8 March 2024

Daniel Griffiths
Manager – Retail and Networks Policy
Electricity Authority
Wellington
New Zealand

By e-mail: switchingconsultation@ea.govt.nz

The Authority should prioritise competition over regulation to drive better consumer outcomes

Electric Kiwi has strong misgivings about the Authority's 'best plan' proposal and believe it would need to be researched more thoroughly to ensure it would be beneficial.

The 'best plan' can depend both on the customer's consumption patterns (determined using historical data) and on how the customer changes their behaviour in response to things like time-of-use tariffs and Electric Kiwi's free hour of power (which can be estimated only). A degree of caution is also needed as a customer's circumstances can change resulting in changes in electricity consumption e.g. the addition of new household members can result in behaviour changes and increased consumption.

There is also potential for unintended consequences e.g. if retailers are concerned that innovative new tariff options which could benefit consumers – particularly where reliant on changes in consumer behaviour – creates the risk of incorrect recommendations. It should be front of mind that consumers themselves will be better placed to determine whether they would engage with innovative new tariffs or products – in order to save money – but the retailer won't necessarily know in advance. Advising a customer they could save money by switching plan could result in increased electricity bills if the consumer does not or could not change their consumption patterns.

The experience with Powerswitch demonstrates it is not always straight-forward to determine which is the 'best plan' for a particular customer and a 'one-size-fits-all' approach could further marginalise some consumers.

These issues would become more pronounced if the Authority adopted a requirement for retailers to automatically transfer the customer to the 'best plan'. What happens if, through no fault of the retailer, this advice turns out to be wrong and results in an increase in the customer's electricity bills. We believe much more practical approach to supporting consumers to meaningfully engage in comparisons and switching which aligns to their own values and budgets is required. Retailers should not assume authority over consumer choice as it is not possible to account for the nuance in consumer values and decisions across an entire customer base. Added to this is the increase in values-based decision making from consumers based around the energy transition and behavioural changes regarding load shifting and load control. Has the Authority considered how tailored options may be determined and how restrictions on innovation and pricing may impact consumers?

The Authority needs to consider the cost to electricity retailers of changing their billing systems to accommodate something on this scale, a cost which would ultimately be passed on to customers. The consultation paper makes no mention of the costs of implementing and applying a 'best plan' requirement in its evaluation of the advantages and disadvantages of the proposal. Appendix D states "limited cost for retailer system change". Can the Authority provide some clarity over how this was calculated as, following our experience of a similar programme in Victoria Australia, we do not believe this is plausible.

While the Authority has drawn parallel with the 'best plan' type requirement in the Consumer Care Guidelines (clause 43g) this applies on a much more limited scale ("for a customer … who is in payment arrears and/or is having payment difficulties"). Complying with the Consumer Care Guidelines' clause 43g for a small number of customers has a much different cost implication than applying a 'best plan' requirement for all customers.

Paragraphs 9.5 and 9.6 comment that a limit of the 'best plan' option is that "its benefit to consumers for plan choice is limited to that from the consumers' existing retailer. Thus, the consumer may not benefit to the extent they might from considering plans across other retailers." We consider that this highlights a key issue the Authority needs to address in considering the 'best plan' option and other regulation: the best way to deliver better long-term outcomes for consumers is to reduce barriers to competition/promote stronger and more effective competition rather than relying on regulation of electricity retailers to deliver outcomes that would (imperfectly) proxy for competitive market outcomes. We consider adoption of the 'best plan' proposal would signal that the Authority doesn't have confidence that competition in the electricity retail market is strong enough to protect the interests of end-consumers and ensure they are delivered affordable electricity.

Before implementing such a plan the Authority needs to satisfy itself that the change would not damage retail competition in the long run, to the detriment of consumers. While the Authority is examining market power issues, the proposed changes carry significant risk of long-term consumer harm.

Other matters

We strongly support the independent retailer submission recommendation that the Authority commission periodic independent review of the switching mechanism to assess its accuracy. From our own experience we have/and continue to identify issues with the accuracy of Powerswitch and other issues such as what information is provided in relation to each retailer, including issues which create biases in favour of some of our competitors.

Most recently it has taken the incumbent comparison site over 3 months to show our new TOU pricing that is designed to encourage more load shifting behaviour. These prices offered cheaper options to consumers but they were unable to access them through the comparison website, missing out on 3 months of cheaper energy – the opposite of the purpose of the comparison website.

Powerswitch, or any other comparison website selected through a tender process and affiliated with the EA, should have defined rules to ensure a level playing field across retailers, for the maximum benefit to consumer choice.

Yours sincerely,

[redacted]