

Consultation paper: National Energy Retail Amendment (Assisting hardship customers) Rule 2025

STAKEHOLDER FEEDBACK TEMPLATE

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SUBMITTER DETAILS

ORGANISATION: COTA Australia

The submission has been prepared by COTA National Alliance's Energy Advocates.

COTA National Alliance Energy Advocates is a panel of consumers, consisting of representatives from each State and Territory jurisdiction in the National Energy Market. COTA Energy Advocates are supported by COTA Australia.

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DATE 24 January 2025

PROJECT DETAILS

NAME OF RULE CHANGE: ECMC Consumer rule change request Assisting hardship customers

PROJECT CODE: RRC0060

PROPONENT: The Hon Chris Bowen MP, Minister for Climate Change and Energy, as Chair of the Energy and Climate Change Ministerial Council

SUBMISSION DUE DATE: 16 January 2025

CHAPTER 2 – THE PROBLEM RAISED IN THE RULE CHANGE REQUEST

Question 1: Hardship customers may not be on the deemed better offer

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| <ul style="list-style-type: none">Do you agree that hardship customers may find it challenging engaging with their retailer and agree to be | COTA consider that many customers, not just hardship customers find it challenging to engage with retailers. The rule change request notes that some barriers include: |
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<p>on the deemed better offer? If so, could you outline some reasons why consumers might not accept a better offer from their retailer while on a hardship plan?</p> <ul style="list-style-type: none"> Do you consider existing retailer requirements and/or processes for hardship customers to be on the deemed better offer need to be improved? 	<ul style="list-style-type: none"> reduced mental bandwidth due to stress literacy or language barriers lack of understanding of the market lack of time other pressures. <p>We believe that it is also important to recognise the challenges for those living independently who have reduced cognitive ability, particularly some older consumers. Limited or declining cognitive ability can result from a range of causes including age, head trauma, intellectual disability, health issues or the effects of medication etc. For this cohort no amount of time, education etc will improve their understanding and ability to navigate the energy market.</p>
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CHAPTER 3 – THE PROPOSED SOLUTION AND IMPLEMENTATION

Question 2: Provision of bill credit to hardship customers who are not on a deemed better offer

<p>Do you agree with the proposed solution as outlined in the rule change request or are the existing arrangements to protect hardship customers sufficient (including EIC arrangements and existing AER guidelines)? If you agree with the proposal in the rule change request, please outline your reasoning.</p>	<p>Scope</p> <p>COTA supported a joint submission made to the AER by the Justice and Equity Centre on the Review of payment difficulty protections in the NECF - 5 July 2024¹. That report urged recognition of the incidence of 'hidden payment difficulty' and included Recommendation 4 – "That the approach to the review be amended to include consideration of measures to more effectively avoid the experience of payment difficulty and identify and respond to 'hidden payment difficulty.'"</p> <p>We believe that older consumers who are experiencing payment difficulty are under-represented in published hardship statistics. They include those going without the energy needed for health and wellbeing, and social and financial inclusion. This is often referred to as under consuming, is anecdotally very widespread, but poorly recognised or quantified by retailers and the AER. It is of relevance for older consumers.</p> <p>To help respond to 'hidden payment difficulty', we recommend that the solution be applied to all concession customers as well as all hardship customers.</p> <p>Preferred Option</p> <p>COTA has some concerns with respect to the proposal to require retailers to provide consumers that are on their hardship arrangements with a credit on their bill to match the amount they would pay if they were on a 'deemed better offer'. Firstly, it suggests an erosion of the principle of 'Explicit Informed Consent', which we hold to be an important cornerstone of consumer rights. Secondly, we anticipate significant customer uncertainty and confusion over:</p>
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¹ <https://www.aer.gov.au/system/files/2024-08/Justice%20and%20Equity%20Centre%20and%20Others%20-%20Joint%20submission%20to%20Review%20of%20payment%20difficulty%20protections%20in%20the%20NECF%20-%20205%20July%202024.pdf>

	<p>a) Potential miscalculations and late credits leading to enquiries and complaints</p> <p>b) Certainty of timing of the credit and associated anxiety ie when will the credit be applied, and how much. It remains at the discretion of the retailer.</p> <p>c) The amount of credit has the potential to change from bill to bill.</p> <p>Our preferred option is option 2 - Automated switch with pre switch opt-out and post switch reversal.</p> <p>We recognise that there are also challenges associated with this approach, in particular the requirement for the customer to opt-out of the arrangement if they prefer to remain on the current plan. Any successful implementation of this option will rely heavily on very targeted communication between the retailer and the customer. To test the feasibility of this approach, we recommend that the revised arrangements be tested in a time-bounded trial.</p>
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Question 3: Costs and benefits of the proposed solution

Are there other potential benefits or costs not identified or that we should have regard to?	No comment
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Question 4: Implementation considerations

<ul style="list-style-type: none"> What factors could be considered for a credit mechanism that would help to minimise the costs and maximise the benefits? Do you think the proposed rules-based approach is appropriate? Or should this obligation be required through AER guidelines (eg, Customer Hardship Policy Guideline) instead? What transitional provisions would help retailers and their customers? 	It is imperative that any change in this area of support for vulnerable customers is implemented with a comprehensive monitoring regime. There must be a strong safety net to fully protect consumers. We also call for strong penalties for retailers who are identified as having moved a customer to a less favourable plan.
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CHAPTER 4 – MAKING OUR DECISION

Question 5: Assessment framework

Do you agree with the proposed assessment criteria? Are there additional criteria that the Commission should consider or criteria included here that are not relevant?	No comment
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OTHER COMMENTS

1. Additional information or considerations	N/A
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