



ACCC Inquiry into retail electricity prices and supply

June 2017

About National Seniors Australia

National Seniors Australia is a not-for-profit organisation that gives voice to issues that affect Australians aged 50 years and over. It is the largest membership organisation of its type in Australia with more than 200,000 members and is the fourth largest in the world.

We give our members a voice – we listen and represent our members' views to governments, business and the community on the issues of concern to the over 50s.

We keep our members informed – by providing news and information to our members through our Australia-wide branch network, comprehensive website, forums and meetings, bi-monthly lifestyle magazine and weekly e-newsletter.

We provide a world of opportunity – we offer members the chance to use their expertise, skills and life experience to make a difference by volunteering and making a difference to the lives of others.

We help our members save – we offer member rewards with discounts from thousands of businesses across Australia. We also offer exclusive travel discounts and more tours designed for the over 50s and provide our members with affordable, quality insurance to suit their needs.

Contact

Head Office

National Seniors Public Affairs,
Level 18, 215 Adelaide Street Brisbane QLD 4001

P: 1300 765 050

E: policy@nationalseniors.com.au

W: www.nationalseniors.com.au

Executive Summary

National Seniors believes that older consumers are right to be wary of the benefits and costs of market offers as they are currently regulated.

Price deregulation has led to a proliferation of market offers for consumers. This proliferation of market offers is confusing, particularly for older consumers, and in some jurisdictions appears to not be offering better outcomes.

Older consumers can be reticent to engage in the retail market and be wary of the implications of adopting a market offer. They may not be able to take advantage of the benefits of market offers or may be at risk of incurring higher costs if they do not fully understand the implications of the contract terms. This is compounded if older consumers do not possess the digital literacy skills required to readily shop around and get a better deal.

National Seniors recommends that actions be taken to strengthen the regulation of market offers and to better educate older consumers to protect those who choose to shop around.

Unless there are stronger protection for consumers accessing the retail market, National Seniors also believes that access should continue to be provided to a government standing offer for consumers as a default price.

While standard retail offers exist as a replacement to government standing offers there is insufficient trust that these are a fair alternative for consumers who struggle to shop around for a “better” market offer.

Introduction

National Seniors welcomes the opportunity to provide input into the Australian Competition and Consumer Commission's (ACCC) Inquiry into retail electricity prices and supply. This submission responds primarily to issues relating to customer interactions with the market.

National Seniors supports moves to reduce electricity prices for consumers. The sharp increase in the cost of electricity over the past decade has been a significant concern for older Australians, especially those on low fixed-incomes.

Price deregulation has been offered as a means of reducing electricity prices. The Australian Energy Market Agreement (AEMA) contains an explicit commitment to removing price regulation in electricity and gas retail markets. This commitment is based explicitly on the assumption that greater competition and choice will lead to cheaper electricity prices for consumers¹.

National Seniors has supported moves to increase competition and choice as one way of reducing electricity pricing in the past². However, we have been wary of the implications of price deregulation and have been actively urging jurisdictional governments, such as Queensland, to better manage this reform to ensure that consumers are properly protected³.

The introduction of price deregulation, competition and choice should not compromise the supply of electricity to consumers. Nor should it create an opportunity for profiteering either.

National Seniors questions whether price deregulation benefits consumers. Price deregulation does not always result in cheaper electricity prices for consumers and can have particularly poor outcomes for vulnerable consumers.

Research has shown that retail electricity prices and retail profit margins in Victoria, for example, have increased significantly. This is troubling given that deregulation is well advanced in Victoria and that the Australian Energy Market Commission (AEMC) views the Victorian retail electricity market as offering an effective level of competition to warrant the removal of price regulation⁴.

National Seniors is concerned that AEMA's commitment to removing price regulation across the network, fails to acknowledge the difficulties that many consumers face in navigating complex profit driven retail markets with inadequate consumer protections. National Seniors also contends that there are factors influencing consumer decision making, such as trust and digital literacy, that are inadequately addressed in market offers.

¹ Energy Consumers Australia (ECA) 2016. *Energy Consumer Sentiment Survey September 2016*. <http://energyconsumersaustralia.com.au/wp-content/uploads/Energy-Consumer-Sentiment-Survey-Dec2016.pdf>

² National Seniors 2014. *Submission in Response to the Draft Report of the Competition Policy Review* November 2014 http://competitionpolicyreview.gov.au/files/2014/12/National_Seniors.pdf

³ National Seniors 2014. *Energy deregulation Bills leave Queensland seniors cold*. Media Release. 6 August 2014 <https://nationalseniors.com.au/about-us/press-%26-media/energy-deregulation-bills-leave-queensland-seniors-cold>

⁴ Australian Energy Market Commission (AEMC) 2016. *2016 Retail Competition Review: Final report*. 30 June 2016 AEMC: Sydney <http://www.aemc.gov.au/getattachment/d5a60d5b-d2dc-4219-af60-51c77d8aaa4f/Final-Report.aspx>

We are also strongly concerned that the focus on price deregulation ignores the fact that retail costs are but only one of the many drivers of electricity prices and that retail competition has almost no impact on these other factors. Rising electricity prices have been⁵ and continue to be impacted by rising generation and distribution costs, which are impacted by complexities associated with supply and demand. Significant retail price increases of around 20 per cent will occur in NSW, ACT and SA on 1 July 2017, for example, and these rises are impacted primarily by changes in the wholesale price of electricity⁶.

While National Seniors acknowledge that more needs to be done to educate consumers to enable them to engage in the retail market *if they wish*, the faith that consumers can easily navigate these complex markets is misplaced. National Seniors does not share the AEMC's optimism about individual consumer's capacity to readily compare, change and save⁷:

"Our analysis found that customers could make significant savings by *simply* comparing offers and switching to a better one." (*emphasis added*)

While efforts to improve consumer knowledge and understanding are required, it is also important that actions are taken to strengthen the regulation of market offers to protect consumers choosing to shop around. This is an essential precondition for consumer engagement in retail markets. Several suggestions for strengthening protections are offered at the end of this submission.

In the absence of stronger consumer protections, National Seniors believes that consumers should continue to have access to government regulated standing offers if they are unwilling or unable to shop around for a market offer.

We believe that government regulated standing offers are essential for competition where consumer protections are inadequate. They appeal to consumers in ways that both market and standard retail offers do not. They provide choice for those consumers who may not see the value in taking up or shopping around for a "better" market offer.

Standing offers also remove the distrust that consumers have in retailers being able to set a benchmark price from which they then calculate their market offers. The ongoing existence of a standing offer would acknowledge that electricity is an essential service, whose price should be restrained. It would also encourage retailers to strengthen the value of their market offers and better explain the benefits of moving to a market offer.

Consumer disengagement

Shifting to a deregulated retail market requires a significant psychological shift among some consumers and the enormity of this task should not be underestimated.

⁵ Queensland Productivity Commission (QPC) 2016. *Electricity Pricing Inquiry: Draft Report*. QPC: Brisbane, 3 February 2016. <http://www.qpc.qld.gov.au/files/uploads/2016/02/EPI-DRAFT-REPORT-Final.pdf>

⁶ Potter, B. 2017. 'EnergyAustralia backs wind, solar, hikes prices 20 per cent' in *Financial Review*. 15 June 2017. <http://www.afr.com/news/energyaustralia-backs-wind-solar-hikes-prices-20-per-cent-20170615-gwrp4h>

⁷ AEMC 2016. *Op cit*.

National Seniors believes that the willingness of some consumers to engage in deregulated retail markets for electricity is circumscribed. Many older consumers are disengaged from, apathetic towards or even hostile to the retail electricity market.

Evidence from Victoria and the United Kingdom suggests that older people, especially those on lower incomes, are more likely to continue with regulated standing offers rather than move to market offers⁸.

While the cost of electricity is a 'hot' issue, National Seniors believes the perception of electricity as an essential service underpins consumer disenchantment with retail electricity markets.

Government's historical role in setting electricity prices and historical ownership of electricity assets undermines moves to engage consumers in retail electricity markets. Under the old regulated system, consumers relied on state and territory governments to act in their best interests when setting prices. If prices went too high, consumers knew who to blame and could punish a government at the ballot box.

National Seniors would argue the move to retail electricity markets is likely to be undermined by a belief among older consumers that government should be actively engaged in keeping electricity prices affordable.

The recent decision by the Queensland Government to absorb the cost of the Solar Bonus Scheme to reduce the cost of electricity prices for consumers⁹ and the Tasmanian Government's decision to restrict electricity price increases are examples of government's responsiveness to the electricity price issue¹⁰.

Consumers are also likely to avoid participating in the market if they don't think that it is worth the effort or if they don't have sufficient trust in the benefits of doing so.

The low standing of power companies in the eyes of consumers is a significant issue in this regard. Research shows that power companies have the lowest levels of consumer trust compared to other industries¹¹.

If consumers have such low levels of trust, they are likely to be wary of shopping around due to fears that they might be worse off as a result of doing so. In the absence of strong protections, consumers would likely forgo the potential benefits of market offers for fear they may incur greater costs. This means that they may resign themselves to sticking with a standard retail offer.

While Victoria, New South Wales and South Australia already (and South East Queensland from 1 July 2017) require that retailers provide standard retail offers as an alternative to a market offer their prices are set by retailers. Given the low levels of trust in electricity

⁸ Consumer Utilities Action Centre (CUAC) 2014. *Tariff Switching Among Older Energy Consumers*. CUAC: Melbourne, June 2014. <https://www.cuac.org.au/research/cuac-research/332-tariff-switching-among-older-energy-consumers/file>

⁹ Queensland Government 2017. 'Budget Highlights: Cost of Living' Accessed 21 June 2017. <https://budget.qld.gov.au/budget-highlights/cost-of-living/>

¹⁰ Tasmanian Government 2017. *2017-18 Budget Speech, Building Tasmania's Future*. Accessed online 21 June 2017. <http://www.treasury.tas.gov.au/Documents/2017-18-Budget-Speech.pdf>

¹¹ CUAC 2014. *Op cit*.

retailers, it is unlikely that these standard retail offers will embody the same levels of trust as the standing offers that used to be offered in those jurisdictions pre-deregulation.

Complexity of choice

If consumers do examine the market offers available on the retail electricity market, they are faced with a whole range of decisions that they were not previously required to consider. To understand the implications of market offers, consumers have to weigh up a range of price and non-price variables within each offer, many of which are difficult to compare when comparing different market offers.

These include:

- usage rate (per kWh) – including time-of-use options
- fixed supply charges
- discounts, for example, for paying on time, for fixed charges and for usage charges
- fees – for example, late fees, direct debit dishonour fees, establishment fees, fees for receiving paper bills, exit fees, disconnection fees, reconnection fees, credit card fees, annual subscription fees
- feed-in tariff
- bundled product deals
- billing – how often and how
- contract length

Each of these variables will have terms and conditions which add further complexity for consumers.

The proliferation of contract offers creates significant confusion for consumers who are required to expend effort to analyse often incomparable offers in the hope of realising savings on their electricity bills.

While regulation requires offers to use standardised terms, retailers package offers in ways that make it difficult to directly compare offers. And while market comparison tools have provided a means of reducing confusion, they are only useful to those with sufficient digital literacy skills.

It is concerning to note that the Chairperson of the Essential Services Committee in Victoria, Dr Ben-David has written of his own bafflement when attempting to compare electricity prices for his own personal situation¹².

¹² Ben-David, R. 2016. *Shock Therapy. Reviving retail competition in the energy market. August 2016.* <http://www.esc.vic.gov.au/wp-content/uploads/2014/12/Shock-Therapy-Reviving-retail-competition-in-the-energy-market-August-2016.pdf>

The reality is that many people don't even know these tools exist. As the AEMC has consistently found¹³, there is low customer awareness about government-run comparator websites.

Older consumers, despite being significantly interested in the hip-pocket cost of electricity, have little understanding of the intricacies of electricity pricing. While most might know how much they pay for electricity every quarter, they often don't know how much they use and the relationship between price and use or the novel things they can do to reduce costs.

Evidence of consumer disengagement in the electricity market exists in Victoria. A state-wide roll out of smart meter technology occurred over the last decade, resulting in some 2.8 million smart meters being installed across the state¹⁴. It is alarming to note that a 2016 survey of Victorian consumers found that only 35 per cent of consumers said they had a time of use meter installed¹⁵. While most Victorian households already have one of the most important new tools for managing electricity use, the majority don't even know they have one¹⁶.

Consumer issues arising from the retail market

There are important questions about the retail electricity market and whether removing price regulation will deliver as promised. At the end of the day, competition and choice is supposed to benefit the end consumer.

National Seniors believes this requires a balanced approach. Price deregulation can only work to benefit consumers when there is an appropriate degree of regulation combined with adequate monitoring and compliance.

Yet there are questions as to whether market contracts offer a better deal for consumers. As has been noted in the Victorian context¹⁷:

MCRs [Market Retail Contracts] are an attractive option for consumers as a cheaper alternative to SRCs [Standard Retail **C**ontracts], with seemingly high discounts. However, the trade-offs for lower prices have led to questionable outcomes for consumers, including the loss of key protections in their contractual terms and conditions. This has a high consumer impact as 77 per cent of consumers are on MRCs.

There are a number of examples of the issues facing consumers.

¹³ AEMC 2016. *Op cit*.

¹⁴ Victorian Government Department of Environment, Land, Water and Planning 2017. 'Smart meters' Accessed online 22 June 2017. <https://www.energy.vic.gov.au/electricity/smart-meters>

¹⁵ Energy Consumers Australia 2016. *Op cit*.

¹⁶ Ben-David, R. 2016. *Op cit*.

¹⁷ CUAC 2015. *CUAC Regulatory Review: A Critical Review of Key Consumer Protections in Victoria* A CUAC Research Report, Volume 1, May 2015 <https://www.cuac.org.au/research/cuac-research/398-cuac-regulatory-review-a-critical-review-of-key-consumer-protections-volume-1-final/file>

One issue is the ability of retailers to change contract terms. Time limited market offers pose issues for consumers who can be hit with higher prices unless they are vigilant.

According to the Victorian Essential Services Commission (ESC) customers on fixed term contracts are often automatically rolled over onto different contract arrangements at the end of their contract. These new contract arrangements may leave consumers on higher tariffs than they had originally sign up for¹⁸.

Unlike other consumer products, electricity pricing is complex and not readily transparent. It requires the consumer to invest significant time and effort to compare products. This requires ongoing consumer vigilance to ensure that consumers are not worse off.

Another key concern of National Seniors is the confusing and sometimes deceptive nature of “discount” offers. There have been a number of cases where both large and smaller retailers have deceived or misled customers and the ACCC has been forced to take action. These cases make customers suspicious of the whole notion of competition in the market.

In 2015, Origin Energy paid penalties of \$325,000 for making false and misleading representations about the level of discount received under its DailySaver energy plan. The Federal Court found that the level of discount advertised was false or misleading because the rates used to calculate usage charges under a DailySaver energy plan were higher than the rates under the standard retail contracts¹⁹.

In 2015, another of Australia’s largest electricity retailers, AGL was also ordered by the Federal Court to pay penalties of \$700,000 and to offer refunds of approximately \$780,000 to 23,000 consumers for making false or misleading representations about the level of discount residential consumers would receive under AGL SA’s energy plans²⁰.

Electricity customers have been encouraged to shop around to get a better deal but the above well publicized cases give consumer’s cause to be suspicious about the discounts on offer and cause to be distrustful of power companies.

Another concern is the proliferation of electricity offers. The proliferation of electricity offers makes price comparison confusing. It is unclear why there is a need for so many variations.

In some instances, the variation is subtle and requires a consumer to pay close attention to the detail. For example, one prominent Queensland retailer offers two almost identical offers. One is a standing offer (based on the government regulated Tariff 11) and the other is a market offer (in which the price is based on Tariff 11).

The primary difference between the two offers is that the charges under the market offer can change and the charges under the standard offer can only change when the regulated price

¹⁸ Ben-David, R. 2016. *Op cit*.

¹⁹ ACCC 2015. ‘Origin Companies ordered to pay penalties of \$325,000 for misleading consumers about discounts under energy plans’ Media Release, 10 February 2015. <https://www.accc.gov.au/media-release/origin-companies-ordered-to-pay-penalties-of-325000-for-misleading-consumers-about-discounts-under-energy-plans>

²⁰ ACCC 2015. ‘AGL SA ordered to pay \$700,000 penalty and to offer refunds to consumers for false or misleading discount representations’ Media Release, 29 April 2015. <https://www.accc.gov.au/media-release/agl-sa-ordered-to-pay-700000-penalty-and-to-offer-refunds-to-consumers-for-false-or-misleading-discount-representations>

changes at the end of the financial year. It is questionable as to why this retailer is offering a market offer that mimics the standing offer in the first instance but is then open to be changed. National Seniors questions what the benefit of this market offer is for the consumer and queries whether consumers would notice the subtle difference between the two offers.

Another issue of concern is the failure of retailers to clearly articulate the various components of the overall retail cost of electricity. This makes it impossible for consumers to understand if the offer provided is giving them a fair price.

An example of this is the confusion over feed-in tariffs for rooftop solar. Many older people want to install solar power to save money, improve their energy security and reduce their carbon footprint. To do this, they need to understand if the price for the feed-in tariff is fair but have no real way of doing this.

When consumers examine the feed-in tariffs on offer, they have no way of reconciling the feed-in tariff with wholesale costs. These costs are concealed within the overall retail price, in part because of price fluctuations in the wholesale market. It is not surprising then that some consumers compare the retail price with the feed-in tariff and feel it comes up short.

A lack of reference to the wholesale price makes it difficult for a consumer to understand the value of the solar feed-in tariff. While the Queensland Productivity Commission recently undertook an in-depth analysis of what constitutes a fair price for solar feed-in and found prices in Queensland to be relatively fair²¹, most consumers would not be aware of this information.

Digital literacy

The issue of digital literacy and its impact on access and equity is one that is of high concern to National Seniors. While the ability of older Australians to make use of digital technologies to access markets for goods and services is improving, there are many who may never be able to engage with technologies, such as the internet, to purchase goods and services.

It is concerning that participation in the retail electricity market is increasingly dependent on a consumer's access to and ability to use technologies such as the internet.

Government comparison sites are dependent on consumer access to the internet and on their ability to use this service. This means that older digitally illiterate consumers are unlikely to use these tools unless they have someone acting on their behalf. This is particularly worrying given that the short-term nature of market offers requires ongoing engagement in the market in order to realise benefits or avoid receiving higher prices.

Also, market offers are structured in ways that require consumers to utilise the internet to receive discounts or avoid fees. Discounts for some offers rely on the consumer applying online, for example.

²¹ QPC 2016. *Solar feed-in pricing in Queensland, Final Report*. June 2016
<http://www.qpc.qld.gov.au/files/uploads/2016/12/DOC16-2388-Solar-Final-Report-FINAL2.pdf>

Electricity retailers should be required to implement widespread and targeted education programs so that consumers, no matter their background or literacy levels, can be confident they can make appropriate decisions if they want to shop around. This will require a range of delivery methods that respond to the needs of different consumers with more intensive education programs for certain types of consumers, such as older people.

There is also a need to continue government regulated standing offers in recognition that some older consumers do not have access to the required technology or have sufficient digital literacy to readily engage in shopping around for better market offers online.

Better regulation of market offers

While education is important, it should not be used as a substitute for formal consumer protections.

National Seniors believes that actions should be taken to improve the transparency of the retail electricity market in recognition of the difficulties that consumers face in understanding the impact of electricity offers on electricity costs. This requires better regulation of retail market offers.

The Chair of the Victorian Essential Services Commission has suggested a number of ideas that warrant consideration²²:

- *Ban or regulate fixed charges* - fixed-tariff-only contracts and variable-tariff-only contracts
- *Universal obligation to publish* – require retailers to publish every tariff schedule offered and the number of customers on each
- *Recommended Retail Price (RRP)* – require that retailers publish recommended retail prices from which discounts could be offered.
- *Genuinely fixed prices* - fixed term contracts to offer fixed tariffs for the duration of the tariff
- *Separated billing* – bill network and retail charges separately (or alternatively separate out wholesale, network and retail components in retail billing)
- *Regulatory approval, review or veto of offers* – give regulators the authority to approve, review or veto products offered by energy retailers.
- *End of contract termination* - ban retailers from rolling over customers from one contract to another at the end of a contract.

National Seniors would support moves to strengthen the regulation of retail market offers as a means of increasing consumer confidence in the retail electricity market. Older consumers

²² Ben-David, R. 2016. *Op cit*.

are unlikely to engage in shopping around for market offers if they do not have trust in the offers provided by electricity retailers.

In reality, though, some older consumers are clearly unconvinced of the value and benefit of shopping around and should not be forced to do so.

National Seniors believes that there is a need to continue government regulated standing offers for electricity in the future to provide options for consumers who are not interested in or unable to shop around regularly for a cheaper price.

In some respects, the existence of standing offers provides consumers with a greater level of choice as not all consumers are convinced of the benefits or willing to accept the potential risks involved with market offers for electricity.