



6 December 2018

Mr Mark Feather  
General Manager – Policy and Performance  
Australian Energy Regulator  
GPO Box 520  
Melbourne VIC 3001

Dear Mark

**Default Market Offer Price - AER Reference: 64687**

Thank you for the opportunity to comment on the Australian Energy Regulator's *Position Paper – Default Market Offer Price November 2018*.

The Energy & Water Ombudsman NSW (EWON) investigates and resolves complaints from customers of electricity and gas providers in NSW, and some water providers. Our comments are informed by the complaints made to our office, and also from our community outreach and stakeholder engagement activities.

In June 2017 EWON identified, in its submission to the Australian Competition and Consumer Commission (ACCC), issues related to the rising standard offer price<sup>1</sup>. These included issues arising from the unregulated nature of the standing offer price and the sharp price rises that have disadvantaged many customers. Specifically, customers at the end of a contract, move-in customers and customers with a poor credit history, all too often find themselves on a standing offer. Similarly, the price protection that customers of exempt retailers previously had has been significantly weakened over time by the rise in standing offers<sup>2</sup>, which act as a cap on the prices they can be charged.

## The ACCC conclusions

The ACCC identified that the standing offer had the role, after price deregulation, of providing a safety net for consumers who had not engaged with the market and for consumers who face barriers in accessing a market offer. It identified that the rapidly rising rate of the standing offer was weakening this safety net.

In NSW, the ACCC found that the three biggest retailers drew 40% of their revenue<sup>3</sup> from standing offer customers despite the fact that only 21% of customers in NSW<sup>4</sup> are on standing offers.

---

<sup>1</sup> [EWON Submission ACCC Inquiry into retail electricity supply and pricing June 2017 p4](#)

<sup>2</sup> AER exempt (retail) Selling Guideline -version 5 – April 2018 Condition 7

<sup>3</sup> ACCC Retail Electricity Pricing Inquiry-Final Report June 2018 Figure 12.3

<sup>4</sup> *ibid* Figure 12.4

To address this, the ACCC recommended that the standing offer and standard retail contracts be replaced with a default market offer (DMO) which the AER would set a maximum price for, and which would be available upon request or where a customer doesn't take up a market offer<sup>5</sup>.

The recommendation was designed to address two key issues:

- *In non-price regulated jurisdictions, the standing offer and standard retail contract are no longer fit for purpose. The standard retail contract is not operating as an effective default offer, nor is it delivering essential consumer protections that justify the high price of the offer.*
- *In recent times, standing offer prices have often been set at a high level to enable retailers to advertise high headline discounts for market offers<sup>6</sup>.*

The ACCC commented that a DMO should not be the lowest price but that it should reflect the costs of an efficient retailer and thus should fall somewhere between the current standing offer and current market offers. The ACCC also proposed that a DMO be established for small business customers.

EWON also notes that the *NSW Legislative Council Select Committee on Electricity Supply, Demand and Prices in NSW* has recommended that, in the event of the COAG Energy Council not proceeding with the DMO, that the NSW Government should implement the ACCC recommendation with state specific legislation.<sup>7</sup>

## The AER response

The AER Position Paper suggests that the DMO will limit the prices charged to standing offer customers and reduce the gap between standing offers and market offers.

*"The key policy intent of the DMO price is to mitigate the impact of unjustifiably high prices for standing offer customers."<sup>8</sup>*

In NSW the AER is proposing to establish a DMO for each distribution zone and use publicly available data to establish a relevant price point. It has also proposed to only apply the DMO to residential and small business customers with a flat rate tariff.

The AER is also proposing to use the DMO to establish a reference price for comparing discounts against, which would assist in implementing recommendations 32 and 50 of the ACCC's final report.

## Who would the DMO apply to

EWON does not support the AER's proposal to exclude customers on time of use tariff standing offers from the protections of the DMO. Currently the Power of Choice transition of metering responsibility to retailers and the rollout of digital meters is increasing the number of customers on time of use tariffs. This is coinciding with the AER's push for cost reflective network pricing. This

---

<sup>5</sup> *ibid* Recommendation 30

<sup>6</sup> *ibid* P240

<sup>7</sup> *Electricity supply, demand and prices in New South Wales / Select Committee on Electricity Supply, Demand and Prices in New South Wales 2018. Recommendation 9*

<sup>8</sup> AER Position Paper Default Market Offer Price November 2018, p6

approach is forcing compulsory time of use network tariffs onto retailers. Currently most retailers seem to be offering customers the choice of tariffs, however the likely conclusion of these two policy initiatives will see compulsory time of use tariffs applied to an increasing number of customers. And customers who choose to move to a time of use tariff as it suits their current circumstances may experience changes over time which could result in increased electricity costs.

All of the circumstances which apply to consumers who need the protection of a DMO as identified by the ACCC and AER, equally apply to consumers who find themselves on time of use contracts in the future. For example, many consumers will, over time, move into rental properties with digital meters and compulsory time of use network tariff. It is unrealistic to expect retailers to offer such customers a flat tariff and carry the financial risk associated with high consumption occurring at peak times.

Currently in NSW all retailers offer both a flat tariff standing offer and a time of use tariff standing offer depending upon meter type. The following tables<sup>9</sup> for the Ausgrid and Essential Energy distribution areas show that the price differential in estimated prices between the best market offers and the standing offers are extremely similar for customers on flat tariffs and those on time of use tariffs.

**Table 1 Sample of Standing Offers and Best Market Offers Estimated Price - Ausgrid Distribution Area**

Retailer	Standing Offer Flat	Standing Offer ToU	Best Market Offer Flat	Best Market Offer ToU
EnergyAustralia	\$2,020	\$2,160	\$1,500	\$1,530
AGL	\$2,000	\$2,150	\$1,500	\$1,620
Origin Energy	\$2,030	\$2,140	\$1,680	\$1,730
Red Energy	\$1,940	\$2,200	\$1,650	\$1,640
1 <sup>st</sup> Energy	\$2,400	\$2,640	\$1,710	\$1,910
Alinta Energy	\$2,020	\$2,160	\$1,570	\$1,680
amaysim	\$2,560	\$2,650	\$1,540	\$1,590
Dodo Power & Gas	\$2,370	\$2610	\$1,620	\$1,780
Mojo Energy	\$2,240	\$2,350	\$1,990	\$2,110
Simply Energy	\$1,920	\$1,830	\$1,580	\$1,520

**Table 2 Sample of Standing Offers and Best Market Offers Estimated Price - Essential Energy<sup>10</sup> (Dubbo) Distribution Area**

Retailer	Standing Offer Flat	Standing Offer ToU	Best Market Offer Flat	Best Market Offer ToU
EnergyAustralia	\$3,540	\$3,440	\$2,520	\$2,450
AGL	\$3,270	\$3,470	\$2,460	\$2,570
Origin Energy	\$3,320	\$3,410	\$2,750	\$2,890
Red Energy	\$3,270	\$3,310	\$2,680	\$2,780
1 <sup>st</sup> Energy	\$4,170	\$4,230	\$2,960	\$3,030

<sup>9</sup> Information collated from Energy Made Easy by EWON 20/11/18 based upon consumption of a 2-3 person household without solar.

<sup>10</sup> Energy Made Easy provides 2 different estimated price ranges for Coastal NSW and Inland NSW within the Essential Energy distribution area. EWON based its search upon the Dubbo postcode.

<b>Alinta Energy</b>	\$3,330	\$3,460	\$2,590	\$2,680
<b>amaysim</b>	\$4,300	\$4,230	\$2,580	\$2,540
<b>Dodo Power &amp; Gas</b>	\$4,080	\$4,210	\$2,780	\$2,870
<b>Mojo Energy</b>	\$3,330	\$3,350	\$3,090	\$3,230
<b>Simply Energy</b>	\$3,060	\$3,230	\$2,530	\$2,660

Given that all of the base information that the AER is proposing to use to establish a DMO for flat tariffs is also available for time of use tariffs, EWON cannot see a valid reason for not providing a DMO for a tariff that will apply to an increasing number of customers over time.

EWON supports the proposal that a DMO should apply to small business customers as well as residential customers. From our complaint experience, small businesses are often disadvantaged by the application of the standing offer when a market contract ends.

The intention of the ACCC recommendations is clear. Recommendation 30 states:

*“The default offer should be used by retailers in all circumstances where a standing offer is currently used.”<sup>11</sup>*

Even though the number of customers who are presently on a standing offer and have a time of use tariff is small, the impact on those customers will be large. If the AER proposal to exclude time of use tariffs is adopted, the mitigation that the DMO provides will be denied to those customers.

## Other issues

EWON supports the proposal for annual reviews of the DMO. This approach enables significant external impacts such as wholesale prices to be addressed in a timely manner while providing a level of protection and price security for customers.

Another issue that the AER might take into consideration is the matter of fees and charges. For example, the connection fee charged to customers with type 6 meters is, for many retailers’ standing offers in the Ausgrid area, \$11.96, reflecting Ausgrid’s regulated charge for a special meter read. However some retailers charge significantly more. If customers are to be protected, some consideration should be given to standardising the fees and charges associated with a DMO.

If you would like to discuss this matter further, please contact Rory Campbell, Manager Policy & Research, on (02) 8218 5266.

Yours sincerely



**Janine Young**  
**Ombudsman**  
**Energy & Water Ombudsman NSW**

<sup>11</sup> AER Position Paper Default Market Offer Price November 2018 Page 3