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Working for an Australia free of poverty

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Submission regarding 'Ensuring energy contracts are clear and fair' issues paper
The Brotherhood of St Laurence welcomes the opportunity to comment on the issues paper released by the Essential Services Commission (ESC) regarding clear and fair contract regulations. The Brotherhood supports the intent of the Commission's proposed changes: to make the energy market clearer and fairer for consumers.

As well as advocating for energy market reform, the Brotherhood delivers Your Energy Broker, a Victorian Government–funded trial helping vulnerable households switch to better gas and electricity offers. Delivering the program, we see firsthand the diverse challenges that vulnerable households face in navigating the energy market. The Victorian electricity and gas markets are very confusing, and many people are unable to access fairly priced offers, especially those who are unable to pay on time or online and those who do not regularly shop around. Even customers who engage with the market are often caught out by misleading discounts and prices that increase without warning.

The result is that certain vulnerable groups pay a higher price for energy than they need to; these include low-income households, those from culturally and linguistically diverse backgrounds, renters and sole parents (Colmar Brunton 2018; ACOSS & Brotherhood of St Laurence 2018; Azpitarte, Johnson & Sullivan 2015). The consumers who are paying too much for energy include many of those who can least afford it; and many others limit their energy use to the detriment of their wellbeing. For example, a recent study revealed that 87% of elderly hypothermia patients in Melbourne were found indoors, and one of its authors suggested that an inability to afford heating may have contributed (Forcey et al. 2019; Australian Associated Press 2019).

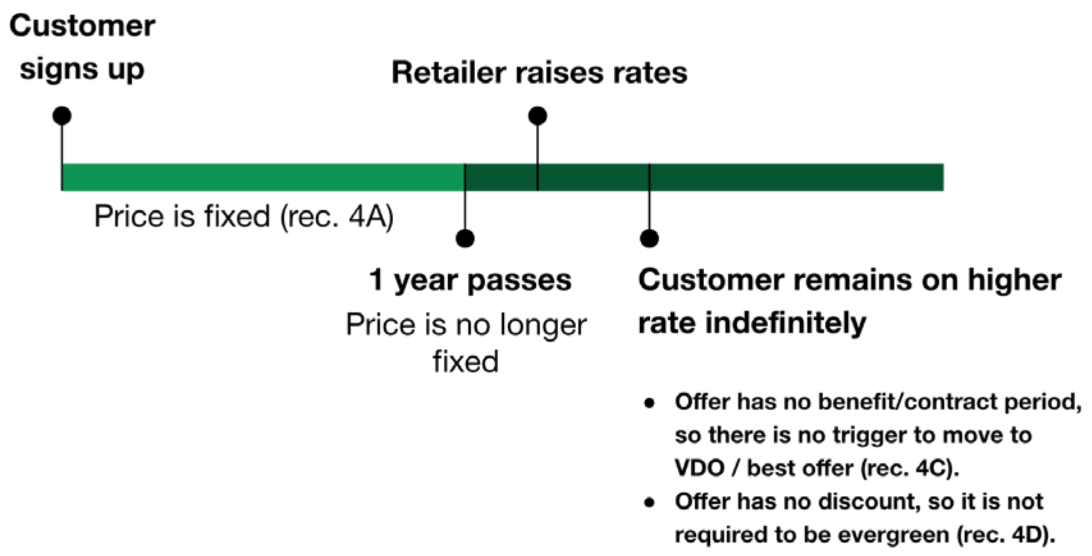
The proposed changes are a step in the right direction and will address some issues that disadvantage vulnerable people. They are necessary changes; however they are unlikely to be enough to address all the challenges in the market. They should be welcomed as progress towards regulation of the energy market to make it work in the interests of all consumers, particularly those who are on low incomes or facing disadvantage. This submission outlines our views on the specific changes.

Practices at the end of benefit and contract periods (Recommendation 4C)
Recommendation 4C aims to give customers certainty that they will not pay more when their contract or discount expires. This is important because, as the Brotherhood has seen during our energy brokerage trial, people are often reluctant to change to a new energy plan because they are concerned that the cost will increase over time—particularly with lesser-known retailers that provide competition. As a result, many consumers instead remain with their current, more-expensive plan.

There are a number of problems with the interpretation of Recommendation 4C:

- The recommendation seems not to apply to plans without benefit or contract periods, which may give retailers an incentive to offering plans without benefit periods or contracts, to circumvent the recommendation's intent.
- The recommendation will not prevent retailers from raising rates (after 12 months – see 4A and 4B below).
- It is unclear whether the recommendation will apply retroactively—that is, to customers whose benefit periods have already expired.

If 4C is implemented as it is drafted, a retailer could seemingly offer a plan with no benefit or contract period and raise rates after 12 months, and the customer would stay on this higher rate indefinitely because there would be no trigger for them to be moved to another offer (see diagram below).



We recommend that electricity customers be offered a choice of being moved to:

1. the cheapest equivalent offer, or
2. the Victorian Default Offer (VDO)

when their benefit or contract period ends, or 2 years after sign-up if their plan has no benefit/contract period. If the customer does not choose between the equivalent offer or VDO, the customer should default to the VDO. The two options should be presented as a choice with indicative annual costs (and any related conditions) based on their previous 12 months' consumption (where available).

The VDO is intended as a default, and it is a safe, fairly priced option that should be reasonably suitable for anyone. Some market offers will be cheaper than the VDO, but many will have conditional discounts that make them inappropriate for some customers.

We also recommend that a VDO should be created for gas, and customers offered the choice of it or the cheapest equivalent offer, and moved onto it in the same manner as electricity. If no VDO is created for gas, we recommend that gas customers are moved to the cheapest equivalent offer when their benefit or contract period ends, or 2 years after sign-up if their plan has no benefit/contract period.

Recommendations:

- Require retailers to give customers the choice of moving to either the VDO or the cheapest equivalent offer at the end of benefit periods and contracts, or 2 years after sign-up if their plan has no benefit/contract period. If they do not choose either option, move them to the VDO.
  - The two options should be presented as a choice with indicative annual costs (and any related conditions) based on their previous 12 months' consumption (where available).
- Create a VDO for gas and offer customers the choice of moving to it or the cheapest equivalent offer, as with electricity.
  - Or, if no VDO is created for gas, move gas customers to the cheapest equivalent offer when their benefit or contract period ends, or 2 years after sign-up if their plan has no benefit/contract period.

Fixing contract prices for one year (Recommendation 4A) and disclosing how long prices will remain the same (4B)

Recommendation 4A seeks to prevent retailers from raising rates until at least one year after a customer has signed up, and 4B requires retailers to tell customers how long rates will remain unchanged. Some retailers have dramatically increased rates after short periods,[1] and 4A and 4B seek to provide customers with confidence that they will not be subject to such 'bait and switch' increases.

The Brotherhood supports restricting price increases; however, we see issues with the implementation of 4A:

- Fixing all prices for a year may induce retailers to raise the prices they offer in the first place, partly to cover the additional risk they take on
- Retailers could still practise 'bait and switch' by increasing rates dramatically after one year.

Limiting annual price rises to a reasonable percentage every year rather than fixing prices for one year could potentially solve both problems. Retailers would be able to pass on genuine cost increases such as network price changes, so they would not need to increase the prices they offered in the first place, and they would be prevented from making unreasonable increases after one year.

[1] See, for example, <https://www.choice.com.au/shopping/shopping-for-services/utilities/articles/sumo-powers-big-rate-increase>; and <https://www.abc.net.au/news/2016-12-01/victorian-power-and-gas-prices-to-go-up/8082384?WT.ac=statenews_vic.>

We support Recommendation 4B's requirement for retailers to disclose how long prices will remain unchanged. Some retailers already disclose how long their prices will be fixed on Fact Sheets and Victorian Energy Compare, and 4B will make this universal practice.

Recommendation:

- Limit all price increases to a maximum reasonable percentage per annum, as set by the ESC, or fix prices for 1 year.

Presentation of discounts (Recommendation 3A)

We support the proposal to require electricity retailers to present discounts relative to the VDO. This will make it easier for consumers to compare offers that include discounts, which have been largely meaningless until now because prices have been discounted from different, arbitrary bases.

We also support the introduction of a gas VDO. However, as long as there is no gas VDO, gas discounts will need to be treated differently. We suggest that the ESC establish a reference price for gas and require discounts to be advertised relative to it. A simple way to determine a reference price, at least in the short term, would be to use the median market offer for a common level of gas consumption.

Recommendations:

- Require electricity retailers to present discounts relative to the VDO.
- Introduce a gas VDO and require retailers to present discounts relative to it. In the meantime, require gas retailers to present discounts relative to a reference price established by the ESC.

Ensuring discounts are cost-reflective (Recommendation 4E)

The Brotherhood strongly supports Recommendation 4E. For too long, conditional discounts have been used to charge excessive rates to people who cannot pay on time or online.

To implement 4E, the ESC should set caps on common types of conditional discounts (e.g. pay-on-time, pay-online, electronic billing, direct debit). This will reduce the potential for retailers to game the system by setting their own limits. If a retailer invents a new kind of discount, they should be obliged to justify its reasonableness until the ESC develops a cap.

Recommendations:

- Implement Recommendation 4E by setting caps on common types of conditional discounts
- If a retailer creates a new form of discount, they should be obliged to justify its reasonableness to the ESC until a cap is developed.

Evergreen discounts (Recommendation 4D)

Recommendation 4D requires conditional discounts and other benefits offered for paying on time or online to be evergreen—that is, continue to be offered indefinitely after a contract ends. The Brotherhood supports the intent of 4D, because customers are often unaware that their discounts will expire and so end up paying more than they expected.

However, it is unclear to us when 4D would ever apply, given that 4C requires retailers to move customers to another offer when their benefit/contract period ends.

If 4D is only to apply to gas, as was raised as a possibility in the ESC's June workshop, it could serve as a reasonable alternative to moving people to the 'best' offer.

Recommendation:

- We support the intent of 4D; however we request clarification of when and how it would be implemented.

Please contact Damian Sullivan (e: dsullivan@bsl.org.au m: 0405 141 735) or David Bryant (e: dbryant@bsl.org.au ph: 03 9483 2470) for further information about this submission.

Yours sincerely,

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References

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