



public interest
ADVOCACY CENTRE

**Overpriced and underwhelming: a retail market
that has failed consumers**

5 July 2017

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Introduction

The Public Interest Advocacy Centre

The Public Interest Advocacy Centre (PIAC) is an independent, non-profit law and policy organisation that works for a fair, just and democratic society, empowering citizens, consumers and communities by taking strategic action on public interest issues.

PIAC identifies public interest issues and, where possible and appropriate, works co-operatively with other organisations to advocate for individuals and groups affected.

Established in July 1982 as an initiative of the (then) Law Foundation of New South Wales, with support from the NSW Legal Aid Commission, PIAC was the first, and remains the only broadly based public interest legal centre in Australia.

Energy and Water Consumers' Advocacy Program

The Energy + Water Consumers' Advocacy Program (EWCAP) represents the interests of low-income and other residential consumers of electricity, gas and water in New South Wales. The program develops policy and advocates in the interests of low-income and other residential consumers in the NSW energy and water markets. PIAC receives policy input to the program from a community-based reference group whose members include:

- Council of Social Service of NSW (NCOSS);
- Combined Pensioners and Superannuants Association of NSW;
- Ethnic Communities Council NSW;
- Salvation Army;
- Physical Disability Council NSW;
- Anglicare;
- Good Shepherd Microfinance;
- Financial Rights Legal Centre;
- Affiliated Residential Park Residents Association; and
- Tenants Union.

Summary of recommendations

Recommendation 1

PIAC recommends that the ACCC extend its inquiry to include the prices paid by, and experiences of, exempt customers such as those in embedded networks.

Recommendation 2

PIAC recommends that the ACCC gather evidence regarding retail prices (including the elements noted above) and profit margins to assess whether retailers are charging consumers beyond what is an efficient recovery of costs.

Recommendation 3

PIAC recommends that the ACCC review the practice of pay on time discounting, and consider if it is reflective of the cost borne by retailers for late payment and whether the practice is unfairly pushing the cost of hardship programs onto low-income and vulnerable consumers.

Recommendation 4

PIAC recommends that the ACCC investigate whether recent wholesale market cost increases borne by retailers are being efficiently passed on to consumers through volume based (c/kWh) rather than fixed (c/day) charges.

Recommendation 5

PIAC recommends that the ACCC examine whether retail businesses (including vertically integrated businesses with a retail arm) are unfairly recovering generation business' costs through its retail customers. If this appears to be the case, PIAC recommends that the ACCC propose measures to address this.

Recommendation 6

PIAC recommends that the ACCC examine whether retail businesses are unfairly over-recovering in some jurisdictions or locations that have lower network and generation costs. If this appears to be the case, PIAC recommends that the ACCC propose measures to address this.

Recommendation 7

PIAC recommends that the ACCC examine whether actual savings are being realised by consumers who expect to save money through offers which bundle electricity with other services such as gas.

Recommendation 8

PIAC recommends that the ACCC consider whether the uptake of voluntary and cost reflective network tariffs in retail offerings reflects that expected in a competitive market. If not, the ACCC should assess whether retail businesses are failing to make voluntary network tariffs available to their customers in a competitive manner, or if network tariff price setting is resulting in excessively high voluntary network tariffs.

Recommendation 9

PIAC recommends that the ACCC, or an appropriate jurisdictional regulator, monitor the retail market to ensure that feed-in tariff offers continue to reflect changes in wholesale electricity prices. If monitoring reveals retailers are failing to set appropriate feed-in tariff rates, PIAC recommends that jurisdictions mandate a minimum feed-in tariff offer.

Recommendation 10

PIAC recommends that the ACCC, or an appropriate jurisdictional regulator, monitor the retail market to ensure that any increases in retailer feed-in tariff offers are not unfairly offset by increasing fixed charges for solar customers.

Recommendation 11

PIAC recommends that the ACCC investigate the transparency of pricing information available and make recommendations to make it easier for electricity consumers to make properly informed decisions when interacting with the retail market.

Recommendation 12

PIAC recommends that the ACCC should consider whether is appropriate for retailers to default long-term customers to more expensive offers at the end of their contracts.

Recommendation 13

PIAC recommends that the ACCC should investigate whether consumers are being fully informed of their ability to switch retailers and are able to effectively compare different retail offers at the end of a market offer.

Recommendation 14

PIAC recommends that the ACCC should consider how retailers could provide better service to consumers at the end of the contract period for a market offer. For example, they could:

- retain any existing discounts in the non-market offer which the consumer reverts to; and*
- inform them of the ability to compare retail offers including through the AER's Energy Made Easy website to find the best offer for them.*

Recommendation 15

PIAC recommends that the ACCC consider whether customer winback is in the long-term interest of consumers, and if the practice should be disallowed to remove a barrier to market entry for new retailers.

Importance of this Inquiry

PIAC welcomes the opportunity to provide comment on the ACCC's Issues Paper and looks forward to continued engagement throughout the inquiry.

This inquiry into retail electricity supply and pricing by the Australian Competition and Consumer Commission (ACCC) is timely. The ACCC's history of understanding and protecting consumers' interests in conjunction with its information gathering powers affords an important and unique opportunity to fully investigate whether deregulated, notionally competitive retail markets are actually delivering better outcomes for consumers.

The issues touched on by this inquiry are complex and interconnected. Where possible PIAC has addressed its comments to the three issues identified in the ACCC's Issues Paper, namely: prices, costs and profits in the electricity supply chain; market structure and nature of competition; and customer interaction with the market. Some matters raised herein - consumer engagement with the market, for example - should be considered across two or more areas of the ACCC inquiry.

Consumers experiencing, or at risk of, payment difficulty.

Retail electricity prices have steadily increased, in real terms, since deregulation of the retail electricity market began in the 1990s.¹ The consistent increases in retail electricity prices is particularly of concern to low income and vulnerable consumers, for whom any increase to the cost of living is of substantial detriment.

For many households, winter energy bills are the highest of the year. After the price increases announced for July 2017, the next electricity bill for many Australian households is likely to be their highest yet. Due to other cost of living pressures - most notably housing costs - many are less able to absorb this increase than they have been at other times.

The NSW Council of Social Services (NCOSS) recently reported that 8-22% of low income consumers are unaware of payment extension options, 13-37% are unaware of payment plans and 20-43% are unaware of hardship programs.² It will be critical that those on low income, and other vulnerable consumers, are made fully aware of the support options that are available from their retailer.

Increasingly, however, the impact of higher energy prices is not limited to low income households. In their July 2016 *Consumer Pulse* report, Choice reported that over 80% of both high and low income households are concerned about their electricity bills.³

As a result of bill increases after July 2017, high numbers of consumers who have not previously identified as 'hardship customers' may experience payment difficulty for the first time. These may include families on middle incomes, people experiencing mortgage stress, and self-funded retirees. In many cases, these customers are unaware of their entitlement to retailer hardship support. They are often disinclined to seek support, due to the stigma associated with seeking

¹ Carbon + Energy Markets, *Australia's retail electricity markets: who is serving whom?*, 2016.

² NCOSS, *Turning off The Lights: The Cost of Living in NSW, June 2017*, 2017.

³ Choice, *Consumer Pulse: Australians' Attitudes to Cost of Living 2015-2016*, 2016, pg. 8.

assistance, until the problem is exacerbated by accumulated debt and/or forgone expenditure on other essential products and services.

PIAC hopes the ACCC's Inquiry will shed light on, and recommend solutions to, issues around electricity retail arrangements and practices that may help prevent customers experiencing hardship and better identify and address hardship where it occurs. With the combination of community concern, lack of knowledge about support programs and the anticipated bill shock after July 2017, identifying and assisting customers who are at risk of hardship, and providing access to appropriate support mechanisms as early as possible, should be a high priority.

Scope of customers to be included in this inquiry

In PIAC's view, it is important that the ACCC considers all customers consuming energy services – not just those with a "traditional" licenced retail relationship. In particular, customers in embedded networks, who buy their energy from licenced or exempt retailers, should be considered.

The AER grants retail exemptions under a variety of circumstances, most of which involve a provider on-selling electricity they have purchased to a final consumer. Increasingly, these consumers have their electricity supplied through embedded networks. Embedded networks are private electricity networks that serve multiple customers and are connected to the grid through a parent connection. Often, the parent connection is one where the exempt seller has a contract to receive bulk supply from an electricity retailer. Such arrangements are becoming common in apartment buildings, retirement villages, residential parks and shopping centres. In particular, the AEMC noted that "the AER had approved 3032 network exemption applications by the end of 2016, with 1357 of those relating to residential developments."⁴

The arrangements for exempt retail customers often involve a higher level of risk than those who are directly engaged in the market, due to the absence of equivalent protections. For example, in PIAC's recent submission to the AEMC's *Review of regulatory arrangements for embedded networks*, we identified that consumers in exempt selling arrangements are:

- Unable to access dispute resolution through energy ombudsmen;
- Unable to access hardship programs that retailers are required by law to offer; and
- Often not provided with adequate billing information to manage their electricity consumption and therefore costs.⁵

The issues which these customers currently face may forewarn of issues facing a much broader range of exempt retail customers as the electricity industry transforms and new business models emerge, such as energy storage and stand-alone power supplies. PIAC considers that considerable improvements are needed to bring protections up to a level that reflects the essential nature of energy services.

⁴ AEMC, *Consultation Paper: Review of regulatory arrangements for embedded networks*, 2017, pg. 1, <<http://www.aemc.gov.au/getattachment/2e10ae08-e3c1-4a58-b3b6-83d3234a47c2/Consultation-paper.aspx>>.

⁵ PIAC, *Embedded network regulation: a consumer view*, 2017, <<http://www.aemc.gov.au/getattachment/b45c91b7-617d-4714-8ba1-4500e35cb36a/Public-Interest-Advocacy-Centre.aspx>>.

Recommendation 1

PIAC recommends that the ACCC extend its inquiry to include the prices paid by, and experiences of, exempt customers such as those in embedded networks.

Retail prices, costs and profits

Retail profits are inefficient

Retailers incur a range of costs in supplying electricity to customers, including

- wholesale generation costs (typically comprising some degree of direct spot market exposure offset by some combination of financial hedges, vertical integration and distributed energy sources such as rooftop solar);
- network loss factors which vary by location;
- network use of service (NUOS), including DUOS and TUOS charges;
- clean energy incentives, including renewable energy target and energy efficiency targets;
- market and other fees;
- the cost of community service obligations such as hardship programs; and
- business operating costs.

It is reasonable to expect retailers to pass such costs on to customers, along with an efficient and sustainable profit margin.

However, there is a long-standing concern in the community and among consumer advocates that the retail margins in Australia's electricity system are considerably higher than is an efficient recovery of costs.⁶

For example, economic consultancy Carbon + Energy Markets (CME) recently analysed NEM retail markets comparing deregulated markets in Victoria, New South Wales, South Australia and Queensland with the regulated retail markets in the Australian Capital Territory and the United Kingdom.⁷ While noting the difficulty of identifying precise profit margins, CME reported that retail electricity prices tend to be considerably higher in deregulated markets than those where regulators set the prices.

This concern is mirrored in the work of the Grattan Institute. Recently, the Grattan Institute reviewed retail markets in the NEM, finding that "profit margins appear to be higher than in other sectors – and more than double the margin that regulators considered fair when they set retail electricity prices".⁸

Regulated energy prices are notionally set to an efficient level. Considering the marked difference between standing offer prices and discounted market offers in deregulated markets, and the above-noted high retail profits deregulated markets, it appears that margins associated with standing offer prices in deregulated markets are the least efficient of all retail energy products.

⁶ For instance, PIAC, *A competitive market to benefit all*, 2016;

⁷ Carbon + Energy Markets, *Australia's retail electricity markets*, 2016.

⁸ Tony Wood and David Blowers, "Price Shock: is the retail electricity market failing consumers?" *Grattan Institute Report No. 2017-04*, 2017, pg. 3.

As well as being inefficient, PIAC argues that this is also unfair, given the impact of higher standing offer prices on particular consumer cohorts who are either on standing offers or market offers with pay-on-time discounts that default to standing offer prices. (See further comment below.)

If deregulated retail markets in the NEM are not delivering fair and efficient prices, clearly the benefits of competition are not being felt by many consumers. PIAC considers that it is important to for the ACCC to use the opportunity of this inquiry to investigate why this is the case. As part of this investigation, PIAC supports the ACCC using its information gathering powers to accurately identify the profit margins made by retailers and assess whether these are excessive.

Recommendation 2

PIAC recommends that the ACCC gathers evidence regarding retail prices (including the elements noted above) and profit margins to assess whether retailers are charging consumers beyond what is an efficient recovery of costs.

Pay-on-time discounts that act as an excessive late fee

Aside from profit margins being excessive (as argued in the previous section), PIAC is concerned for a group of customers that a particular approach to cost recovery may target: primarily the structure of pay on time discounts and its impact on consumers who are unable to pay their bills on time.

Low income and vulnerable consumers often have trouble paying electricity and other bills on time. Therefore, they may miss out on the discount and pay more than they can afford, and arguably more than is fair and efficient, for their energy services. This can then push them further into financial hardship.

PIAC is concerned that the common practice of retailers, to provide discounts only when bills are paid by the due date has the effect of, essentially, an unjustifiably high late payment fee. Noting that consumers who consistently pay on time are much less likely to be the recipients of retailer support such as hardship plans, PIAC considers that pay-on-time discounts unfairly target low income and vulnerable consumers who may miss out on these discounts.

PIAC seriously doubts that the difference between discounted price available to consumers who pay on time and the full price in the absence of a discount – which is often 20-30% of the consumption charge on a consumer's bill – accurately reflects the additional costs faced by the retailer as the result of a customer not paying on the due date of a bill.

If the difference is not reflective of costs to retailers associated with late payment, this is not efficient, and, in PIAC's view, is highly unfair.

If the difference is cost-reflective, the practice of pay on time discounts may in effect push the cost of hardship and support programs back onto the same cohort of consumers who most need that support.

In either case, this may lock some consumers into financial stress, imposes a burden on the consumers who can least afford it, and act as a penalty for those who are less engaged or simply have difficulty paying on time.

Recommendation 3

PIAC recommends that the ACCC review the practice of pay on time discounting, and consider if it is reflective of the cost borne by retailers for late payment and whether the practice is unfairly pushing the cost of hardship programs onto low-income and vulnerable consumers.

Wholesale market cost increases

PIAC is concerned by the way retailers may apportion bill increases to different tariff components, and the lack of transparency about this.

Recent higher wholesale prices would be efficiently reflected in retail offers through increases in volume-based (c/kWh) rather than fixed (c/day) charges. Wholesale energy cost is largely dependent on the volume of electricity used. Hence, using fixed (or supply) charges to recover this is not a cost reflective way to pass through wholesale price increases, and is arguably unfair. Increasing fixed charges is detrimental to consumers in two ways.

Firstly, a high fixed charge penalises low energy-use consumers by fixing a larger proportion of their bill. This has a particularly negative impact on low income and vulnerable consumers, who are overrepresented in the low energy-use group of consumers.

Secondly, recovering wholesale cost increases through higher fixed charges (as distinct from higher energy charges) limits the ability of all consumers to manage their electricity costs through reducing their consumption from the grid. This ability is important for all consumers but is particularly so for low income and vulnerable consumers.⁹ PIAC submits that retailers should limit their wholesale price increases to volume charges.

Recommendation 4

PIAC recommends that the ACCC investigate whether recent wholesale market cost increases borne by retailers are being efficiently passed on to consumers through volume based (c/kWh) rather than fixed (c/day) charges.

Potential for cross-subsidisation between generation and retail

As noted, in the ACCC's Inquiry Paper, many of the largest retailers in the NEM also own generation assets. Potentially, such vertically integrated businesses may shift cost recovery from the more competitive generation market to the retail customer market. If this were occurring, it would ultimately lead to these businesses earning higher profit margins at the expense of customers through both a higher retail component and through distorted wholesale prices.

Such cross-subsidisation would allow the partnered generator to bid lower than it would otherwise be able to efficiently do. While this may lower wholesale prices in the short term, it would do so artificially by pricing out other generation that actually has lower operating costs. In an ideal wholesale generation market, cheaper generation would enter the market and out-compete higher-cost generation, leading to lower average wholesale prices which are passed on to consumers. By contrast, cross-subsidising generation with retail would make higher-cost generators remain competitive longer than they would otherwise be. This distorts the market signals for new generation investment and may delay or even prevent investment in new, lower-

⁹ NCOSS, *Turning off The Lights: The Cost of Living in NSW, June 2017*, 2017, pg. 19.

cost generation and prevent the benefits of these sustained lower costs being realised by consumers.

Recommendation 5

PIAC recommends that the ACCC examine whether retail businesses (including vertically integrated businesses with a retail arm) are unfairly recovering generation business' costs through its retail customers. If this appears to be the case, PIAC recommends that the ACCC propose measures to address this.

Potential for cross-subsidisation between geographic regions

Many retailers, in particular the largest retailers, have customers spread across multiple distribution networks and jurisdictions. The costs incurred in supplying customers in different locations often differ markedly. Network charges for consumers in some capital cities (for example, Citipower in Melbourne) are around half that for Victorian regional networks that cover remote areas.

It is well understood that wholesale prices can differ widely between regions, but there can also be a marked variance in network loss factors within regions. This effectively means the wholesale energy costs for retailers is lower for consumers in metropolitan areas than it is in regional, and particularly more remote, locations.

Where retailers have customers across multiple jurisdictions and networks, there is the potential they may be unfairly distributing costs between them. To some extent, it may be appropriate for retailers to shield customers from some of these variations by managing these within the retail business. In the short term, this would likely result in some customers temporarily cross-subsidising others by a small amount, which should ultimately average out.

However, this cross-subsidisation would be unacceptable if it resulted in higher-than-efficient prices for some customers in the long term. This might occur if the differences in prices charged in certain regions were based, for example, on the relative level of competition or the likelihood to switch retailers rather than any inherent difference in cost to provide electricity services. This could be considered Ramsey Pricing, in contrast to electricity reforms to introduce more cost-reflective prices and send better price signals to consumers.

Recommendation 6

PIAC recommends that the ACCC examine whether retail businesses are unfairly over-recovering in some jurisdictions or locations that have lower network and generation costs. If this appears to be the case, PIAC recommends that the ACCC propose measures to address this.

Bundling of offers

PIAC understands that bundling electricity with other services, such as gas, is becoming more common. Having one retailer for multiple services is convenient, and by bundling both services with the same provider, the resulting economies of scope could be passed on to consumers through lower overall bills.

However, PIAC understands that bundling is, at times, less cost effective for consumers than accessing the best electricity and gas deals separately. In part, this may be because retailers with the lowest cost to supply one fuel source may not have a low cost to supply another.

Consumers may tend to bundle on the assumption that they are getting a better deal. Given the difficulties for many consumers to effectively compare different retail offers, bundling may pose an additional complication - comparing a bundled deal against two separate deals for electricity and gas services may be complicated.

In PIAC's view, it is important to understand if the practice of bundling is in fact leading to better outcomes for consumers.

Recommendation 7

PIAC recommends that the ACCC examine whether actual savings are being realised by consumers who expect to save money through offers which bundle electricity with other services such as gas.

Voluntary network tariffs

Networks in most jurisdictions offer voluntary tariffs that are more reflective of the costs of building and operation a distribution network than 'flat' energy tariffs. Consumers can choose to adopt these voluntary tariffs if retailers make offers that incorporate them. These tariffs incorporate time-variant charges such as Time of Use or peak demand charges and require interval meters or smart meters.

The greater uptake of more cost reflective network tariffs is important, as they offer the social benefit of fairer cost recovery, even without any behaviour change. At the same time, they provide consumers opportunities to voluntarily change their behaviour, in a manner that better aligns their financial benefit, though lower bills, with improved economic efficiency, through less investment being required in networks to meet peak demand.

Victorian distribution networks have established more cost reflective tariffs, having offered a common 'flexible' Time of Use tariff since 2013,¹⁰ and more recently, peak demand tariffs.¹¹

Cost reflective tariffs also present an opportunity for retail innovation, whereby retailers can offer 'less peaky' customers a simple flat tariff, while paying an underlying cost reflective tariff that has lower overall network charges than would be incurred for the same consumer on a flat network tariff. The retailer can then share the savings with the customer through a lower retail tariff, and/or retain some of network savings themselves.

The take up of voluntary, more cost reflective network tariffs has been slow, despite the fact that many consumers would be better off with them and, in the case of Victoria, retailers have been obliged to offer retail products that include them and the metering required for them is ubiquitous.

It may be the case that retailers are not promoting voluntary more cost-reflective network tariffs, or that they are imposing higher retail margins on them compared to standard network tariffs. It

¹⁰ AER, 2013 < <https://www.aer.gov.au/news-release/aer-approves-victorian-electricity-network-tariffs-for-2013> >

¹¹ For instance: Powercor, *Powercor 2017 Pricing Proposal*, 2017.

may also be the case that the underlying network tariffs have not been priced effectively to allow consumers to benefit from them, as has been suggested of the Time of Use tariffs currently offered by Ausgrid, for example.

Recommendation 8

PIAC recommends that the ACCC consider whether the uptake of voluntary and cost reflective network tariffs in retail offerings reflects that expected in a competitive market. If not, the ACCC should assess whether retail businesses are failing to make voluntary network tariffs available to their customers in a competitive manner, or if network tariff price setting is resulting in excessively high voluntary network tariffs.

Market structure and nature of competition

Feed-in tariffs for rooftop PV

The benefits of demand side solar, particularly with respect to use of generation and network assets, are largely time-varying and location-specific. This needs to be reflected in efficient price signals to solar consumers, particularly given the advent of batteries that will allow solar customers to manage the timing and amount of energy they import and export to and from the grid.

Historically, NSW retailers have not always been responsive in setting fair feed-in tariffs. In 2014, PIAC reported that “30 per cent of retailers don’t offer a voluntary feed-in tariff and 50 per cent do not offer a feed-in tariff within IPART’s recommended range for 2013-14.”¹² PIAC is pleased that IPART’s analysis of 2016-17 retail feed-in tariffs shows retailer underpayment is now less of an issue.¹³

However, there remain commercial incentives for retailers to not pass on the full value of IPART’s benchmarks to customers, including that retailers are largely financially or physically hedged against full exposure to spot market prices. As a result, the broader market and social benefit of energy from solar systems is likely to exceed its value to retailers. For similar reasons, it may simply not be in their interest to promote entry into the market of distributed generators, such as solar PV customers, through feed-in tariffs which fully reflect the benefits of PV generation.

While they are currently setting their feed-in tariffs in accordance with IPART benchmarks, the commercial incentives for retailers to undervalue exports still exists.

PIAC recommends that the ACCC investigate whether retailers are efficiently passing on the value of rooftop PV generation to customers through the feed-in tariffs offered. Currently, Victoria, Tasmania and regional Queensland all have regulated feed-in tariff minimums. In these jurisdictions, retailers will be required to incorporate increased wholesale prices into their feed-in tariff offers. PIAC would support the adoption of a minimum regulated feed-in tariff if monitoring reveals that retailers consistently fail to adequately reflect higher wholesale prices into their feed-in offers.

¹² PIAC, *Solar feed-in tariffs in NSW: A fair price needed for prosumers*, 2014, pg. 3

¹³ IPART, *Solar feed-in tariffs in 2017-18 – Draft recommendation*, 2017, pg. 5.

Recommendation 9

PIAC recommends that the ACCC, or an appropriate jurisdictional regulator, monitor the retail market to ensure that feed-in tariff offers continue to reflect changes in wholesale electricity prices. If monitoring reveals retailers are failing to set appropriate feed-in tariff rates, PIAC recommends that jurisdictions mandate a minimum feed-in tariff offer.

Another consideration is whether increases in retailer feed-in tariff offers may be unfairly offset by unreasonably high fixed charges for solar customers' grid access, given the concerns about fixed charges noted previously. High fixed charges penalise low energy-use consumers, and limit the benefit for consumers to reduce their energy consumption, by fixing a greater proportion of their bill.

Recommendation 10

PIAC recommends that the ACCC, or an appropriate jurisdictional regulator, monitor the retail market to ensure that any increases in retailer feed-in tariff offers are not unfairly offset by increasing fixed charges for solar customers.

Customers and their interaction with the market

Many Australian consumers are currently unable to make properly informed choices about their interaction with the retail electricity market. PIAC considers that the retail market has consistently failed to facilitate informed choices by consumers, resulting in what has been called a 'confusopoly'. PIAC is concerned that when consumers are often not able to effectively interact with the market, they default to very expensive energy deals with the highest retail margins. As noted earlier, it is low income and vulnerable consumers that are the most affected by this failure.

The survey conducted by Newgate Research for the AEMC's *2016 Competition Review*, amongst other studies and reviews, supports PIAC's concern about the lack of customer interaction with the retail electricity market. While over 90% of those surveyed in NEM states with retail competition were aware of their ability to change retailers, less than one third of respondents had done so in the past twelve months.¹⁴

This ineffective interaction is particularly relevant for low income and vulnerable consumers, who include some of the least able to engage, and are least able to afford higher electricity costs. A lack of engagement may stem from a variety of reasons including being less numerically or financially literate, having a language barrier, or a disability or being on hardship plan or prepayment arrangement which would limit their ability to change retailers. In their research for the AEMC, Newgate identified particular issues that lead to vulnerable consumers' disengagement including:

- Difficulty in understanding offers and fear of making the wrong decision;
- Concern about their financial situation and whether they'd have the same flexible payment plans and benefits with a new retailer;
- Concern about disconnection and reconnection fees; and
- Concern about how a new retailer would perceive their financial situation.¹⁵

¹⁴ AEMC, *2016 Retail Competition Review*, 2016, pg. 2.

¹⁵ *Ibid*, 51.

The concerns and difficulties of vulnerable and low income households point to a failure of the retail electricity market to enable effective interaction by customers for those who are most in need of the benefits of competition.

Lack of transparency of price changes

A key issue for consumers is their inability to access clear information about the retail offers available to them. For example, in announcing their price rises for 2017-18 in June 2017, NSW retailers all reported the bill impacts on an 'average household'. While this is a simple concept, it does not assist individual consumers to compare specific retail offers and find the best deal for them. This is particularly true, as discussed earlier, if the way information is presented does not indicate how the price increases will be spread between volume and fixed charges.

In preparing this and other submissions, PIAC found it difficult to identify and access important information about recent retail price changes, such as the changes to the fixed and variable charges. Lack of information makes it difficult for consumers to manage their energy use and costs, and shop around for the best retail deal for them. This is particularly true for low income consumers, who are often the least likely to effectively engage with the complexities of the competitive retail market and for whom higher energy costs are of the most consequence.¹⁶

Recommendation 11

PIAC recommends that the ACCC investigate the transparency of pricing information available and make recommendations to make it easier for electricity consumers to make properly informed decisions when interacting with the retail market.

Penalising consumers' lack of engagement

In addition to the lack of transparency inhibiting consumers' ability to make informed choices in the retail electricity market, consumers are effectively punished for a lack of engagement. Given the AEMC estimates that half of all consumers have not changed their electricity deal in five years¹⁷, it appears that large parts of the community fall into this category.

The standard practice of retailers is to default customers onto expensive standing offers, without discounts, at the end of their market offer contracts. Therefore, consumers who do not engage in the competitive retail market are at risk of paying more than they need to for essential energy services. On top of this, retailers invest more in terms of marketing, research and providing discounts to gaining customers than to existing customers who have not attempted to seek out a better retail deal because they are loyal or less engaged. These costs are then borne by the less engaged customers.

These factors disproportionately impact disadvantaged and vulnerable consumers. These consumers are often least able to effectively engage with the complexities of the competitive retail market and also experience the greatest impact from unnecessarily high prices for essential energy services.¹⁸

¹⁶ NCOSS, *Turning off The Lights: The Cost of Living in NSW, June 2017*, 2017, pg. 29.

¹⁷ AEMC, *2016 Retail Competition Review*, 2016, 65 <<http://aemc.gov.au/getattachment/d5a60d5b-d2dc-4219-af60-51c77d8aaa4f/Final-Report.aspx>>.

¹⁸ *Ibid*, pg. 29.

Retailers themselves have identified these issues, with AGL chief executive noting that “We reward disloyalty... The bulk of my customers that are not disloyal never hear from me... and are totally uninformed about what’s in their own best interests.”¹⁹

PIAC contends that more could be done to help consumers transition to reasonable offers, in particular at the end of market contract periods. Further, PIAC submits that retailers should provide better deals for end-of-contract consumers by retaining a discount and better information provision about contracts ending.

Recommendation 12

PIAC recommends that the ACCC should consider whether is appropriate for retailers to default long-term customers to more expensive offers at the end of their contracts.

Recommendation 13

PIAC recommends that the ACCC should investigate whether consumers are being fully informed of their ability to switch retailers and are able to effectively compare different retail offers at the end of a market offer.

Recommendation 14

PIAC recommends that the ACCC should consider how retailers could provide better service to consumers at the end of the contract period for a market offer. For example, they could:

- *retain any existing discounts in the non-market offer which the consumer reverts to; and*
- *inform them of the ability to compare retail offers including through the AER’s Energy Made Easy website to find the best offer for them.*

Impact of ‘Winback’ marketing on effective competition

Customer winback is the practice of an incumbent retailer, on becoming aware that another retailer has acquired their customer through market customer transfer processes, contacting that customer and offering to match or better the deal offered by the new retailer. This typically occurs during the cooling off period on the new contract, so there is no penalty for the consumer cancelling the new contract.

On the surface, winback appears to offer an immediate benefit to the customer in question, in the form of a cheaper energy contract. However, the practice appears to drive up the cost of customer acquisition for new retailers, at best making it hard for them obtain a viable market share, and at worst deterring them from entering the market altogether. As the same time, the cost of customer retention for the incumbent retailer is relatively low.

PIAC is concerned that the marketing practice of customer ‘winback’ limits the ability for new retailers to enter the market, resulting in less effective competition in the longer term.

¹⁹ Andy Vesey quoted in: Ben Potter, “Big Power neglects best customers, AGL boss says”, *Australian Financial Review*, 2016, <<http://www.afr.com/news/big-power-neglects-best-customers-agl-boss-says-20160823-gqzbgq>>.

Recommendation 15

PIAC recommends that the ACCC consider whether customer winback is in the long-term interest of consumers, and if the practice should be disallowed to remove a barrier to market entry for new retailers.

Further engagement

PIAC would welcome the opportunity to discuss the issues considered herein in more depth. For any queries please contact Energy Team Leader, Craig Memery at cmemery@piac.asn.au or on (02) 8898 6522.