about the effects of the regulated price are equally hypothetical. This is why we urge the Commission to undertake a detailed analysis of the role of the regulated price with regard to competition in the Victorian energy market.

The release of the Draft Report

VCOSS was disappointed with the process surrounding the release of the draft report. On the day the report was released several organisations — including key media outlets — were provided with pre-release documents outlining key aspects of the report. The same courtesy was not extended to consumer organisations, making it very difficult for us to present an opinion on the report when contacted by the media, and was interpreted by some as a strategy to limit public debate. In the future we expect the AEMC to provide all parties who have lodged submissions with advance copies of pre-release materials.

Conclusion

Of necessity this submission has focused on a few key areas. We commend to the Commission other submissions lodged by consumer representatives. We note that although more than half of the submissions lodged on the Issues paper were from consumer representatives, very few of the issues they raised were discussed in the report. We urge the Commission to give more considered attention to matters raised by consumer representatives during the remainder of the review.

If you have any questions about aspects of this submission please contact Dean Lombard, Utilities Policy Analyst, on (03) 9654 5050, 0418 380 823, or at dean.lombard@vcoss.org.au.

Yours sincerely



Cath Smith
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¹³ First Data Utilities & VaasaETT (2007) *World Energy Retail Market Rankings Report: Third Edition August 2007*, Utility Customer Switching Research Project.