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Draft Determination: Default Market Offer Price 2021-2022

The Australian Energy Council ('AEC') welcomes the opportunity to make a submission to the Australian Energy Regulator's ('AER') Draft Determination on the *Default Market Offer Price 2021-2022 (DMO 3).*

The AEC is the industry body representing 22 electricity and downstream natural gas businesses operating in the competitive wholesale and retail energy markets. These businesses collectively generate the overwhelming majority of electricity in Australia and sell gas and electricity to over 10 million homes and businesses.

Given the position of the AEC as a representative of competitor businesses, we operate in strict compliance with the Competition and Consumer Act (the 'CCA'). The CCA prohibits the AEC discussing with members confidential information relating to costs and how they set their prices. This submission has been drafted in line with our CCA obligations, and will focus on best practice price regulation methodologies, rather than the preferred methodologies of individual members. Our members will provide more detailed views on the issues raised.

While the AEC remains supportive of much of the AER's approach in setting the DMO, we are increasingly concerned about the AER's approach to determining what is or is not a material change, and the expectation that no harm can be done by failing to pass through genuine costs facing energy retailers. While the AER notes it remains committed to its indexation approach, it fails to factor in changes to retail costs due to these changes not being 'material'. The AEC opposes this approach, and considers that continuing erosion of the DMO's policy intent in the form of arbitrarily reducing retailer headroom could impact competition to the detriment of consumers.

The AEC acknowledges the challenges facing the AER in determining the DMO. However, in undertaking to utilise an indexation approach, this requires the AER to genuinely consider changes to the costs retailers face, particularly those that are outside their control. The indexation approach was intended to enable the policy intent of the DMO to be retained, in an environment where a purely top down price setting approach as undertaken in DMO 1 was impossible.

The AEC appreciates that the AER intends to raise many of these broader methodological issues as part of the proposed review into the *Competition and Consumer (Industry Code—Electricity Retail) Regulations 2019*. However, in the interim, retailers are expected to bear additional costs such as those resulting from COVID related bad debts and metering. This appears short sighted. If the review finds that the AER's approach to effectively reduce the retail operating costs is not in the interests of consumers, then the damage will have already been done.

Materiality of retail cost increases

The AER notes in the Draft Determination that it does not consider increases to bad debt costs, nor metering costs, are material enough to warrant an increase under its existing methodology. The AER's rationale appears to be that the DMO allows sufficient headroom that it does not matter if actual costs increase. While the AEC does not contend that the Draft Decision would price the DMO below a retailers efficient costs, this is irrelevant. The DMO is not intended to be an offer that customers should want to

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be on. It is merely intended to provide a backstop to ensure customers are not unreasonably paying too much. While it might seem attractive for the AER to seek to ensure the DMO is as low as possible, this does not align with its policy intent and if these many incremental costs drive down a retailers headroom to an unsustainable level, risks impacting the competitive market benefits customers are encouraged to access today.

The AEC considers that the AER should clearly state what it considers to be a material cost change, by developing an objective methodology. This might include the AER publishing a percentage change of the retail costs it considers to be material.

The AEC looks forward to engaging further with the AER and the Government as DMO 3 is finalised, and in particular, as its enabling regulations are reviewed. Inconsistency in the AER’s indexation approach is reducing confidence in industry that the DMO will continue to meet its policy intent. These inconsistencies, particularly relating to changing retail costs, should be mitigated to the extent possible in the lead up to the review. Any questions about this submission should be addressed to me by email to ben.barnes@energy.council.com.au or by telephone on (03) 9205 3115.

Yours sincerely,

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