AEMC

AUSTRALIAN ENERGY MARKET COMMISSION

RULE

Consultation paper

National Energy Retail Amendment (Improving the Ability to Switch to a Better Offer) Rule 2025

Proponent

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

06 February 2025

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About the AEMC

The AEMC reports to the energy ministers. We have two functions. We make and amend the national electricity, gas and energy retail rules and conduct independent reviews for the energy ministers.

Acknowledgement of Country

The AEMC acknowledges and shows respect for the traditional custodians of the many different lands across Australia on which we all live and work. We pay respect to all Elders past and present and the continuing connection of Aboriginal and Torres Strait Islander peoples to Country. The AEMC office is located on the land traditionally owned by the Gadigal people of the Eora nation.

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Summary

1 On 12 and 28 August 2024, the Hon Chris Bowen MP, Minister for Climate Change and Energy, as Chair of the Energy and Climate Change Ministerial Council (ECMC) (the proponent), submitted a package of consumer-related rule change requests.

2 This rule change request seeks to improve the ability for consumers to switch to a better offer with their existing retailer. Specifically, the proponent is seeking an amendment to the National Energy Retail Rules (NERR) to require retailers to provide streamlined processes for customers to switch to the deemed better offer that the Better Bills Guidelines Version 2 (BBG) requires retailers to identify and present to consumers on their bill.[1]

3 This rule change request is one of seven included in the package. This consultation paper follows two others that were published on 28 November 2024 as part of this package, and coincides with the initiation of another rule change process that also relates to this package.[2]

4 As identified in the Australian Competition and Consumer Commission's (ACCC's) December 2023 Inquiry into the National Electricity Market report (Inquiry into the NEM), which the rule change request cites, many customers are paying more on their energy bills than they could be if they switched to another offer.[3]

5 The proponent has suggested that this is a reflection of the transaction costs associated with switching to another offer preventing customer switching. In requiring retailers to provide streamlined switching processes for existing customers, the proponent considers that consumers will:[4]

- face reduced transaction costs
- face lower energy bills by accessing lower market offers
- create improved competition outcomes through more proactive switching.

6 The Australian Energy Market Commission (the AEMC or Commission) has commenced its consideration of the rule change request, and this consultation paper is the first stage of this process. This paper sets out:

- the AEMC's considerations of the relevant issues in determining the extent and magnitude of the issue raised in the proposal
- the potential costs and benefits of the proposed solution
- the range of available implementation approaches and relevant considerations
- our proposed decision-making criteria to determine if this rule change will promote the long-term interests of consumers.

We are seeking your views on the extent to which transaction costs are impeding customer switching

7 Transaction costs are defined in the rule change request as the time and effort associated with switching offers. These include, but are not limited to, time spent phoning a retailer, navigating to the retailer's website or comparing detailed plans.

1 AER, Better Bills Guideline (Version 2), Part 4 Better Offer.

2 AEMC, Improving the application of concessions to bills.

3 ACCC December 2023 Inquiry into the National Electricity Market, p. 5.

4 The Hon Chris Bowen, MP, Improving the ability to switch to a better offer, rule change request.

8 There are a number of potential other causes of disengagement, including insufficient visibility of the market, and perceived transaction costs. We are seeking stakeholder feedback on the extent to which transaction costs are a barrier to switching, as well as other potential barriers.

We are also seeking your views on the proposed solution

9 The proposed solution is to amend the NERR to require retailers to provide streamlined processes for switching to the deemed better offer. The proposal is not specific about the nature of this mechanism but suggests two areas of the NERR in which this may be implemented. [5]

10 There are three potential benefits this rule change seeks to create:

- competition benefits
- reduced transaction costs
- lower bills.

11 This may also impose implementation costs on retailers, which are passed through to consumers.

12 We are seeking stakeholder feedback on the magnitudes and likelihood of these costs and benefits materialising.

We consider that there are four assessment criteria that are most relevant to this rule change request

13 Considering the National Energy Retail Objective (NERO)[6] and the issues raised in the rule change request, the Commission proposes to assess the rule change request against four assessment criteria.

14 Please provide feedback on our proposal to assess the request against:

- **Outcomes for consumers:** this rule change request seeks to reduce costs for consumers. As part of our decision-making we will need to consider the drivers behind current outcomes, particularly consumer behaviour. We will consider the capacity for this rule change to result in lower energy bills for consumers and its potential impact on customer switching rates.
- **Principles of market efficiency:** we will assess whether this rule change lowers transaction costs associated with switching offers in order to materialise the benefits of competition. This rule change request seeks to improve engagement in the market and realise the benefits of competition without directly streamlining switching between different retailers. We will consider the ability for improved switching to market-exposed offers to minimise costs and incentivise innovation.
- **Implementation considerations:** We will assess the implementation costs that this proposed rule change could impose on retailers. Costs imposed on retailers, particularly in an environment of declining retail margins, will be passed through to consumers. Thus, it is important to ensure that implementation costs are minimised in order to manifest the largest benefits. We will also need to consult with retailers to understand the practical limitations of streamlining switching to ensure transaction costs are minimised.
- **Principles of good regulatory practice:** This rule change is related to the Bill contents and billing requirements rule change, as well as the other rule changes from this consumer

5 Namely, Division 7 and Division 9 of the NERR
See Rule 46 of the NERR.
See Part 2: Division 9 of the NERR.

6 Section 13 of the National Energy Retail Law.

package.[7] We will assess the degree to which this rule change reflects good regulatory practice by being consistent with those other workstreams. Furthermore, in trying to minimise transaction costs faced by consumers, we will need to consider the transparency and communicability of any costs imposed on retailers as these are passed through to consumers.

Submissions are due by 6 March 2025 with other engagement opportunities to follow

15 There are multiple options to provide your feedback throughout the rule change process.

16 Written submissions responding to this consultation paper must be lodged with Commission by 6 March 2025 via the Commission's website, www.aemc.gov.au.

17 There are other opportunities for you to engage with us, such as one-on-one discussions or industry briefing sessions. See the section of this paper about "How to engage with us" for further instructions and contact details for the project leader.

Full list of consultation questions

Question 1: Do stakeholders agree that transaction costs are a barrier to customer switching?

Are transaction costs a key barrier to customers switching to a better offer?

What other factors do stakeholders consider influence customer switching?

Have stakeholders observed higher rates of switching since the implementation of the Better Bills Guideline?

How material is the issue identified in the proposal?

Question 2: Do stakeholders agree with the potential benefits identified in the proposal?

Do stakeholders have any feedback on the potential magnitude of any benefits this could manifest?

Do you expect this will result in consumers facing lower bills?

Are there other potential benefits that we have not considered?

Question 3: What are the costs associated with providing a streamlined switching process?

What are the upfront implementation costs?

What do you consider the magnitude of the costs imposed on retailers will be?

Do you consider there will be any ongoing costs associated with this rule change?

7 AEMC, Bill contents and billing requirements, Rule determination, 18 March 2021.
Full package of rule change requests can be found on the project page.

Question 4: What are stakeholders' views on the best way to implement an improved approach to switching?

Should specific processes be prescribed or a principles-based approach taken?

What could a principles-based approach look like?

What opportunities for streamlining switching have you identified?

Question 5: Do stakeholders consider there is merit to the proposed alternative?

Would providing streamlined "like-for-like" switching result in greater improvements to switching rates?

How material are the additional costs this would impose on retailers?

If there is merit to this, do stakeholders have views on how this additional mechanism could work?

Question 6: 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?

How to make a submission

We encourage you to make a submission

Stakeholders can help shape the solutions by participating in the rule change process. Engaging with stakeholders helps us understand the potential impacts of our decisions and, in so doing, contributes to well-informed, high quality rule changes.

We have included questions in each chapter to guide feedback, and the full list of questions is above. However, you are welcome to provide feedback on any additional matters that may assist the Commission in making its decision.

How to make a written submission

Due date: Written submissions responding to this consultation paper must be lodged with Commission by 6 March 2025.

How to make a submission: Go to the Commission's website, www.aemc.gov.au, find the "lodge a submission" function under the "Contact Us" tab, and select the project reference code RRC0062.[8]

You may, but are not required to, use the stakeholder submission form published with this consultation paper.

Tips for making submissions are available on our website.[9]

Publication: The Commission publishes submissions on its website. However, we will not publish parts of a submission that we agree are confidential, or that we consider inappropriate (for example offensive or defamatory content, or content that is likely to infringe intellectual property rights).[10]

For more information, you can contact us

Please contact the project leader with questions or feedback at any stage.

Project leader:	Max Bonic
Email:	max.bonic@aemc.gov.au

8 If you are not able to lodge a submission online, please contact us and we will provide instructions for alternative methods to lodge the submission.

9 See: https://www.aemc.gov.au/our-work/changing-energy-rules-unique-process/making-rule-change-request/submission-tips.

10 Further information is available here: https://www.aemc.gov.au/contact-us/lodge-submission.

Contents

1 The context for this rule change request

This consultation paper seeks stakeholder feedback on the rule change request submitted by the Hon Chris Bowen MP, Minister for Climate Change and Energy (the proposal), which aims to improve the ability of consumers to switch to a better offer from their energy retailers.

1.1 This rule seeks to streamline the process by which customers switch to another offer with their retailer

The proposal suggests that transaction costs associated with switching are preventing consumers from engaging sufficiently in the market. This results in there being a large number of customers who could save money by switching to a better offer. The time and effort required of customers to switch offers including, but not limited to, clicking a link, phoning their retailer, and navigating their retailer's website in order to switch, is a barrier to engagement in the market.

This rule change would require retailers to provide a streamlined process by which customers can switch to the deemed better offer (see Appendix A). This could not only allow consumers to access lower offers and reduce transaction costs, but encourage engagement in the market and further materialise the benefits of retail competition.

1.2 The proposed changes to retail switching processes are based on findings from the ACCC

The ECMC developed this rule change proposal in response to findings and recommendations from the Australian Competition and Consumer Commission's (ACCC's) December 2023 Inquiry into the National Electricity Market (Inquiry into the NEM).[11] The report found that:

- customers may achieve better price outcomes if they switch regularly
- customers need to continually re-engage in the market to obtain the benefits of competition
- customers who have not switched are more likely to pay higher prices.

The ACCC also found that 79% of customers could be paying less for their electricity by switching to another offer.[12] The ACCC reported that this could be a result of many customers being unaware that they are paying more than they could be for electricity. The ACCC also considered that this reflects the fact that default offers place an effective upper limit on acquisition offers but do not regulate offers for existing customers.[13] This means that customers who remain on energy contracts for extended periods of time without reengaging with the market pay higher prices, including prices above the default market offer.

The December 2023 Inquiry into the NEM report also identifies the convergence of market offers on the default standing offer.[14] That is, increasing numbers of customers are on market offers that offer a diminishing discount relative to the standing offer. This phenomenon has been reported previously in the November 2022 Inquiry into the NEM.[15] We consider this may be relevant to

11 ACCC December 2023 Inquiry into the National Electricity Market.

12 ACCC December 2023 Inquiry into the National Electricity Market, p. 5.

13 Default offers (the Victorian Default Offer (VDO) in Victoria and Default Market Offer (DMO) in the other NEM states) are regulated. They are set by the Essential Services Commission and the AER respectively. These must be made available and visible to all customers. Market offers may exceed the regulated default offer, as these are intended for consumers to benchmark their market offer against.

14 ACCC December 2023 Inquiry into the National Electricity Market, p. 49.

15 ACCC November 2022 Inquiry into the National Electricity Market, p. 90.

understanding the magnitude of the issue identified in the proposal and is discussed further in section 2.1.2.

1.3 The AER's Better Bills Guideline seeks to improve market visibility

The AER's Better Bills Guideline (BBG) prescribes what information energy retailers must present in bills and how it should be presented. This includes a requirement for retailers to identify a 'deemed better offer' for customers, present any potential savings, as well as how to switch to that offer.[16] This requirement is outlined further in Appendix A.

This new guideline came into effect in September 2023. Thus, while this regulatory change may be improving price discovery and switching rates, the rule change proposal does not provide an assessment of the degree of improvement in the market. This is because the ACCC collected data for the December 2023 Inquiry into the NEM (which informed the rule change proposal) in August 2023, before the BBG came into effect. On 30 December 2024, the ACCC published the December 2024 Inquiry into the NEM.[17] This report provides some additional insight into the impact of the BBG on customer switching and market visibility. Our consideration of the impacts of the BBG as they pertain to this rule change are discussed in section 2.1.

1.4 This rule change request is part of a broader package of consumer-related rule change requests

On 12 and 28 August 2024, the Hon Chris Bowen MP, Minister for Climate Change and Energy, as Chair of the Energy and Climate Change Ministerial Council (ECMC) (the proponent), submitted a package of consumer-related rule change requests.[18]

The package comprises seven rule change requests that together seek to help households access cheaper energy deals, increase support for people experiencing hardship and deliver more protections for consumers. The rule change requests are:

1. Ensuring energy plan benefits last the length of the contract
2. Preventing price increases for a fixed period under market retail contracts
3. Removing fees and charges
4. Removing unreasonable conditional discounts
5. Assisting hardship customers
6. Improving the ability to switch to a better offer
7. Improving the application of concessions to bills

This consultation paper follows two others that the AEMC published on 28 November 2024.[19] One of these initiated the first four rule change proposals listed above. The second of these consultation papers initiated the rule change to assist hardship customers. We also initiated the *Improving the application of concessions to bills rule change*, by publishing a consultation paper on 6 February 2025.[20]

16 AER, Better Bills Guideline (Version 2), Part 4 Better Offer.

17 ACCC December 2024 Inquiry into the National Electricity Market.

18 See the broader package here: https://www.aemc.gov.au/rule-changes/improving-ability-switch-better-offer.

19 AEMC, Delivering more protections for energy consumers: changes to retail energy contracts, Consultation paper. AEMC, Assisting hardship customers, Consultation paper.

20 AEMC, Improving the application of concessions to bills rule, Consultation paper.

1.5 We have started the rule change process

This paper is the first stage of our consultation process.

We intend to consider this rule change request using the standard rule change process, with two rounds of consultation. The formal stages are outlined in the table below.

Table 1.1: Stages of the rule change process

Formal Stage	Date
Proponent submitted rule change request	12 August 2024
Consultation paper is published and the rule change process is initiated	6 February 2025
Stakeholder submissions to the consultation paper due	6 March 2025
Draft rule determination and draft rule is published (if made)	15 May 2025
Stakeholder submissions on the draft rule determination and draft rule due	26 June 2025
Final determination and final rule published (if made)	7 August 2025

Information on how to provide your submission and other opportunities for engagement is set out at the front of this document.

You can find more information on the rule change process on our website.[21]

To make a decision on this proposal, we seek stakeholder feedback on how we propose to assess the request, our assessment of the stated problem and solutions to address the identified issues.

21 See our website: https://www.aemc.gov.au/our-work/changing-energy-rules

2 The problem raised in the rule change request

The proponent considers that the transaction costs a consumer faces in switching to a better offer with their retailer are too high. The proposal therefore seeks to reduce the transaction costs associated with moving to the retailer's deemed better offer. This chapter outlines and seeks stakeholder feedback on the problem identified in the rule change request, specifically:

- the extent to which transaction costs prevent customers from switching to a better offer, including the materiality of the issue identified
- the other factors that could be impeding switching to a better offer.

2.1 Transaction costs may be preventing customers from switching to a better offer

The rule change proposal highlights a finding from the ACCC's December 2023 Inquiry into the NEM report that 79% of customers could have been on cheaper offers.[22] The proposal posits that a key reason these customers are not switching to a better offer is that the transaction costs associated with switching are too high.

Box 1: What are transaction costs?

Transaction costs are defined in the proposal as the time and effort associated with switching. These vary between retailers and depend on the switching processes the retailer has in place as well as the way customers choose to engage with their retailer. These could include clicking a link, visiting a retailer's website, comparing plans, and phoning the retailer.

In addition to the time and effort associated with switching, the proposal also identifies that customers may not be aware of cheaper deals being available. The BBG seeks to alleviate this issue by requiring retailers to present customers with a deemed better offer.[23] This requires retailers to identify the contract that the retailer offers that is either the lowest cost generally available plan, or a lower cost plan that is not generally available but is applicable to the customer. The savings associated with this plan, along with the plan itself, must be presented on the customer's energy bill.

On 30 December 2024, the ACCC published another Inquiry into the NEM report, which found that despite the guideline coming into effect in September 2023, between January 2024 and August 2024, 81% of customers could have saved by switching to a better offer.[24]

We also note that the Victorian 'Best Offer Guideline' (which performs a similar function to the BBG) has been in place since 1 July 2019. Since this policy came into effect, typically less than half of residential customers with large retailers have been on the retailer's best available offer.[25] Whilst this represents an improvement on the ACCC's figure from the December 2024 Inquiry into the NEM (81%), this suggests that barriers to switching may not be entirely attributable to low visibility.

22 From a sample of approximately five million small customers.
ACCC December 2023 Inquiry into the National Electricity Market, p. 5.

23 AER, Better Bills Guideline (Version 2), Part 4 Better Offer.

24 ACCC December 2024 Inquiry into the National Electricity Market, p. 54.

25 ESC, September 2023 Victorian Energy Market Report, p. 8.

The proponent did not provide supporting evidence that the high proportion of energy customers who could be on better offers is attributable to transaction costs associated with current switching processes. Whilst we consider that this is a plausible cause of low switching rates, further evidence and analysis is required to determine the extent to which this is driving the issue.

2.1.1 Other factors could be impeding switching

As noted above, transaction costs may act as a barrier to customers switching to a better offer with their retailer. However, we note that there are a range of other potential factors that may influence consumer behaviour and switching rates.[26]

Customer loyalty

The ACCC has repeatedly reported on the impact of 'loyalty penalties' imposed on customers.[27] Customers on legacy contracts with retailers, in particular large retailers, tend to pay more for electricity than those who have recently switched.[28]

While this is somewhat out of scope for this rule change as streamlining switching between retailers is not currently under consideration, there are two ways this interacts with the issues raised by the proponent. First, this could manifest through customers staying on legacy contracts. Second, the ACCC's reporting on the number of customers who could be saving money on electricity by switching to a better offer does not distinguish between existing and new retailers, thus it is not clear how many customers could be saving by switching to a different offer with their existing retailer.

Disengagement with the market

Broader disengagement with the energy market may be another factor contributing to customers not being on the best available offer. Evidence from the ESC's July 2021 Energy Market Insights report, which the ESC cites in their Energy Consumer Reforms discussion paper, suggests that while customers may save through switching to a better energy retail offer, this is not as significant a factor for households as other costs of living.[29]

The report found that housing, food, and transport costs are all reported by consumers as being of higher priority than energy bills, suggesting relative disengagement could also impact switching rates. This cause, to the extent that it is material, is not entirely independent. Reducing transaction costs and improving visibility of the market as the proposal seeks to do, may foster greater engagement with the market more generally.

Disengagement with energy bill

Customers who have established direct debit to pay for electricity may not look at their bill regularly. This may limit the extent to which information on the bill, such as the availability of a better offer and the process to switch to that offer, is a useful mechanism to improve switching.

High perceived cost of switching

As the proposal identifies, perceived transaction costs are a potential barrier to switching. The process, even through government comparison websites such as Energy Made Easy and Victorian Energy Compare, of comparing retail offers and appraising retailers is potentially costly. Further,

26 Several of these are discussed in the ESC's Victorian Energy Market Report that the proposal cited: ESC, September 2023 Victorian Energy Market Report, pp. 8-9.

27 ACCC December 2023 Inquiry into the National Electricity Market, p. 71.

28 Legacy plans are "plans that have been withdrawn from the market" but that a customer has remained on with their retailer. ACCC December 2023 Inquiry into the National Electricity Market, p. 5.

29 Essential Services Commission and Honeycomb, Energy Market Insights: Research report, July 2021, p. 7.

the mechanics of actually switching may incur, or be perceived to incur, costs. This could include through phone calls, retailer websites and apps, hyperlinks on bills, or loss of benefits associated with a current plan. While no retailers currently impose a fee for leaving the retailer, the perception of one existing is not implausible.[30] This may also vary from customer to customer, as billing preferences, connectivity and level of engagement vary.

Customer risk aversion

Customers may be willing to pay more on their electricity to reduce variability. This risk aversion will be reflected, essentially, as a premium paid by customers on their bills. Reporting on the number of customers who could save by switching does not have any visibility of, or ability to account for, this 'risk premium' that some customers may be willing to pay.

Other excluded benefits

Additional benefits, including renewable energy plans and other benefits that are unrelated to energy, including partnerships with service providers in other industries, may also influence customers' willingness to switch to another plan.

2.1.2 How material are the potential savings?

The materiality of the issue raised in the proposal is a function of not only the extent to which transaction costs limit switching, but also the level of potential savings customers face. Whilst the ACCC's December 2023 Inquiry into the NEM report found that 79% of customers could save by switching to a better offer, the report did not quantify the value of the potential savings.

The ACCC observes two trends in recent Inquiry into the NEM reports that we consider are relevant.[31] First, market offers are converging on standing offers. Second, retail margins have steadily declined in recent years.[32] These may impact on the level of savings faced by customers through improved switching.

To the extent that streamlining switching processes improves switching rates, the materiality of the issue identified in the proposal is closely linked to the size of the potential benefits and is discussed in more detail in section 3.2.

Question 1: Do stakeholders agree that transaction costs are a barrier to customer switching?

Are transaction costs a key barrier to customers switching to a better offer?

What other factors do stakeholders consider influence customer switching?

Have stakeholders observed higher rates of switching since the implementation of the Better Bills Guideline?

How material is the issue identified in the proposal?

30 ESC, September 2023 Victorian Energy Market Report, p. 9.

31 ACCC December 2023 Inquiry into the National Electricity Market, p. 49.
ACCC June 2023 Inquiry into the National Electricity Market, p. 19.

32 ACCC December 2023 Inquiry into the National Electricity Market, p. 4.
The most recent Inquiry into the NEM from December 2024, however, reported the first increase in retail margins since this trend was identified. NEM-wide margins increased from 2% to 6%.
ACCC December 2024 Inquiry into the National Electricity Market, p. 65

3 The proposed solution and implementation

This chapter outlines and seeks feedback on:

- the potential benefits of the proposed solution
- the potential costs of the proposed solution
- implementation considerations regarding the proposed solution
- an alternative option included in the proposal.

3.1 What is the proposed solution?

Under the NERR, the AER is required to make a billing guideline (the Better Bills Guideline).[33] The proposal seeks to amend the NERR to extend the requirements of the BBG to require retailers to provide a streamlined process for customers to switch to their retailer's deemed better offer as presented on the customers bill.

The proponent has proposed two different potential approaches to implementing such a requirement in the rules:

- a new rule in the NERR under Division 7 (Market retail contracts - particular requirements), potentially as a subrule to Rule 46 (Tariffs and charges)
- a new rule in Division 9 (Other retailer obligations) which includes a provision for retailer obligations regarding switching and provision of information to customers.

The proponent does not, however, propose a specific mechanism to implement a streamlined switching process, and notes that this will need to be determined by the AEMC through further consultation. The proponent considers it is important that any new obligation is sufficiently flexible, technology neutral, and minimises costs to consumers.

The proposal also notes that some consumers may have more complex energy plans (for example, plans designed for solar or home batteries, or plans with special payment terms) with features that may not be included in the deemed better offer. The proposal considers that for customers, it is critical that any switching mechanism has explicit informed consent requirements to ensure the difference between the two plans is clear.

We discuss and seek stakeholder feedback on the forms this mechanism could take, and the relevant issues we should consider in designing this mechanism in section 3.4 below.

3.2 The proponent has identified several benefits to improving the ability to switch to a better offer

The rule change proposal seeks to reduce transaction costs associated with switching, and thus materialise competition benefits through higher switching rates. We consider then that three potential benefits arise from streamlining the processes by which customers switch to a better offer.

Reduced transaction costs

The first potential benefit of streamlining switching processes is the reduction in transaction costs faced by consumers. We consider that to the extent that this rule change can reduce transaction costs, this represents a benefit in and of itself, independent of impacts on the levels of customer switching. If, as suggested by the proponent, reducing transaction costs results in consumers

33 See rule 25A of the NERR.

paying less for their energy through more proactive switching, this is a positive impact and is discussed below. This is distinct, however, from the transaction cost savings faced by customers who switch under new streamlined processes, which could include, for example, fewer customers having to phone their retailer, simpler online processes for switching, or linking switching processes to energy bills.

Reduced transaction costs associated with switching may also contribute to increasing customer engagement with the retail market. This could result in more proactive switching within and between retailers, and thus contribute to the competition benefits discussed below.

Perceived transaction costs

The September 2023 Victorian Energy Market Report also identified perceived costs as a barrier to switching.[34] These are not actual costs and cannot be reduced through streamlined processes. However, we consider that streamlining switching processes and fostering higher levels of engagement may reduce the prevalence misconceptions about the switching processes, such as the example provided by the Essential Services Commission of perceived exit fees, which no Victorian retailer imposes.[35] While not in and of itself a benefit, reductions to perceived transaction costs may lead to higher switching rates, thus potentially further providing some of the competition benefits as discussed below.

Realising the benefits of retail competition

This rule change request seeks to improve the ability for customers to switch to a better offer with their existing retailer, rather than switch between retailers. However, we consider that competition benefits could still materialise. This is because the market offers that customers would thus more easily be able to switch to are exposed to the market. The ACCC's December 2023 Inquiry into the NEM found that "retailers closely monitor their competitor's prices when setting prices for both acquisition offers and existing customers."[36] Thus, higher switching rates, even within an existing retailer would realise some of the benefits of retail competition.

Competition places downwards pressure on prices, and encourages innovation. This includes innovation in the variety of products offered by retailers to accommodate a range of customer needs, as well as innovation in practices to reduce retail costs. In competitive markets, these cost reductions are ultimately passed through to consumers, resulting in lower bills. However, these cost savings are reflected in market offers and are not enjoyed by customers who remain on legacy offers.

Savings for consumers

The proposal posits that reducing transaction costs associated with switching leads to higher switching rates. These customers who switch would move to market offers that are likely exposed to competitive forces. Thus streamlining switching processes would result in lower energy bills for consumers.

As noted in section 2.1 above, whilst the ACCC's Inquiry into the NEM report and the rule change request noted that 79% of customers could be on a better energy offer, these did not quantify the potential savings to customers in moving to a better offer. The ACCC's Inquiry into the NEM

34 ESC September 2023 Victorian Energy Market Report, p. 9.

35 ESC, September 2023 Victorian Energy Market Report, p. 9.

36 ACCC December 2023 Inquiry into the National Electricity Market, p. 68.

reports from November 2022 and December 2023 both identify the convergence of market offers on regulated standing offers.[37]

With higher switching rates, fewer customers would remain on legacy contracts. These customers tend to pay more according to the ACCC Inquiry into the NEM reports.[38] However, the convergence of market offers on the DMO presents a limitation to the potential energy bill savings customers can unlock by proactive switching. This impact is potentially exacerbated by the decline of electricity retail margins.[39]

With significant improvements in the rate at which customers switch offers, and in so doing access cheaper market offers, the potential arises for market offers below the default standing offer to rise to accommodate this phenomenon and protect retail margins that have already been shrinking. We do not consider this is necessarily a major issue in and of itself, as improved competition should result in more cost-reflective pricing and incentivise innovation and efficiency gains to reduce costs. However, this may place downwards pressure on the capacity for improved switching rates to result in material cost savings for consumers.

We note that absent of cost savings or efficiency gains elsewhere, lower bills represent a wealth transfer from retailers to consumers and is not strictly a benefit. However, guided by the NERO, which requires us to consider the long-term interests of consumers, we consider that lower energy bills are a positive outcome.[40]

Question 2: Do stakeholders agree with the potential benefits identified in the proposal?

Do stakeholders have any feedback on the potential magnitude of any benefits this could manifest?

Do you expect this will result in consumers facing lower bills?

Are there other potential benefits that we have not considered?

3.3 Streamlining switching processes may impose a cost on retailers

As noted in the rule change proposal, this rule change would likely impose implementation costs on retailers. These costs are ultimately passed through to consumers. The proposal notes that there will be upfront costs associated with changing systems, such as setup, software, and integration into existing systems, but considers that these will be one-off costs.

We note that in addition to upfront implementation costs, there could be ongoing costs associated with maintaining a streamlined switching process.

We also note that the quantum of implementation and ongoing costs are likely dependent on the design of the requirement on retailers to facilitate a streamlined process. For example, a prescriptive approach may impose greater costs than a principles-based approach. This distinction is discussed further in section 3.4.

37 The November 2022 report provided that 98% of market offers from big 3 retailers, representing 64% of market share at the time of the report, were "priced close to the Default Market Offer (that is, with a discount of 8% or less).", ACCC November 2022 Inquiry into the National Electricity Market, p. 90
While this report's proximity to the turbulent events of June 2022 will likely influence these results, this impact is corroborated by the findings of the December 2023 report, ACCC December 2023 Inquiry into the National Electricity Market, p. 49.

38 ACCC December 2023 Inquiry into the National Electricity Market, p. 69.

39 ACCC December 2023 Inquiry into the National Electricity Market, p. 4.

40 Section 13 of the NERL.

Question 3: What are the costs associated with providing a streamlined switching process?

What are the upfront implementation costs?

What do you consider the magnitude of the costs imposed on retailers will be?

Do you consider there will be any ongoing costs associated with this rule change?

3.4 There are a variety of possible implementation approaches

The proposal has identified two different areas of the NERR that could be amended to require retailers to deliver a more streamlined switching process. The proposal does not, however, specifically detail what a new obligation on retailers to deliver a streamlined switching process would look like. The proposal notes that this should be developed through further consultation with stakeholders, including retailers. We have identified some preliminary considerations regarding implementation below, but we are seeking stakeholder feedback on the issues we should consider in deciding the best approach.

3.4.1 A mechanism for improved switching could take a range of different forms

We recognise that retailers currently have a wide range of methods for facilitating customers switching offers, and that customers have a variety of preferences as to how they engage with their energy retailer. There are a range of considerations regarding how a new obligation on retailers to facilitate a streamlined switching process should be implemented.

At one end of a spectrum that considers how prescriptive this rule change would be, this mechanism could define a specific process for switching. For example, this could take the form of retailers being required to provide a two-stage process via a link on the customer's bill to access a consent form for switching to the deemed better offer, followed by one more 'click' to trigger the switch.

One challenge of adopting a prescriptive approach is that existing switching processes may vary significantly between retailers. We also note that customers engage with their retailers in a range of different ways. For example, some customers may prefer to engage with their retailer online, whilst others may prefer to engage with their retailer by phone. It is important that consumers can continue to flexibly engage with retailers in the way that is most appropriate for them. A more prescriptive approach may also increase implementation costs for retailers. These costs are ultimately passed through to consumers, and could exceed the energy bill savings consumers access through more streamlined switching processes.

A prescriptive approach may also not be fit-for-purpose as retailer offerings evolve. With the rapid uptake of CER, retailers are increasingly exploring innovative ways to accommodate an increasing variety of consumer needs. A requirement on retailers to streamline switching processes should be future-proof and should not inhibit innovation in the way consumers engage with retailers.

At the other end of the spectrum, this rule change could take the form of one or more 'principles' that switching processes provided by retailers must abide by. A principles-based approach could require retailers to deliver certain outcomes for customers wishing to switch, but allow retailers to decide themselves how those would be achieved. For example, an obligation that customers be able to switch through a single medium, such as online or over the phone, that customers be able to do this through any medium they choose, and that this is a 'one-visit' process. An obligation of this sort would allow retailers the flexibility to design their own streamlined switching processes and focuses on the customer experience.

Whilst there are a range of forms the particular design could take, the defining characteristic will be that it reduces the time and effort customers will spend in switching to a better offer with their retailer. The appropriate mechanism will depend on the processes retailers currently deploy and in future could facilitate, as well as other considerations discussed in this section. We are seeking stakeholder feedback on the particular form this mechanism could take, as well as any other issues that should be considered.

Question 4: What are stakeholders' views on the best way to implement an improved approach to switching?

Should specific processes be prescribed or a principles-based approach taken?

What could a principles-based approach look like?

What opportunities for streamlining switching have you identified?

3.4.2 The proposal identified two sections of the rules that could facilitate this change

The rule change proposal identifies two sections of the NERR as appropriate sections in which this rule change would be implemented.

Division 7 (Market retail contracts - particular requirements), Rule 46 (Tariffs and charges)

The proposal suggests a new rule could be added to Division 7 of the NERR. The proposal suggests this could be a subrule to Rule 46. Division 7 refers to the particular requirements of market retail contracts, and Rule 46 refers to minimum requirements for tariffs, contracts and charges.[41] This includes the requirement for customers to be notified of all tariffs and charges, including any changes. Rule 46A also includes the circumstances in which retailers are not required to notify customers of changes. Rules 46B and 46C refer to discounting practices and conditional discounts. This may be appropriate for a mechanism of this sort if this places a specific requirement on nature of the contracts retailers hold with their customers.

Division 9 (Other retailer obligations)

The proposal also suggests that a new rule could be introduced under Division 9, which refers to other retailer obligations, which include providing consumption information, historical billing, and notification of transfers.[42] Division 9 may be a better place to implement any new rule pertaining to switching if this is designed as an obligation on retailers rather than a requirement on retail contracts. The proposed rule change may not require any meaningful changes to the nature of retail contracts, and instead is likely to represent an additional service or process that retailers are obligated to provide.

3.5 The rule change proposal included an alternative approach

The proposal included an alternative option which would require retailers to provide a streamlined process for switching to a similar offer. For example, switching to an offer with a similar tariff structure or to an offer which includes renewable energy options.

41 See Division 7 of the NERR.

42 See Division 9 of the NERR.

We consider that this ‘like-for-like’ switching option could have potential benefits. Currently, retailers must consider customers’ usage in identifying the deemed better offer. This does not, however, necessarily mean that the deemed better offer is of a similar type to the customer’s current offer. For example, a customer on a feed-in tariff may receive a deemed better offer that does not have this feature.

Providing streamlined process for “like-for-like” switching may provide customers with additional confidence that they can save money through switching whilst maintaining the bespoke characteristics of their existing arrangement. This is possible as the proposal considers that this switching mechanism would be in addition to a streamlined process for switching to the deemed better offer.

We note that the proposal does not identify the number of customers that could be paying less on an offer of a similar type. Thus, the scale of the problem this alternative mechanism seeks to address is not clear.

We also note that this additional proposal may impose additional costs on retailers, which are ultimately passed through to customers. Identifying the cheapest available similar offer is likely to be a more complicated process than identifying the deemed better offer as a larger number of variables must be accounted for. The proposal does not detail how this obligation would be implemented.

Question 5: Do stakeholders consider there is merit to the proposed alternative?

Would providing streamlined “like-for-like” switching result in greater improvements to switching rates?

How material are the additional costs this would impose on retailers?

If there is merit to this, do stakeholders have views on how this additional mechanism could work?

4 Making our decision

When considering a rule change proposal, the Commission considers a range of factors.

This chapter outlines:

- issues the Commission must take into account
- the proposed assessment framework
- decisions the Commission can make

We would like your feedback on the proposed assessment framework.

4.1 The Commission must act in the long-term interests of consumers

The Commission is bound by the National Energy Retail Law (NERL) to only make a rule if it is satisfied that the rule will, or is likely to, contribute to the achievement of the national energy retail objective.[43]

The NERO is: [44]

> to promote efficient investment in, and efficient operation and use of, energy services for the long term interests of consumers of energy with respect to—
>
> (a) price, safety, reliability and security of supply of energy; and
>
> (b) the achievement of targets set by a participating jurisdiction—
>
> (i) for reducing Australia's greenhouse gas emissions; or
>
> (ii) that are likely to contribute to reducing Australia's greenhouse gas emissions.

The targets statement, available on the AEMC website, lists the emissions reduction targets to be considered, as a minimum, in having regard to the NERO.[45]

The Commission must also, where relevant, satisfy itself that the rule is "compatible with the development and application of consumer protections for small customers, including (but not limited to) protections relating to hardship customers" (the consumer protections test).[46] Where the consumer protections test is relevant in the making of a rule, the Commission must be satisfied that both the NERO test and the consumer protections test have been met.[47] If the Commission is satisfied that one test, but not the other, has been met, the rule cannot be made (noting that there may be some overlap in the application of the two tests).

4.2 We propose to assess the rule change using these four criteria

- Outcomes for consumers
- Principles of market efficiency
- Implementation considerations
- Principles of good regulatory practice

43 236 of the NERL.

44 Section 13 of the NERL.

45 Section 224A(5) of the NERL .

46 Section 236(2)(b) of the NERL.

47 That is, the legal tests set out in sections 236(1) and (2)(b) of the NERL.

4.2.1 Our regulatory impact analysis methodology

Considering the NERO and the issues raised in the rule change request, the Commission proposes to assess this rule change request against the set of criteria outlined below. These assessment criteria reflect the key potential impacts – costs and benefits – of the rule change request. We consider these impacts within the framework of the NERO.

The Commission's regulatory impact analysis may use qualitative and/or quantitative methodologies. The depth of analysis will be commensurate with the potential impacts of the proposed rule change. We may refine the regulatory impact analysis methodology as this rule change progresses, including in response to stakeholder submissions.

Consistent with good regulatory practice, we also assess other viable policy options - including not making the proposed rule (a business-as-usual scenario) and making a more preferable rule - using the same set of assessment criteria and impact analysis methodology where feasible.

4.2.2 Assessment criteria and rationale

The proposed assessment criteria and rationale for each is as follows:

- **Outcomes for consumers:** This rule change request seeks to reduce costs for consumers. As part of our decision-making we will need to consider the drivers behind current outcomes, particularly consumer behaviour. We will consider the capacity for this rule change to result in lower energy bills for consumers, and the impact of this rule change on customer switching rates.
- **Principles of market efficiency:** We will assess whether this rule change lowers transaction costs associated with switching offers, thereby supporting higher switching rates and more cost-reflective pricing. This rule change seeks to improve engagement in the market, and seeks to realise the benefits of competition. We will consider the ability for improved switching to market-exposed offers to minimise costs and incentivise innovation.
- **Implementation considerations:** We will assess the implementation costs this proposed rule change imposes on retailers. Costs imposed on retailers, particularly in an environment of declining retail margins, will be passed through to consumers. Thus, it is important to ensure that implementation costs do not outweigh potential benefits. We will also need to consult with retailers to understand practical limitations of streamlining switching to ensure transaction costs are minimised.
- **Principles of good regulatory practice:** This rule change is related to the Bill contents and billing requirements rule change, as well as the other rule changes from this consumer package.[48] We will assess the degree to which this rule change reflects good regulatory practice by being consistent with those other workstreams. Furthermore, in trying to minimise transaction costs faced by consumers, we will need to consider the transparency and communicability of any costs imposed on retailers as these are passed through to consumers.

> **Question 6: 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?

48 AEMC, Bill contents and billing requirements, Rule determination, 18 March 2021.

4.3 We have three options when making our decision

After using the assessment framework to consider the rule change request, the Commission may decide:

- to make the rule as proposed by the proponent[49]
- to make a rule that is different to the proposed rule (a more preferable rule), as discussed below, or
- not to make a rule.

The Commission may make a more preferable rule (which may be materially different to the proposed rule) if it is satisfied that, having regard to the issue or issues raised in the rule change request, the more preferable rule is likely to better contribute to the achievement of the NERO.[50] The rule change proposal does not request a specific mechanism through which the issues raised would be addressed. We consider that the scope of the proposal renders a more preferable rule unlikely.

49 The Hon Chris Bowen, MP, Improving the ability to switch to a better offer, rule change request, p. 3.

50 Section 244 of the NERL.

Abbreviations and defined terms

ACCC	Australian Competition & Consumer Commission
AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
BBG	Better Bills Guideline (Version 2)
Commission	See AEMC
DMO	Default Market Offer
ECA	Energy Consumers Australia
ECMC	Energy and Climate Change Ministerial Council
ESC	Victorian Essential Services Commission
NEL	National Electricity Law
NEM	National Electricity Market
NEO	National Electricity Objective
NER	National Electricity Rules
NERL	National Energy Retail Law
NERO	National Energy Retail Objective
NERR	National Energy Retail Rules
NGL	National Gas Law
NGO	National Gas Objective
NGR	National Gas Rules
Proponent	The proponent of the rule change request
VDO	Victorian Default Offer

A The deemed better offer under the Better Bills Guideline

The AER published the Better Bills Guideline (Version 2) on 30 January 2023 and implemented it from 30 September 2023.[51]

The deemed better offer is defined in the guidelines as either:

> "(a) the plan that the retailer offers which:
>
> (i) is the lowest cost generally available plan applicable to the customer having regard to the customer's annual usage history; and
>
> (ii) does not have as a precondition or condition that the customer have or maintain an affiliation or membership with an entity that is unrelated to the retailer; or
>
> (b) a plan that has a lower cost than the lowest cost generally available plan applicable to the customer. "

The retailer must perform a deemed better offer check, which determines the difference in annual cost between the customer's current plan and the annual cost of the deemed better offer. If the deemed better offer is more than $22 cheaper than the current plan, then the test is positive. If the current plan is less than $22 cheaper than the deemed better offer plan, or is more expensive, the test is negative.

The deemed better offer plan must be clearly presented on the customer's bill, including the results from the deemed better offer check. The retailer must also direct the customer to compare plans on Energy Made Easy.

51 AER, Better Bills Guideline (Version 2), Part 4 Better Offer.
AEMC, Delaying the implementation of the AER Billing guideline, 13 October 2022.