

17 November 2017

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Australian Competition and Consumer
Commission
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Submitted by email: retailelectricityinquiry@acc.gov.au

Retail Electricity Pricing Inquiry

Thank you for the opportunity to provide a submission in response to the Retail Electricity Pricing Inquiry Preliminary Report (the Report).

Momentum Energy is a 100% Australian-owned and operated energy retailer. We pride ourselves on, innovation and outstanding customer service. We retail electricity in Victoria, New South Wales, South Australia, Queensland, the ACT, and on the Bass Strait Islands. We offer a range of innovative energy products and services to both residential and business customers and we also retail natural gas to Victorian customers.

Momentum Energy is owned by Hydro Tasmania, Australia's largest producer of renewable energy.

We commend the ACCC on its Preliminary Report. Although the provision of information and documentation has at times been an onerous process for retailers, Momentum considers that this has been vital in enabling the ACCC to develop an evidence based report which has highlighted structural and regulatory issues throughout the electricity supply chain. We welcome these findings as they constitute a rare, holistic assessment of the market, and provide an opportunity for policy makers to focus their efforts on those areas of the market which will have the greatest impact in delivering the desired outcome of lower prices for consumers.

The ACCC's findings are consistent with Momentum's views regarding the issues which exist in the energy market at this time.

Retail Issues

In recent times, much of the focus on energy prices has been on retailers with numerous claims that excessive retail margins are being extracted from consumers. The ACCC's finding that net retail margins are around 8% correlates with Momentum's experience in

the market. However, this figure is not uniform across retailers or customer segments and we believe that the bulk of retailer margin across the industry is being derived from customers on Standing Offers. Those retailers who have a geographical incumbency benefit from having a portion of their customers who have never sought a market offer and are paying some of the highest prices in the market. By contrast, customers of second tier retailers have already demonstrated a willingness to enter the market to find a better offer and are thus unlikely to provide the returns as the cohort of customers who have never taken up a market offer. This fact illustrates the benefit of a highly competitive market as new entrants have undercut the standing offer prices being charged by the incumbents and ensured that consumers have the opportunity to be on a better deal than they may have otherwise been offered.

Momentum is concerned that this fundamental competitive principle is unnecessarily being placed at risk due to retailers becoming a target for quick and poorly thought through short term fixes. While we recognize that there are issues in the retail energy market and retail practices which must be addressed, the development of policies which undermine market outcomes is concerning. The ACCC has identified issues in the wholesale generation market which have arisen as a result of a concentration of market power, and we are concerned that consumers will face higher prices over the longer term if policies in the retail market result in the replication of this concentration of market power.

The ACCC's analysis has shown that less than a quarter of a residential's customer bill is attributable to retailers, and that network and wholesale costs have been the main drivers of price increases. This is why Momentum is deeply frustrated with interventions in the retail market which do nothing to address these underlying issues which are driving increases in energy bills. Reforms to lower prices are required in the network and wholesale sectors, whereas the reforms required in the retail electricity market should be aimed at improving the customer experience, facilitating competition and increasing consumer engagement.

Engaged consumers ensure that competition delivers efficient outcomes. Policy makers have long wrestled with the best way to ensure that consumers are engaged with the market, and have traditionally sought to achieve this through the provision of information. Momentum considers however, that any attempts to engage customers in this way was undermined by particular retailer practices, particularly with regard to presentation of prices, which diminish consumer confidence in the energy sector. While we consider that some of these behaviors may specifically seek to disempower consumers, others are rational business responses to regulation.

We are pleased that a number of these issues are being addressed via the streams of work which have emerged from the Prime Minister's meetings with energy retailers, and through recommendations 3 to 11 of the Thwaites report, (if they are adopted by the Victorian government). It is crucial however, that a rigorous evidence base be developed, and thorough consultation is undertaken to guide the implementation of regulatory reform. Unfortunately, this is not always the case.

We believe that the AEMC's rule change process applies a transparent, evidence based approach which ensures that unintended consequences are considered and thus minimized in the making of regulation. The separation of rule maker and regulator also ensures that these regulations are enforced dispassionately and efficiently. It is concerning that such robust processes are not always applied at a jurisdictional level and we urge the ACCC to remind policy makers of the potential harm that poorly designed and implemented regulation can cause consumers.

These observations are not made to downplay the need for regulatory intervention, but merely to ensure that the consequences of intervention are understood and that best practice regulatory review and modification processes are followed. If transparent processes are followed, the issues in the retail market which we believe are damaging consumer confidence can be addressed without leading to long term consumer detriment. These issues relate to basic principles of transparency, fairness and respect for consumers, principles which have sadly been forgotten at times in the provision of an essential service such as energy.

The current practices relating to presentation of energy offers does not in our opinion foster trust in the industry or provide consumers with an opportunity to compare the best offers in the market. Momentum has recently elected to stop the practice of offering discounts in its core products as we believe that this practice inhibits a consumer's ability to estimate what their bills will be based on a given level of consumption. Even more concerning is the fact that many of the discounts currently offered in the market are contingent on the customer paying on time, which for many vulnerable consumers is not always going to be possible.

Momentum is currently participating in work being undertaken by the AER to develop mechanisms for consumers to more easily compare energy offers. We believe that a simple first step would be to limit the discounts which retailers can offer to a fixed dollar amount, which is reflective of the benefit that the retailer receives if the customer meets the condition to be eligible for the discount. This approach would be more in line with other sectors where fees are limited to the actual cost that an institution incurs if, for example, a consumer does not pay on time.

While other issues exist in the retailer market, we urge the ACCC to examine the costs associated with inconsistencies in the regulatory regimes from one state to the next to ensure that these issues are addressed in the most efficient manner possible. Retailers have gained considerable efficiencies as the majority of NEM states have adopted the National Energy Customer Framework, (NECF) although some jurisdictional differences do increase costs. More concerning however, is the fact that Victoria has not adopted the NECF and is becoming increasingly divergent and costly. The preliminary report alludes to this fact¹ and we believe that it would be useful in the context of the current discussion, to examine the costs which could be saved if all states were to adopt NECF.

Generation

¹ ACCC Retail Electricity Pricing Inquiry Preliminary Report Page 61

We note that the ACCC has identified issues in the wholesale market as a driver of energy prices. We expect that the final report will find that wholesale price volatility increased throughout 2017/18 and led to further increases in energy prices.

We are hopeful of an end to the turbulent times in the wholesale energy market and share the widely held belief that an orderly transition from the existing aging coal fired generation fleet towards the technologies which will meet Australia's energy needs for the foreseeable future is required. This transition requires policy certainty and we hope that the National Energy Guarantee will provide this to some degree, noting that we have concerns that imposing obligations on retailers to drive investment in the wholesale market may not be the optimal approach.

The ACCC has demonstrated the negative impacts of wholesale market concentration and Momentum is mindful that any future energy policy should seek to dismantle rather than consolidate market power. We believe this to be true of all markets and note, that policies in the retail sector which may increase the market power of Tier 1 retailers will have a flow on effect of consolidating these same player's positions in the wholesale market.

Network

We concur with the ACCC's view that network costs have been another key driver of electricity prices. We are hopeful that the removal of the limited merits appeals process will enable the Australian Energy Regulator to more stringently control network costs, and that demand response and non-network solutions to constraint management will reduce the need for 'gold plating' to cope with critical peak events.

As monopoly providers, networks are not subject to the same competitive pressures as retail entities and consequently, regulatory frameworks must be robust to ensure that efficiency is rewarded and returns on investment are commensurate with the level of risk faced by network providers. To this end it is vital that the AER and the Consumer Challenge Panel are equipped to ensure network businesses are acting in the long term interests of consumers.

Summary

We urge the ACCC to leave no stone unturned as it seeks to determine the causes of increased energy bills. Whilst the causes of such price increases have been clear to retailers, we are seeking the ACCC's independent view in the hope that it will guide policy makers and lead to an end to suggestions of re-regulation, which will not be in the long term interests of consumers but rather lead to increased concentration of market power.

The current inquiry has highlighted the complex nature of the energy market and the need for a thorough understanding of costs which retailers face before proclamations of market failure can be made. We understand that Australian consumers are concerned about the cost of energy and we share a desire to see that the current drivers of high prices are addressed. To this end we are pleased to continue to participate in this inquiry, and to

furnish the ACCC with information to help form recommendations to drive down prices and improve outcomes for Australian energy consumers.

If you require any further information with regard to these issues, please contact me on (03) 8651 3565 or email joe.kremzer@momentum.com.au.

Yours sincerely

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