

Essential Services Commission

Level 37, 2 Lonsdale Street
Melbourne Victoria 3000

Formal Submission: Obligations for exempt sellers under the General Exemption Order 2017

Dear Commissioner,

I am writing to you as an apartment resident and embedded energy network customer. I am deeply concerned with the conduct of my embedded energy provider, who I believe may be profiteering off the limited competition available to customers on its networks. This submission will make evident that residents in my apartment building alone have been paying electricity usage charges more than 40% higher than a major retailer's rate. I will show that customers have little bargaining power at negotiating fairer pricing nor are they guaranteed access to any better rates if they completely 'opt out' of the network (at a substantial cost). You will also see an example of an embedded provider using selective data to form pricing comparisons which may unfairly paint its competition in a bad light.

I would also like to emphasise the fact that many Victorians are depending on your decision to ensure they receive access to fair pricing. I urge the Commission to keep in consideration the many Victorians who have been struggling to pay their energy bills and who may have not been able to heat their homes this winter due to these uncompetitive charges.

Part A: Key Concerns:

Concern 1: Pricing 40% higher than major retailers:

In comparison to the rates commonly advertised and offered by all 3 leading retailers, the pricing on an embedded network can be over 40% higher. The table below shows the embedded provider OC Energy consistently having the highest connection and usage charge out of all 3 major retailers, plus a smaller retailer PowerShop.

	OC Energy	AGL (Essentials)	Origin Energy (One Low Rate)	Energy Australia (Anytime Saver)	PowerShop (Market offer)
Daily Connection charge (Ex GST)	\$1.09	\$1.09	\$0.9689	\$1.075	\$0.7709
Usage Charge (per kWh, Ex GST)	24.98c	17.70c	20.04c	20.46c	22.24c
Requirements / other charges	None	Monthly billing, e-billing, credit card fees. Valid 12 months.	Monthly billing, e-billing, credit card fees. Valid 12 months.	Rates valid 12 months, credit card fees.	e-billing, direct debit. Valid 12 months.
Price difference to OC Energy	N/A	Daily Rate: 0% Usage: 41.13%	Daily: 12.5% Usage: 24.65%	Daily: 1.4% Usage: 22.09%	Daily: 41.39% Usage: 12.32%

Rates as of 7 August 2018, based on the United Power Distribution pricelist. Copy of prices sent to commission separately for verification.

Based on this pricing, a family on an embedded network using 7000 kWh over 12 months would pay up to an additional \$550 (Inc GST) in comparison to AGL.

Concern 2: Consumers have limited bargaining power:

Embedded providers often give the assurance that they offer to price match better offers presented to them by their customers. In practice, these requests will often be declined, usually due to minor and arguably irrelevant difference in service offered between providers (such as the competitor not offering a paper billing service). On 26 July 2018, I lodged a formal complaint with my provider requesting an explanation for the price difference and for their prices to be matched to rates readily available in the retail grid market. Prices from Powershop and subsequently AGL were provided, however my embedded provider rejected both of these requests for the following reason:

*"These companies also provide these prices under the condition of customers fulfilling certain requirements. These may include, but are not limited to, e-billing, direct debit and payments made on time, in full. Because of these requirements, and their inability to provide you, or any embedded network customer, a service, we are unable to provide you an exact match of these prices.
However, given your account history and the offer you provided, we would be happy to apply a new usage rate of \$0.2323 to your account (GST excluded). In addition, we are willing to apply this new rate to your most recent invoice only. This offer places you under no additional requirements and is valid until the end of the year on 31st December 2018."
OC Energy Email, 31 July 2018. Full response at appendix 1.*

OC Energy refused to take into consideration if direct debit and e-billing were already activate on my account, nor did they address questions as to how providing extra billing choices justify their charges to be 30-40% more expensive.

Concern 3: The current 'Opt Out' process is onerous and doesn't guarantee access to competitors:

The process to 'opt out' of an embedded network is complicated, expensive and time consuming and does not even guarantee the consumer access to any additional competition. OC Energy advised that leaving their network may make the customer liable for the costs of an additional power meter, its installation as well as potential power disruptions. The installation of new equipment would naturally require approval from the landlord / owners corporation. In communications with OC Energy, it was revealed that energy retailers may not even have a process to take on an embedded customer who has successfully 'opted out' and are entitled to refuse them service.

*"It is the understanding of OC Energy, through communication with representatives of and PowerShop, that they would be unable to provide an embedded network service to customers. They are unable to provide a service to individual customers wishing to leave an embedded network and, to our knowledge, do not have an embedded network procedure in place."
OC Energy Email, 31 July 2018. Full response at appendix 1.*

Concern 4: Misleading price comparison statements:

When a company is conducting a price comparison against its competitors, it is reasonable to expect they would include all relevant pricing data to produce a fair and balanced result. However in correspondence with OC Energy their representative provided the following comparison:

“OC Energy commit to being at least 10% cheaper than the standing offers of the big three retailers in your area. Below is a comparison between OC Energy and these companies for the United Energy distribution zone. All prices contained in this comparison are GST exclusive.

Company	Service to property ¢/day	Usage ¢/kWh
Energy Australia	109.70	31.62
Origin Energy	96.89	30.82
AGL	109.00	29.00
OC Energy	109.00	24.98*

**Usage reflects a reduction of 18.04% on the average standing offer of the three major retailers. ”*

OC Energy Email, 31 July 2018. Full response at appendix 2.

OC Energy also publishes similar comparisons in its marketing material aimed at developers, body corporates and consumers on their website – promising ‘an array of upfront cost savings to residents’.

“OC Energy can bulk-buy energy using the total collective usage of your building, relaying an array of upfront cost savings to residents. So what are the other benefits?

*- Upfront cost savings on electricity rates**

**Cost saving are upfront compared to standing charges of major retailers “*

Source: <https://www.ocenergy.com.au/customer/embedded-networks-explained/> (7 August 2018)

Both these comparisons fail to mention any advertised offers which consumer would generally purchase. Jargon such as ‘standing offer’ was used without any explanation - despite it not being a plain English term that the average customer would understand. This deliberate and calculated use of selective data and jargon could easily lead a customer into the false belief that OC Energy is providing one of the best rates on the market.

Part B: Conclusion and Recommendations:

This submission has brought evidence forward that shows consumers are significantly disadvantaged by being on an embedded network. Embedded customers are paying rates over 40% higher than major retailers which could cost an average family an additional \$550 annually. This submission provided evidence that existing processes (such as price matching and ‘opting out’ of the network) are failing to deliver consumers easy access to fair pricing. It was also revealed that an embedded electricity company is making statements about its competitors pricing which may be misconstrued by customers.

As the Victorian government is running initiatives to reduce energy costs for consumers (such as Energy Compare), I urge the Commission to draft its code in line with government policy and include protections to ensure fair pricing and competition. I have included the following recommendations for your consideration:

1. Promote fair and competitive pricing and establish mechanisms to prevent profiteering. This may include:

- a. Setting up a price match framework which companies are obliged to follow.

- b. Require embedded networks to publish their pricing in comparison to the market average (not the 'standing offer') on all bills and their website.
- c. Setting a more competitive maximum sell price (eg: within 10% of market average).

2. Better access to competition:

- a. Simplifying the 'opt out' process, so it can be completed by the consumer with one phone call.
- b. Reducing the \$500+ cost of moving to another carrier.
- c. Mandating that energy retailers cannot refuse service to an embedded customer and need to have a process in place.
- d. Require embedded networks to resell their networks to retailers (similar to how NBN / Telco's resell their networks).

3. Unreasonable price comparisons:

- a. Prevent providers from comparing their rates with 'standing offer' in marketing material and customer communications without defining the term and including other more relevant rates - as this is not a 'like for like' comparison.

I appreciate the Commission's consideration and acceptance of my submission. I am willing to provide any additional information to the Commission on request.

Regards,

Hugh Mathews