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9 April 2024

Clare Savage  
Chair  
Australian Energy Regulator  
23 Marcus Clark St  
CANBERRA ACT 2601

Dear Clare

**Re: Implications of change in methodology for retail allowance in DMO6 for retail competition over the longer term**

The ACCC is grateful for the opportunity to share its views on the draft determination of the price cap under the Default Market Offer for 2024–25 (the draft DMO6 determination). The DMO is an important consumer protection measure, and its settings also impact competition in the retail market. We would like to highlight matters for the AER to consider in light of its change in approach to the calculation of the retail allowance.

A well-functioning and competitive retail electricity market will be important to support the interests of electricity consumers through the energy transition. A competitive retail market will encourage competitive pricing conduct as well as the development of new and innovative retail market products that support evolving consumer needs and wants as patterns of electricity generation and usage evolve.

To achieve this, we consider that it is important to ensure that efficient retailers can compete under the DMO settings. This will allow competition to deliver benefits to customers. Previous ACCC work has identified large, incumbent retailers hold important cost advantages over smaller, standalone retailers.<sup>1</sup> We have also observed that smaller retailers play an important role in the retail market with price competitive and innovative offerings.<sup>2</sup> As such, it is important that setting the DMO levels account for efficient smaller, standalone retailers.

Providing sufficient incentive for competition in retail electricity markets is an important consideration for the AER to ensure that competition continues to deliver in the interests of consumers. We consider that, where competition is workably competitive, market forces provide more effective protection to customers compared to regulation.

We note that competition in retail electricity markets provides customers with access to acquisition offers that are lower than the DMO. However, our December 2023 report found just under half of the customers in our sample were on prices set at or above the default

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<sup>1</sup> ACCC, [Inquiry into the National Electricity Market](#), December 2023 Report, p. 37.

<sup>2</sup> ACCC, [Inquiry into the National Electricity Market](#), November 2022 Report, pp. 70 – 71.

offers.<sup>3</sup> As a result, we concluded that while the default offers is constraining prices for competitive acquisition offers, it does not necessarily constrain how retailers set prices for their existing customers. We also found there was a large cohort of customers who have not recently switched retailer or plan on prices above the default offers, who are being charged a 'loyalty penalty'.<sup>4</sup>

As the AER is aware, consumers can experience harm if they are unable to engage effectively in the market.<sup>5</sup> There is a pressing need to focus on outcomes for customers that have moved to market offers who do not regularly engage in the market. Two of the four recommendations in our December 2023 report were focused on reforms to support consumers to better engage in the market to access competitively priced acquisition offers, and in so doing avoid the loyalty penalty.

Looking forward, we note that the AER is also proposing to decide whether to include a competition allowance in the DMO on a case-by-case basis considering the state of retail competition alongside pricing pressures in the economy (including whether CPI exceeds the RBA target band).<sup>6</sup>

We are concerned that this approach does not provide sufficient certainty to retailers on what the prospective level of the DMO will be and may impact incentives for new retailers to enter the market, potentially raising barriers to entry. Reasonably low barriers to entry are an important feature of competitive markets.

We note that the AER is seeking to balance the objectives of the DMO in making a change to its approach to the retail allowance, drawing on submissions from stakeholders citing cost of living pressures. It is important to be cognisant of these pressures when considering how best to improve consumer outcomes in the retail electricity sector. We request that the AER undertake further consideration of the implications of its decision making regarding the DMO6 methodology for competition over the longer term in its final decision.

Yours sincerely



Anna Brakey  
Commissioner  
ACCC

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<sup>3</sup> ACCC, [Inquiry into the National Electricity Market](#), December 2023 Report, p. 5.

<sup>4</sup> ACCC: [Inquiry into the National Electricity Market](#), December 2023 Report, pp. 40 and 71.

<sup>5</sup> AER, [Towards Energy Equity](#), October 2022, p.5.

<sup>6</sup> AER, [Default market offer prices 2024-25 Draft determination](#), 19 March 2024, p. 57.