



Submission to the AEMC

Review of Competition in the Retail Electricity
and Natural Gas Markets in NSW

RPR0001

Consultation on Draft Report

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About CHOICE

CHOICE exists to unlock the power of consumers. Our vision is for Australians to be the most savvy and active consumers in the world.

As a social enterprise we do this by providing clear information, advice and support on consumer goods and services; by taking action with consumers against bad practice wherever it may exist; and by fearlessly speaking out to promote consumers' interests - ensuring the consumer voice is heard clearly, loudly and cogently in corporations and in governments.

To find out more about CHOICE's campaign work visit www.choice.com.au/campaigns and subscribe to CHOICE Campaigns Update at www.choice.com.au/ccu.

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CHOICE welcomes the opportunity to comment on the Australian Energy Market Commission's (AEMC) Draft Report relating to its review of competition in the New South Wales small customer electricity and natural gas retail markets (**Draft Report**).

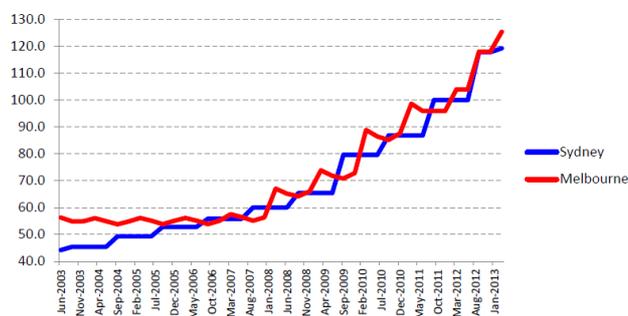
CHOICE remains of the view that competitive pressure on energy retailers by consumers does not currently exist in NSW at an effective level for the reasons outlined in our submission to the AEMC's Issues Paper.

However, assuming the level of competition is as the AEMC considers at a sufficiently effective level *for the purposes of price deregulation*, it is important to note that that there is no surety that price deregulation on its own will lead to:

- the level of competition remaining at the current level; and/or
- the level of competition improving.

For instance, we note that the Essential Services Commission of Victoria (ESC) recently commissioned a report that suggests that Victorian consumers have been ineffective in placing a competitive constraint on retailer margins. Victorian prices have been increasing at the same rate as in other jurisdictions since 2008-2009 despite lower underlying costs:¹

Figure 1: Electricity Price Index: Sydney and Melbourne



Source: ABS Consumer Price Index, Australia, Cat no. 6401.0

We also note that in the UK fifteen years on after the full liberalisation of the energy market, OFGEM in its 2011 Retail Market Review raised concerns regarding:

... the growing complexity of pricing information and the high number of sticky consumers. Consumers find it difficult to make a well informed choice of supplier, and many customers are on

¹ Figure 1 from Dr Ron Ben-David 'Regulating retail energy markets in the long term interests of consumers', Power and Pricing 2013 Conference (23 May 2013) at <http://www.esc.vic.gov.au/getattachment/13504356-46aa-4d94-b3d2-93db96aa6f9f/Regulating-retail-energy-markets-in-the-long-term.pdf>

standard evergreen products which lack any obvious decision or trigger points for engagement with the market.²

OFGEM also considered that there are structural features that are likely to lead to consumer harm including:

... [that] segmentation of customers may permit suppliers to make higher margins from sticky customers. This, combined with large incumbent market shares, may confer an advantage to the Big 6 ... raising barriers to entry to the energy retail market;³

To address the issues identified by OFGEM, the UK Government has recently enacted legislation enabling it to:

- require suppliers to move customers on poor value “dead” tariffs to their cheapest standard variable rate tariff for them;
- limit the number of tariffs each supplier can offer, to simplify them so that the market is more manageable for consumers;
- require suppliers to offer particular types of tariff, such as a standard variable rate tariff; and
- require suppliers to provide information to enable customers easily to assess and compare tariffs, including
 - identifying their cheapest tariff for an individual consumer,
 - providing a standard metric for each of their tariffs for comparison with other suppliers and
 - requiring energy suppliers to provide their customers with tariff and consumption information in a format that would allow it to be easily used with electronic devices such as smartphones, to help consumers quickly and easily compare deals across the market.
 - enabling Ofgem to introduce a licensing regime for third-party intermediaries (TPIs) such as switching websites, should this be needed to protect consumers and ensure trust in the TPIs.⁴

Given these experiences, CHOICE recommends that if price deregulation occurs in NSW:

- a reserve power to introduce price regulation be retained;

² Ofgem, *The Retail Market Review – Findings and Initial Proposals*
http://www.ofgem.gov.uk/Markets/RetMkts/rmr/Documents1/RMR_FINAL.pdf

³ Ofgem, *The Retail Market Review – Findings and Initial Proposals*
http://www.ofgem.gov.uk/Markets/RetMkts/rmr/Documents1/RMR_FINAL.pdf

⁴ Ensuring a Better Deal for Consumers, Government Response to consultation on DECC’s Discussion Document, URN 13D/039 17 May 2013. Accessed at
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/200051/gov_response_ensuring_better_deal_consumers.pdf

- the competitive pressure on energy retailers by consumers is evaluated annually with thresholds that will act as a trigger for a re-examination of the effectiveness of competition; and
- the ability for all small consumers to engage effectively with the energy market is improved with consideration of work undertaken by the ESC and introduced reforms in the UK.

Price monitoring and re-regulation

CHOICE recommends that if price deregulation occurs, a range of measures be monitored and a reserve power to reintroduce price regulation be retained. This is important given the lack of certainty that price deregulation on its own will lead to the level of competition improving and better outcomes for consumers.

CHOICE recommends that the following measures be monitored in addition to those outlined on p111 of the Draft Report:

- ***Retailer revenues and margins for each of the following: time-of-use plans, flat tariffs, standing offers and market offers***

CHOICE notes with particular concern the analysis undertaken by NERA that suggests that retailers are making higher margins from customers on time-of-use tariffs than equivalent customers on inclining block retail tariffs in the Ausgrid network area⁵. CHOICE considers that if this continues over a sustained period of time, for example 3 years, thereby possibly indicating difficulties that consumers have engaging with time-of-use tariffs, this should act as a trigger for a re-examination of the effectiveness of competition.

- ***The level of confidence that consumers have that based on the criteria they are applying when choosing between plans, they can easily choose the best plan***
- ***The level of intention that consumers have to examine available offers in the next few years***

CHOICE considers that if the above two measures decline over a sustained period of time, for example, 3 years, this should act as a trigger for a re-examination of the effectiveness of competition.

In addition, CHOICE is supportive of annual customer surveys to ascertain the ease with which customers can compare prices and switch suppliers, their reasons for switching and satisfaction with the new retailer.

Issues that could be explored include:

- With consumers that have recently changed energy plans:

⁵ Page 64 of Draft Report

- How would they find the process easier?
- Do they feel their effort was rewarded?
- Under what circumstances would they re-examine available offers?
- Were their expectations met?
- With consumers that have not changed energy plans (recently, for a significant period and at all respectively):
 - Under what circumstances would they examine what other offers are available?
 - Have these consumers looked around at other energy tariffs recently? If so, what was their reason for staying on the plan they are on currently?
 - Are there any defining characteristics of these consumers?

Increasing consumer engagement

Blueprint

CHOICE welcomes the AEMC's work with stakeholders to develop a blueprint for designing information and education programs and other measures to increase customer engagement.

Objective

CHOICE considers that consumers should be confident that based on the criteria they are applying when choosing between plans, they can choose the best plan.

Some consumers may wish to invest less effort than others in searching for the range of energy plans available to them. However, CHOICE considers that a consumer should be confident that based on the criteria they are applying when choosing between plans, they can easily identify and choose the best plan from the range of offers that they are considering.

Implementation

For consumers to be confident that they have the right information, they need to:

- have the requisite knowledge to make the best choice in regards to the criteria that they are applying to decide between plans;
- be aware of the tools that can provide the desired information at key decision points; and
- have easy access to the tools at key decision points.

Tariff design

As outlined previously, the complexity of energy tariffs available means consumers typically need to analyse a significant amount of detailed information and consider a whole range of different scenarios to properly compare the available options (see Table B.4 of the Draft Report).

An issue also resulting from tariff design is that some consumers who switch their energy tariff find it very difficult to establish that the level of savings they expected are realised. With price increases also typically occurring annually, the relevant prices for their plan may change during the contract (and possibly even immediately after signing), meaning they may have been better off on the plan they were on previously.

CHOICE considers that such experiences are likely to lead consumers to have low levels of trust in energy retailers generally and result in them thinking that it is not worth the effort of looking around at other energy deals available, let alone switching to another energy deal. In such circumstances, CHOICE considers that competition is not effective as there is a significantly diminished competitive tension placed on retailers by consumers.

It is important that consumers who have switched recently feel that the effort was warranted. If a significant proportion of consumers feel that they would not regularly revisit the suitability of their energy plan, these customers may:

- default back to a standing offer (whether with a host retailer or other) at the expiry of a market offer; or
- remain on the market offer that they joined up to initially

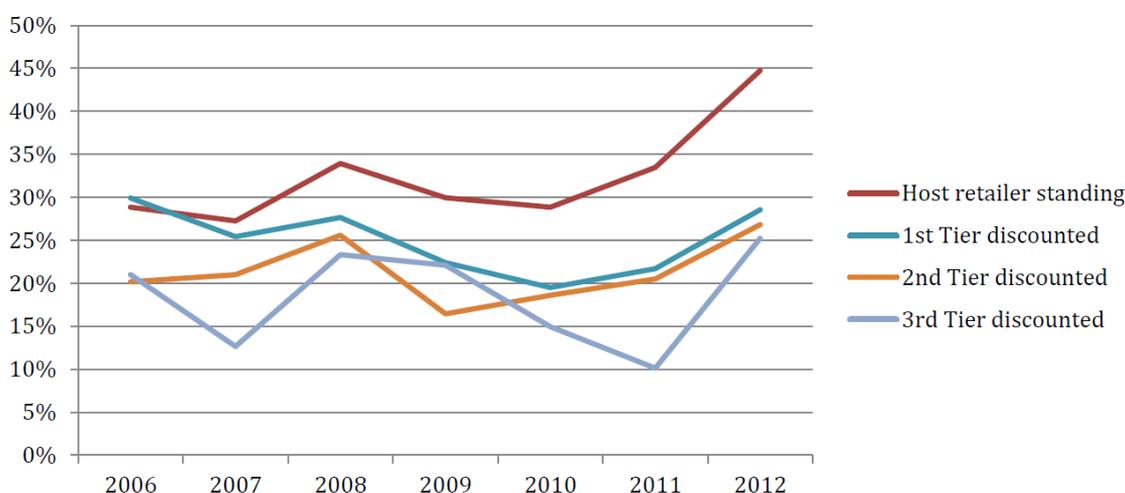
contributing to a lessening of the competitive tension between retailers to meet customers' needs.

In addition, consumers that are not regularly assessing the suitability of their energy offers may in fact be worse off if prices are deregulated should retailers target their most attractive offers only to those that are actively looking to switch.

For example, we note recent work conducted by SKM that suggests that since 2007/08, gross retail margins for standing offers of host retailers are noticeably higher than for discount market offers in the Victorian market⁶:

⁶ 'Analysis of Electricity Retail Prices and Retail Margins 2006-2012', Sinclair Knight Merz, 10 May 2013

Figure 1-3 Single rate, Gross retail margin averaged across Victorian distribution zones



NOTE: Figure assumes an annual average consumption of 4,000 kWh per customer

CHOICE recommends that the AEMC:

- Contact the ESC to discuss its work surrounding the following issues:
 - How should discounts be presented to ensure maximum transparency about the potential benefits and costs to customers?
 - What is the most effective and efficient way of supporting customers on closed market offers who may want to verify that they are still receiving promised benefits?
 - When do 'risk sharing' arrangements start to resemble late payment fees?⁷
- Conduct research regarding the suitability of the criteria used by ESC at yourchoice.vic.gov.au as a way for consumers to find a plan that suits their needs. Specifically, using a 'typical customer' and a questionnaire about their 'home and lifestyle' in comparison to requiring customers to put in the usage from their last bill(s); and
- Consider the recent reforms in the UK in developing its blueprint.

Key decision points

We consider that government has an important role to play in ensuring that consumers are aware of information tools and have easy access to them *at key decision points*. An additional

⁷ 'Pursuing competitive accountability in retail energy markets', Dr Ron Ben-David, Chairperson Essential Services Commission, accessible at <http://www.esc.vic.gov.au/getattachment/648bc8f8-44bd-4b3b-9225-e6df8f29a853/Pursuing-competitive-accountability-in-retail-ener.pdf>

barrier is the need for consumers to have readily available information about the plan that they are currently on.

Options include mandating that on bills, retailers provide a clear and easy means for a consumer to access all the relevant information needed to compare energy plans from a trusted source. This could be for example a QR code or a number to SMS that would send customers a personalised link to the Australian Energy Regulator's (AER) energymadeeasy.gov.au website.

These key decision points could include:

- at the time of receiving a bill;
- at the time of receiving notification of any changes to the terms and conditions (for example, price) of their current plan; and
- if they are on a fixed term contract, the time that their plan is coming up for renewal (noting that sufficient time is required for a consumer to act upon this prompt).

Tools – access to personal energy data

CHOICE believes that one of the keys to ensuring consumer confidence is providing simple and timely access to personal energy data. Providing such data in a format that can be shared with third parties will assist consumers in making the best decision when choosing between plans.

CHOICE is supportive of the AEMC's recommendation in 3.3.1 of the Power of Choice Final Report on providing timely and accessible energy and metering data to consumers:

In considering the proposed framework that should apply when consumers request their energy and metering data under the NER, the following two principles were considered:

- consumers have the right to access their personal electricity and metering data.
- They should know the data exists, be able to share it, and know how it will be used (in accordance with explicit informed consent, privacy and confidentiality provisions).

A scoping study for a consumer energy data access system by Sapere found that the potential benefits could be substantial and exceed costs. As total expenditure in the NEM is in the order of \$23 billion per annum, an economic efficiency gain of just 0.5 per cent would result in a benefit of \$115 million per annum.

Initial offerings by retailers and distributors while welcome are limited in the information that is provided and their functionality.

Tools – energymadeeasy.gov.au

Consumers have indicated to CHOICE that transparency and independence are factors they value highly when looking around at available energy plans⁸. Consumers have also indicated that faced with a range of confusing plans, they are likely to avoid making a decision and stay with the status quo, which may be an uncompetitive market plan or the regulated tariff in circumstances where there is a more competitive plan available to them⁹.

While the AER's energymadeeasy.gov.au site is a welcome tool for consumers, we agree with the AEMC's view that it could be improved 'by allowing customers to upload their actual load profile data so that a more accurate assessment of the effect of different retail tariff structures on the customer's annual bill can be carried out'. In addition, a key limitation on its usefulness is that it does not include time-limited offers such as those promoted by third-party switching providers or by the energy retailers directly.

⁸ See page 7 of CHOICE's complaint to NSW Fair Trading regarding commercial electricity switching sites for more detail at <http://www.choice.com.au/supercomplaint>

⁹ See page 27 – 28 of CHOICE's complaint to NSW Fair Trading regarding commercial electricity switching sites for more detail at <http://www.choice.com.au/supercomplaint>