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Essential Services Commission

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Essential services Commission – Draft Decision - Helping customers engage confidently in the retail energy market

AGL welcomes the opportunity to make a submission in response to the Essential Services Commission of Victoria (Commission) draft decision on implementing recommendations 3A – 3E (Draft Decision) of the Independent Review of Electricity and Gas Retail Markets (Thwaites review).

AGL is broadly supportive of the purpose of recommendations 3A-3E from the Thwaites review to improve transparency in the market and assist customers. We support and encourage the Commission to undertake full alignment with the Australian Energy Regulator (AER's) Retail Pricing Information Guideline (RPIG) to achieve these outcomes.

AGL's key concerns are around the timing of the process and expected implementation date, as well as the lack of details contained within the Draft Decisions. The implementation for this round of changes is 1 July 2019 and is based on the Commission issuing a Final Decision on 30 January 2019 (in line with the Terms of Reference).

We note that the Commission has not released their Final Decision and in late December 2018 issued a revised program of work that will result in a Final Decision being made in late April 2019. We support the Commission in taking additional time to conduct further consultation to ensure they make an informed Final Decision but strongly encourage the Commission to seek a change for the implementation date that accommodates the new timeframes and processes.

Firstly, without draft Code changes it is difficult to provide robust or meaningful feedback on the Draft Decision. Drafting of Code changes can have significant impacts on how retailers operationalise requirements and the final outcomes. We note also that draft decisions 2, 4, 5, 6 and 7 refer to a separate consultation process making our ability to provide feedback limited.

Additionally, we welcome the commitment by Department of Environment, Land, Water and Planning (DEWLP) to develop Victoria Energy Compare (VEC) functionality for producing fact sheets, noting the time needed to upgrade VEC. However, given the reliance on the DEWLP upgrade of VEC, we strongly encourage the Commission to change the implementation date to be two months from the completion of upgrades to VEC to ensure there is time for testing and integration into retailer systems and processes.



Additional comments are provided in the attachment for the Commission's consideration. Should you have any questions in relation to this submission, please contact Kathryn Burela on 0498 001 328, kburela@agl.com.au.

Yours sincerely

Elizabeth Molyneux

General Manager Energy Markets Regulation



The below table summarises AGL’s position on the key draft decisions. We are unable to further comment on the decisions in grey as they are subject to a separate technical consultation.

Draft Decision	AGL high-level comment
DD1 – new Victorian energy fact sheet (VEFS) to replace PPIS.	AGL supports full alignment with the AER RPIG requirements, including language and references such as “Basic Product Information Disclosure” for consistency.
DD2 – Form and content of VEFS to be based on RPIG BPID	This draft decision is subject to a separate technical consultation. AGL supports in principle if there is full alignment with AER RPIG requirements.
DD3 – VEFS to include a comparison mechanism (typical customer usage profiles based on BPID)	Supported if fully aligned with AER RPIG requirements.
DD4 – typical customer usage profiles that align with AER equivalents.	This draft decision is subject to a separate technical consultation. AGL supports in principle if there is full alignment with AER RPIG requirements.
DD5 – VEFS availability to customers. All marketed offers must point to existence of corresponding factsheet and on most mediums but not VEC website.	This draft decision is subject to a separate technical consultation. AGL supports in principle if there is full alignment with AER RPIG requirements which would also include VEC functionality for customers to find factsheets through the website.
DD6 – Fact sheets to be referenced in marketing material. Retailers or agents marketing energy plans that reference prices, discounts or value of existing or potential plans must clearly have specific statement.	This draft decision is subject to a separate technical consultation. AGL supports in principle if there is full alignment with AER RPIG requirements.
DD7 – consultation on technical matters (for draft decisions 2, 4, 5 and 6).	AGL do not support the separation of these matters while continuing ahead with the release of a draft decision and commitment to a 1 July implementation date. Stakeholders require detail and direction to be included in a draft decision to be able to assess and provide comment on potential impacts of approach.
DD8 – customer meter read provisions to align with final AEMC Rule change	Supported if fully aligned to exclude smart meters. AGL provided substantial detail to the AEMC on why smart meters should be excluded. This was ultimately accepted by the AEMC.
DD9 – commencement date of marketing and info disclosure code amendments for 1 July 2019	Not supported. The Terms of Reference required a final decision by 30 January 2019. The Commission has taken extra time to consider this decision and conduct technical consultation. We consider that it is reasonable to therefore provide additional time to industry to implement and note the ability to deliver is heavily reliant on DEWLP timing on updating VEC and then retailer time to integrate with the new system requirements. Based on the EME experience, this should be 2 months from VEC upgrade completion.
DD10 – commencement of customer read estimates amendments for 1 July 2019	Supported if aligned with comments in DD8.

Timeframes

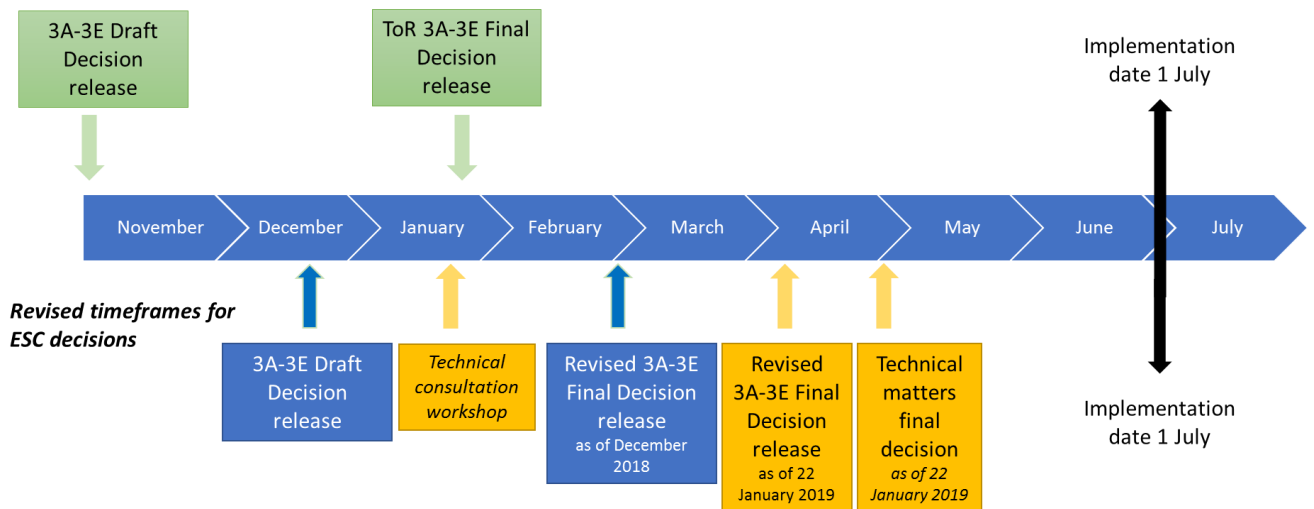
AGL supports the implementation of self-service meter reads for 1 July 2019 (draft decisions 8 and 10) if the changes mirror the Australian Energy Market Commission’s (AEMC) final rule change and continues to exclude all smart meters. AGL provided substantial detail to the AEMC on why smart meters should be excluded and these points were ultimately accepted by the AEMC in their final decision. We are happy to share this information with the Commission should it be required.

We remain highly concerned however, with the continued commitment by the Commission to draft decision 9 of a 1 July implementation date for the remaining matters within the Draft Decision.

As the below figure shows, the original timeframes for a 1 July 2019 implementation is based on a Final Decision by the Commission on 30 January 2019 (in line with the Terms of Reference). We are glad that the Commission is taking additional time to conduct consultation on important matters and to consider the final decision, however industry should be given similar consideration of timeframes regarding the implementation date.

Figure 1

Original timeframe for ESC decisions



We note that the above diagram does not include timeframes for DEWLP to make the required changes to VEC as AGL does not have that information. However, we assume that the VEC changes cannot be made until the Commission’s final decision in April. We understand that the EnergyMadeEasy (EME) changes took approximately 6 months to be completed. We provide further comment on this process below on technical matters.

We note that the language in the Draft Decision supports adopting or using the AER’s research, objectives and principles in the RPIG, but nuances in wording can also impact delivery. While the Commission has stated in forums that alignment with RPIG and VEC upgrades should improve retailer implementation timeframes, there still needs to be time for testing and system integration



with these new obligations. It is also highly dependent on how much the Commission decides to differ from the RPIG and what level of testing and engagement retailers get through DEWLP upgrades.

An additional level of complexity that must be considered in this timing is the development of the Victorian Default Offer (VDO). While we are yet to see the legislative changes of the VDO, we understand the Government's intention is that the VDO will be the reference for all market offer discounts.¹ This introduces a new layer of input in designing the revised Victorian Energy Fact Sheets that was not part of the EME Basic Product Information Disclosure (BPID) revisions. The final VDO will not be known until 3 May 2018 and DELWP will need to capture this along with other changes to VEC to comply with the AER RPIG. Retailers will have to adjust their Standing Offers to align to the VDO and allow for referencing of market offers against the VDO. Again, this cannot commence until 3 May, when the Commission issues the final VDO.

AGL does not consider that the long-term interests of consumers are served by remaining tied to a 1 July implementation date. As we highlight in the technical comments below, the lessons learned from the EME experience demonstrates the need for two months for testing and integrating final VEC requirements into retailer systems. If the current 1 July 2019 implementation date is maintained, then all changes to VEC would need to be completed by the start of May 2019.

We therefore strongly encourage that the Commission make the Minister aware of the risks to consumers with a continued commitment of a 1 July implementation date. We recommend the Commission seeks an extension to the Terms of Reference for the implementation date to allow for DEWLP to undertake the administrative changes, incorporate the VDO requirements and allow transition for retailers.

Code changes

The absence of the Energy Retail Code (Code) changes in the Draft Decision makes it difficult to provide robust submissions based on impact analysis. The wording of Code changes greatly impacts the meaning and effect of the requirements and as such are an integral part of the consultation process. We note that the draft Code changes for implementing Thwaites 3F-3H were amended in the final decision following stakeholder feedback on concerns of misleading statements on the best offer box.

Stakeholders should be given a minimum four weeks to consult on the draft Code changes to test the impacts or likely impacts of implementation and mitigate unforeseen consequences, such as the example above.

We also encourage the Commission to use informal channels of consultation to test the proposed Code changes prior to public release. AGL would welcome the opportunity to assist the Commission

¹ DEWLP industry forum presentation, 21 December 2018 (slide 8).



with reviewing informally on a confidential basis and providing feedback on likely impacts on proposed Code changes. We understand our role in such situations is to assist the Commission to make Code changes that are effective and meet their objectives. AGL has recently provided business expertise and advice to the AEMC and the AER and this has resulted in positive final decisions.

In terms of coding for the provision of fact sheets, we encourage the Commission to incorporate simplified changes on retailer obligations that still deliver positive consumer outcomes. We recommend the Commission require in the Code that retailers need to provide energy fact sheets but leave it up to DEWLP to mirror the RPIG requirements. This reduces the complexity of the Code drafting while also minimising the need for revisions to the Code as RPIG obligations are amended.

New factsheets

The purpose of energy factsheets is to provide basic information to consumers on the key elements of an energy plan for simple comparison. The AER's RPIG has been broadly accepted by stakeholders as achieving this goal.² We also consider the RPIG is the appropriate method to assist customers and improve the quality of information disclosure.

Language

AGL supports full and proper alignment with the RPIG Basic Product Information Disclosure (BPID) requirements, including naming and language conventions. This extends to the required information and language requirements, as alignment ensures consistent outcomes for consumers. The importance of language changes and alignment were highlighted by consumer groups in the AER RPIG consultation process, with the Energy Consumers Australia (ECA) noting:

*We welcome the commitment to the common lexicon of terminology for energy offers. This is critical particularly with technical terms such as “controlled load” and “off-peak”.*³

Additionally, the Public Interest Advocacy Centre (PIAC) stated:

*PIAC also supports the AER's proposal to introduce new requirements for consistent energy plan terminology in the BPID and CS. PIAC concurs with other stakeholders that technical jargon and inconsistent language create a barrier for consumers to meaningfully compare between different retail offers. By requiring consistent definition of terms like ‘general usage’ and ‘Separately metered usage’, the AER will help to address this problem.*⁴

Language alignment also benefits retailers as it helps promote national operations as opposed to a two-system approach which helps develop consistent information, marketing and website detail for our customers.

² See for example [Energy Water Ombudsman Queensland \(EWOQ\) submission](#) to AER Draft Decision on RPIG

³ [ECA submission to AER Draft Decision on RPIG](#) page 2

⁴ [PIAC submission to AER Draft Decision on RPIG](#) page 2



Finding factsheets

As noted above, we support alignment with the RPIG on the proposed matters. This includes requirements for providing factsheets on retailer and third-party websites and the use of plan ID's, such as are generated by EME currently. We caution against the use of plan names as these tend to remain static and the rates or product details are what varies. This can ultimately be confusing for our customers.

We also consider these factsheets should be made available on the VEC website as they are used as a tool for comparison, and VEC is naturally a place that a consumer may seek them out.

While we recognise the Commission's view that VEC is a superior tool for customers, customers will become familiar with the factsheet and should be able to search for them through the VEC website. This is more important as VEC becomes more widely used by consumers through promotions by the Commission and the Victorian government (such as the ongoing \$50 bonus). To this end, we consider that the VEC functionality should be upgraded to allow customers to search for individual plan IDs.

Comparison mechanism

AGL supports Draft Decision 3 on including a comparison mechanism where it is fully aligned with the RPIG BPID requirements. AGL assisted the AER in conducting research and testing formats that best assisted customers. The final comparison requirements in the BPID is a direct reflection of the findings through that joint work as being the most effective for assisting customers compare apples with apples.

We note that in the technical workshop hosted on 22 January that the Commission raised the question of small business fact sheets with participants. We echo both ACIL Allen's comments on the day, as well as the AER's draft Guideline decision in stating that a comparison mechanism is not appropriate for small business fact sheets. On the inclusion of small business energy plan comparison mechanisms, the AER stated that it is 'not currently feasible to provide comparison pricing for small business tariffs' and did not include it in the final Guideline.⁵ The final Guideline states that the comparison pricing table is not be required for

- Small business customer plans
- Residential customer plans with demand charges
- Plans where customer usage data is required to price the plan.⁶

AGL strongly encourages the Commission to mirror this approach.

Effective date

During the technical workshop hosted on 22 January, the Commission asked participants to comment on the effective date of BPIDs and whether an expiry date should be included. The

⁵ [RPIG draft notice](#), page 15-16.

⁶ [RPIG draft guideline](#), page 21

Commission staff representatives at the workshop noted that there may be consumer detriment in not knowing whether the particular offer they are seeking is still available.

We refer to stakeholder comments on the Draft Decision of 3F-3H and the matter of the validity period of 13 days for the best offer. In particular, stakeholders stated that

Commercial incentives were in place to mitigate the risks... specifically that if a retailer was no longer able to offer the customer the deal that was presented on the bill, it was in their interests to offer the customer an alternative, similarly good offer from their current product suite, lest they lose the customer to a competitor.⁷

This position remains relevant to the question of the inclusion of an expiry date of factsheets. We note that this position was ultimately accepted by the Commission in October 2018 stating:

Having balanced the various considerations, we have decided to remove this requirement and rely upon the incentives for retailers to deliver positive customer outcomes. In instances where the named plan is no longer available, we would expect the retailer to offer the customer a plan that delivers features that are as close as possible to those that the customer would have been provided under the named plan in the best offer message.⁸

We would therefore continue to encourage the Commission to maintain this position in relation to expiry dates on factsheets.

Marketing Code of Conduct

AGL recommends that the Commission remove the Victorian Marketing Code of Conduct (Marketing Code). The Marketing Code has not been reviewed in 10 years and largely replicates obligations that exist in other pieces of legislation such as the Competition and Consumer Act (CCA), the Spam Act, and the Energy Retail Code.⁹

The intention of the Marketing Code is to promote honesty and fairness in the market with the disclosure of information in a particular way, however we note that alignment with the RPIG requirements will achieve this outcome and subsequently makes elements of the Marketing Code redundant.

The Marketing Code was developed with the aim of protecting consumers and promoting consumer confidence. However, this role has since been taken up through the Thwaites reform, and will also become part of delivering the election promises (such as banning door to door sales).

We therefore recommend the Marketing Code be removed.

⁷ [Commission Final Decision for Thwaites recommendations 3F-3H](#), page 67

⁸ [Commission Final Decision for Thwaites recommendations 3F-3H](#), page 67

⁹ Such as requirements on misleading information, product knowledge for clear advice and explicit informed consent requirements.

Technical matters

AGL will provide further comment on the following (and other) technical matters as that consultation process continues but below are some of the key lessons learned from the AER EME upgrade process that we encourage the Commission and DEWLP to take into consideration.

	Learning for Victoria
<ul style="list-style-type: none"> • [Redacted] 	<ul style="list-style-type: none"> • Any changes to the rules at the back end of VEC need to be sign-posted well in advance, so retailers can prepare their input files accordingly. • Preferably – avoid peak times like price change for making these kinds of changes.
<ul style="list-style-type: none"> • [Redacted] 	<ul style="list-style-type: none"> • Have a sandbox, and beta test environment for retailers to get familiar with any new functionality and find the bugs ahead of going live. • We recommend a few weeks of engagement for this to occur.
<ul style="list-style-type: none"> • [Redacted] 	<ul style="list-style-type: none"> • DEWLP should seek to align the timing of VEC website backend changes with front end customer facing factsheet information.
<ul style="list-style-type: none"> • [Redacted] 	<ul style="list-style-type: none"> • Learn from EME – having the system changes completed two months before the compliance deadline is crucial to the smooth operation of the process and allows for testing in both a test and live environment (and to minimise the impacts to customers).

We also encourage DEWLP to ensure that the Victorian Retailer Portal user manual is updated and provided to retailers within the 2-month lead time mentioned above. This document is incredibly useful for retailers as it provides information on all the rules surrounding each field of the fact sheet (for example, what values are mandatory, field length restrictions, any logic that is triggered by the field). Without enough time to build in and test, retailers will not be able to correctly fill in the data or may have to guess allowable values. This could adversely impact customers who may then receive incomplete or incorrect information through the factsheets.