

26 January 2018

By email: fitreview@esc.vic.gov.au

Energy Division
Essential Services Commission Victoria
Level 37, 2 Lonsdale Street
Melbourne Victoria 3000

Dear Commission,

Minimum electricity feed-in tariffs to apply from 1 July 2018 draft decision

Consumer Action Law Centre welcomes the opportunity to provide a submission in response to the ESC's draft decision on the minimum Feed-In Tariff (**FiT**) to apply for the 2018-19 financial year. We support the ESC working towards time-varying FiTs that would encourage Victorians generating energy on a small scale to provide this energy to the grid at the times of high demand where it is most useful to all Victorians. We also support the ESC enabling retailers to choose between a single flat rate and time-varying tariff in the upcoming financial year to ease the transition to this model.

However, Consumer Action is concerned that those without the technology to receive FiTs may be forced to cross subsidise those who do have the technology on an inequitable basis when energy affordability is a major concern in Victoria. We request that the ESC undertake further work for the final decision to resolve potential issues that may arise with the introduction of a time variable FiT. We identify several specific and general areas of concern in this submission and request that the ESC provide greater detail including the reconsideration of the estimated value of FiTs at peak times to give us confidence that the final decision will be effective in meeting policy objectives.

About Consumer Action

Consumer Action is an independent, not-for profit consumer organisation with deep expertise in consumer law and policy and direct knowledge of people's experience of modern markets. We work for a just marketplace, where people have power and business plays fair. We make life easier for people experiencing vulnerability and disadvantage in Australia, through financial counselling, legal advice and representation, and policy work and campaigns. Based in Melbourne, our direct services assist Victorians and our advocacy supports a just market place for all Australians

How Consumer Action understands the FiT policy objectives

The consequences of Climate Change are likely to disproportionately impact those least able to respond due to varying forms of vulnerability. One example demonstrating this is that people living in residential tenancy arrangements will be less able to modify their homes when faced with a higher prevalence of extreme weather events that make their homes



unhealthy to live in. Similarly, those with lower incomes will have less able to respond through home modification even where they do own their own home (these two vulnerabilities are likely to often intersect and compound the negative impact).

It is therefore important that decisions made around essential services are made in a way that works towards improving environmental outcomes on an equitable basis to ensure that all benefit. This direction is reflected in one of three policy principles in our *Power Transformed* report:

The Benefits of the transforming market should be shared across the whole community¹

We therefore see the policy objective surrounding FiT as working towards utilising excess energy that is generated using renewable resources at a small scale in a way that maximises the benefits to the wider community in the long-term at an equitable cost to all.

On this basis Consumer Action supports the concept of introducing time-variable FiTs to incentivise people to invest in renewable technology that feeds electricity into the grid at the time it is most needed by all. Consumer Action supports the ESC's reasoning on page 6 of the draft decision that the benefits of the choice between two FiTs should mean:

- less costs associated with retailer systems changes being passed on to consumers in the upcoming financial year;
- some retailers could compete based on a different FiT structure in their offers;
- some customers without smart meters would not be faced with almost immediate additional costs or unfair losses and have more time to upgrade; and
- more time to set a compulsory minimum time-variable FiT and potentially some real data as to the impact that variable FiTs have on the energy system to support further policy development.

We also welcome the draft decision analysis which has resulted in a proposal for a lower flat FiT of 9.9c/kWh instead of an ever-increasing remuneration amount. We believe an ever-increasing minimum flat FiT rate would accordingly intensify energy affordability issues in Victoria for those without small scale generation resources. It is important that customers without small scale generation technology are paying for FiT through their retailer are paying a fair price that reflects the value.

Additional considerations for reaching a final decision

Communication of the changes to achieve greater outcomes

To meet the desired policy objective of FiT the ESC should investigate the best way to communicate to Victorians who have installed or are considering installing small scale renewable energy generation of the reason for the introduction of time variable FiT and ways in which they can respond.

Organisations such as Distributors, Energy Retailers and the Clean Energy Council may have the ability to notify solar customers of the reason for changes and the ways that they can utilise their technology to supply energy at times of highest demand. One example of this would be providing information on options for the direction that solar panels face when installed to prioritise feeding more excess energy from a household or business into the grid in the afternoon where demand for energy is highest.

¹ Consumer Action, 2016. *Power Transformed: Unlocking effective competition and trust in the transforming energy market*, July



Cross Subsidies

As stated in the introduction of this submission we do not support Victorians without the ability to utilise small scale generation cross subsidising those who do on an inequitable basis. The recent ACCC Retail Electricity Pricing Inquiry highlighted the issue of cross subsidies due to FiT pricing which exceeds the value² as can be clearly observed in relation to premium FiT schemes.

The proposed 29c/kWh peak FiT rate appears alarmingly high given that the shoulder rate is already 0.4c higher than the proposed flat FiT rate of 9.9c/kWh. The off-peak rate may be below the flat rate but we anticipate that very few Victorian small generators will be feeding into the grid at these times.

We note that ACIL Allen Consulting's report commissioned for this draft decision acknowledges in section 2.2 that random modelling of high wholesale pricing events involves many variables. While we appreciate that the Commission must make a decision and can never accurately project the future, we urge the ESC to urge on the side of caution towards lower FiT minimums when setting them on the basis of projections.

From a search of available offers in the CitiPower distribution zone it can be observed that a feed in of 29c/kWh would seem to exceed the value of the energy when some flat rate market offers are as low as 16c/kWh for energy supplied from the grid.³

We are therefore not confident after our basic assessment of values defined in tariffs currently being offered that the proposed time-variable FiT rates do not represent a significant cross subsidy from non-solar to solar customers. This is the case even if the 86c per day supply charge on this same offer⁴ is divided among a handful of kWh's consumption. We worry that if this retailer implemented a time-variable FiT at the proposed rates it would remove the feasibility of offers at the low price we observed.

Perhaps other consequences that may arise if the minimum time-variable FiT is set too high or appears inequitable is low or no take up by retailers due to the financial risk involved—that is, the retailer will not want to offer the time-variable FiT if there is a significant risk of it paying out very high amounts during peak periods. Take-up may also be affected by controversy around the policy. If this occurs it would likely signal slower progress in meeting the policy objectives. We believe that a lower rate at peak times would increase the likelihood that retailers will offer time-variable FiTs in 2018-19. Earlier adoption of time-variable FiTs is desirable as it would generate real data which is useful for refining decisions on FiTs from that point forward.

We are not confident that the reasoning behind the rates determined for time variable FiT is robust after reviewing the information provided in this draft decision and accompanying ACIL Allen report. To provide confidence, we encourage the ESC in its final decision to provide further information about how the rates have been selected. This should include analysis that explains how there is not inequitable cross subsidies between customers with or without small scale generation capacity.

² Australian Competition and Consumer Commission, 2017. *Retail Electricity Pricing Inquiry, Preliminary report*, 22 September.

³ Time of use Tariff offer in CitiPower distribution zone as offered on Victorian Energy Compare 17/01/18.

⁴ Ibid.



Loopholes

While we realise that to receive FiT an account holder must submit a burdensome amount of documentation to multiple parties to demonstrate that they are producing energy to feed into the electricity system from renewable sources, we consider that there is a need to verify that the FiT paid for by other customers through a retailer is in fact from renewable small-scale sources and improving outcomes according to the desirable policy objective.

The desirable policy objective is only met where the energy is generated from a renewable source as this represents better environmental outcomes as well as more efficient energy supply. We are concerned that the introduction of time-variable FIT could lead to incentivising battery technology, enabling some to exploit the system by purchasing and selling centrally generated energy at varying rates. For instance, a small generator with battery technology should be prohibited from charging their battery from the grid for 10.20c/kWh (using the cheapest time-of-use offer from CitiPower on Victoria Energy Compare) and then discharging into the grid between 3pm and 9pm for 29c/kWh at a profit of 18.8c/kWh on energy that they did not generate.

Offer rate and details	
Local time	
1 January - 31 December	
Tariff(excl. GST)	
Supply charges	86.00 €/day
Peak	
Weekday 7 am - 11 pm	
All consumption	21.60 €/kWh
Off-peak	
Saturday 12 am - 12 am	
Sunday 12 am - 12 am	
Weekday 12 am - 7 am, 11 pm - 12 am	
All consumption	10.20 €/kWh
Retailer Feed-in Tariff	
1 January - 31 December	
Tariff(excl. GST)	
All export	60.00 €/kWh
Retailer Feed-in Tariff	
1 January - 31 December	
Tariff(excl. GST)	
All export	11.30 €/kWh

Figure 1: Time of use Tariff offer in CitiPower distribution zone as offered on Victorian Energy Compare 17/01/18

In the final decision, the ESC should recommend a monitoring program or policy to prevent this loophole being exploited. This should ensure that the social cost of carbon is not paid for where the energy fed into the grid is not from a renewable resource. In addition to adding unnecessary expense, this loophole could also have the potential to damage reputation and trust in the transforming energy system.

Additional considerations for decision makers in relation to the FiT

We recognise that the ESC is restricted to making decisions on minimum FiT rates. The following comments are provided for context and feedback at a higher level.



Costs for minimum FiT should be recovered through government revenue

Energy is an essential service and better environmental outcomes will benefit all. However, FiT schemes can be regressive in nature as energy must be purchased by all, and those with the least income incur the greatest cost to pay for FiT (as a proportion of their income). Consumer Action recommends recovering the cost of minimum FiT and premium FiT from government revenue which is a fund more often made up of progressive taxation. This would lead to a more equitable division of the costs associated with the universal benefit from the transforming energy market. Alternatively, there needs to be stringent and robust monitoring programs introduced, to identify the effect of FiTs on distribution and cost, which can then be addressed transparently.

Is the framework for determining FiT value correct?

The methodology the ESC is instructed to follow is based on the premise that energy exported by small scale generation is as valuable as traditionally centrally generated energy. We question whether this premise is correct if small scale generation capacity is not dispatchable in response to wholesale market events and cannot be hedged by energy retailers or accurately forecast to enable them to lower prices for customers. We encourage further discussion as to the actual value (including the value of abating carbon) of small scale renewable generation's FiT with these questions in mind. We also support research and trials which investigate making small scale generation dispatchable as we understand is being trailed in South Australia.⁵

Please contact Jake Lilley at Consumer Action on 03 9670 5088 or at jake@consumeraction.org.au if you have any questions about this submission.

Yours sincerely
Consumer Action Law Centre



Gerard Brody
Chief Executive Officer

⁵ See: <https://www.agl.com.au/about-agl/media-centre/asx-and-media-releases/2017/march/agl-virtual-power-plant-goes-live>

