



13 September 2007

By email: sarah.mcdowell@esc.vic.gov.au

Retailer of Last Resort Project
Essential Services Commission
2nd Floor, 35 Spring St
Melbourne VIC 3000

Dear Ms McDowell

**Amendments to Energy Retail Code and Electricity Customer Transfer Code –
Retailer of Last Resort and Assignment to Third Party
Draft Decision**

Consumer Action Law Centre (**Consumer Action**) welcomes the opportunity to comment on the Essential Services Commission's (the **ESC**) Draft Decision of Amendments to Energy Retail Code and Electricity Customer Transfer Code – Retailer of Last Resort and Assignment to Third Party (the **Draft Decision**).

We broadly support ESC's Draft Decision and its proposed amendments for both the:

- Energy Retail Code; and
- Electricity Customer Transfer Code.

However we would like to comment on the following areas raised by the Draft Decision as areas of concern:

- Standing offer tariffs vs existing third party tariffs, terms and conditions; and
- Notification requirements to customers.

Standing Offer tariffs vs existing third party tariffs, terms and conditions

We are concerned about the possible change in a customer's tariff and contractual terms and conditions upon a retailer of last resort (**RoLR**) event, and seek clarification of an inconsistency relating to this in the Draft Decision.

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In the introduction of the Draft Decision at page 5, the ESC refers to the *Energy Retailer of Last Resort: Final Decision (RoLR Final Decision)* and the framework for the Victorian RoLR scheme, which provides for customers to be transferred to a local retailer on the standing offer tariff, terms and conditions, upon retailer failure.

The inconsistency relates to the discussion of transfers upon assignments to a third party and the use of estimated reads at page 11, which states:

"It is considered that small customers will not be disadvantaged by the use of estimated reads in these circumstances, particularly as under an assignment to a third party, the existing tariff and other terms and conditions will remain the same. Therefore, an adjustment to an estimated read once an actual read is obtained will not be affected by a different tariff."

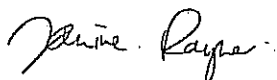
We are concerned that the proposed amendment to the Transfer Code means that consumers who are transferred upon a RoLR event (as distinct from a transfer upon assignment) may be placed on a worse tariff and contractual terms and conditions. This will occur where a consumer has transferred to a market contract that is perhaps on better terms and conditions (including tariff) than the standing offer before the RoLR event occurs. In circumstances of transferral to a third party, whether that is a RoLR event or upon assignment, consumers should not be placed at any further financial disadvantage. We note that the RoLR Final Decision allows the RoLR to recover an additional \$44 for electricity and \$30 for gas from an affected customer. We do not believe that the Transfer Code should be amended to place consumers at any additional financial disadvantage beyond this charge.

Notification to customers

We generally support the proposed amendments to the Energy Retail Code. In particular, we support the right of a consumer to cancel a dual fuel contract should a RoLR event occur in relation to one fuel only.

We are concerned, however, to ensure that customers receive adequate notification of their right to cancel the contract in relation to the second fuel. We recommend an inclusion to the proposed amendment which would require a retailer to inform a customer of their right to cancel a dual fuel contract pursuant to proposed clause 24.6(b)(ii)(B_.

Should you have any questions in relation to this submission, please contact Gerard Brody or Janine Rayner on 03 9629 6300.



Janine Rayner
Senior Policy Officer