

## Consultation paper

# National Energy Retail Amendment (Improving the application of concessions to bills) Rule

### Proponent

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

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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 Consumers who are eligible for concessions and rebates on their energy bills are not always receiving them. The rule change request puts forward that the onus on consumers to notify retailers about their eligibility contributes to this gap.
- 2 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 rule change request on 12 August 2024 to require retailers to proactively seek information from consumers on their eligibility for energy concessions or rebates.
- 3 This request is one of seven included in a package of consumer-related rule change requests. 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.<sup>1</sup>
- 4 The rule change request originated with a broader Australian Energy Regulator (AER) recommendation to upgrade Commonwealth, jurisdictional and retailer systems so that rebates and concessions could be automatically applied. The rule change request notes that this solution may warrant consideration in the longer term but is beyond the scope of changes to national retail rules. The proposed rule change is intended to progress the issue in the short to medium term.<sup>2</sup>
- 5 The AEMC has commenced its consideration of the request, and this consultation paper is the first stage.

## We are seeking your views on the barriers to consumers receiving concessions and rebates they are eligible for

- 6 Currently, the National Energy Retail Rules (NERR) require retailers to provide residential customers with information on concessions or rebates at sign up, in addition to when a customer informs their retailer they are experiencing payment difficulties.<sup>3</sup>
- 7 We are seeking input on whether the current process creates a barrier to consumers accessing rebates by placing the onus on consumers to ensure their concession or rebate is applied. We are interested in feedback on how that potential issue fits into the broader context of reasons consumers may not receive concessions or rebates they are eligible for. While some of these reasons may be outside of the scope of this rule change, they may impact the effectiveness of any potential rule changes.
- 8 The Commission is also interested in stakeholder feedback on whether consumers lose access to their concessions or rebates when they transfer retailers, and the reasons for this if it is occurring.

## We are also seeking your views on how retailers could best ask or inform consumers about their eligibility for concessions or rebates

- 9 The rule change request proposes the following solutions to minimise the burden placed on consumers to notify retailers about their eligibility:
  - oblige retailers to ask customers about their eligibility at sign up

1 AEMC, [Improving the ability to switch to a better offer](#).

2 [Rule change request](#), p 3.

3 See [rule 33](#), [rule 64](#) and [rule 141](#). Additional retailer obligations relating to concessions and rebates are determined by states and territories, and are summarised in Appendix A.

- introduce an information transfer obligation between retailers when a consumer switches retailers
  - upon the rule taking effect, require retailers to seek information from existing customers on their eligibility for concessions or rebates.
- 10 To assist its consideration of these proposals, the Commission is seeking stakeholder input on:
- how retailers could best communicate with consumers at sign-up to increase the numbers of eligible consumers accessing concessions or rebates
  - what should occur during a transfer to ensure eligible consumers retain their concessions or rebates
  - how retailers could inform or ask current customers about their eligibility.
- 11 We are also requesting feedback on costs, benefits, implementation considerations and compliance rules for any such obligations.
- 12 The Commission would additionally be interested in views on whether there are more appropriate avenues outside of the energy rules for placing any such obligations on retailers, for example jurisdictional arrangements or an AER instrument, along with whether there are alternative approaches, such as industry or jurisdictional initiatives, that would more successfully address the issue set out in the rule change request.

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

- 13 Considering the National Energy Retail Objective<sup>4</sup> and the issues raised in the rule change request, the Commission proposes to assess the rule change request against four assessment criteria.
- 14 We are interested in stakeholder feedback on our proposal to assess the request against:
- **Outcomes for consumers:** Would this increase the uptake of concessions and rebates?
  - **Principles of market efficiency:** Would risks, including privacy, be appropriately allocated? Would this rule change increase transparency for consumers on what costs they could be paying?
  - **Implementation considerations:** What would the costs of the proposed solution be?
  - **Principles of good regulatory practice:** Would the proposed rule fit appropriately within the NERR, or should we examine other instruments? How would any changes interact with existing or future jurisdictional arrangements?

## Submissions are due by 6 March 2025

- 15 Written submissions responding to this consultation paper must be lodged with the Commission by 6 March 2025 via the Commission's website, [www.aemc.gov.au](http://www.aemc.gov.au). See the section of this paper about "How to engage with us" for further instructions and contact details for the project leader.
- 16 We have reviewed the submissions made to the Essential Services Commission (ESC) Victoria on this topic. Those submissions have helped inform this consultation paper, and we have posed some further questions based on the information provided. In order to lower the consultation burden, stakeholders who responded to the ESC consultation and wish those submissions to be considered by the Commission are welcome to provide a copy of their ESC submission to the AEMC, or may provide a short statement with additional information or insights attached to their

<sup>4</sup> Section 13 of the NERL.

previous ESC submissions.

## Full list of consultation questions

### **Question 1: What are the key barriers to consumers not receiving concessions or rebates at sign up?**

If retailers do not ask consumers about their eligibility for concessions or rebates, does it create a barrier to access, and if so, how?

Do you have any comments on the identified barriers, or additional issues the Commission should be aware of?

### **Question 2: What happens to consumer access to concessions or rebates when they transfer retailers?**

Can stakeholders provide information on how many consumers who are receiving concessions or rebates do not inform a new retailer of their eligibility upon transferring, and what might drive this?

### **Question 3: How could retailers best ask or inform consumers about their eligibility for concessions or rebates at sign up?**

How would a principles-based vs prescriptive rule impact both consumers and retailers? What would the implementation costs and process be for any such change?

### **Question 4: What should occur during a transfer?**

How would a transfer-specific obligation interact with an obligation for a retailer to ask a customer about their eligibility at sign-up?

What are your views on the options for a transfer-related obligation, such as adding a field to the current NMI transfer process, a requirement similar to that in NSW, or any other recommendations? What would the implementation costs and processes be for these options?

### **Question 5: How could retailers inform or ask current customers about their eligibility for concessions or rebates?**

Do stakeholders have any additional information on the success of similar obligations or programs?

What would the implementation costs and processes be for one-time requirement as proposed?

**Question 6: What are your views on compliance?**

Would civil penalties be appropriate for a breach of any of the proposed rules, and if so, which civil penalty tier(s) would be appropriate?

**Question 7: Could consumer access to concessions and rebates be improved in a different or more efficient way?**

Are there alternative approaches outside of the energy rules, such as industry or jurisdictional initiatives or other regulatory tools, that would more successfully address the issue set out in the rule change request?

**Question 8: 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](http://www.aemc.gov.au), find the "lodge a submission" function under the "Contact Us" tab, and select the project reference code **RRC0063**.<sup>5</sup>

Tips for making submissions are available on our website.<sup>6</sup>

**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).<sup>7</sup>

### For more information, you can contact us

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

Project leader:	Jessica Curtis
Email:	Jessica.Curtis@aemc.gov.au
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<sup>5</sup> 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.

<sup>6</sup> See: <https://www.aemc.gov.au/our-work/changing-energy-rules-unique-process/making-rule-change-request/submission-tips>

<sup>7</sup> Further information is available here: <https://www.aemc.gov.au/contact-us/lodge-submission>

# Contents

<b>1</b>	<b>The context for this rule change request</b>	<b>1</b>
1.1	The rule change request is more narrowly focused than the original AER recommendation	1
1.2	Victoria is also considering this request	2
1.3	The AER is currently reviewing the payment difficulty framework	2
1.4	This rule change request is part of a broader package of consumer-related rule change requests from Energy Ministers	2
1.5	We have started the rule change process	3
<b>2</b>	<b>Not all eligible consumers are receiving concessions or rebates</b>	<b>4</b>
2.1	What are the key barriers to consumers not receiving concessions or rebates at sign up?	4
2.2	What happens to consumer access to concessions or rebates when they transfer retailers?	6
<b>3</b>	<b>The proposed solution and implementation</b>	<b>7</b>
3.1	How could retailers best ask or inform consumers about their eligibility for concessions or rebates at sign up?	7
3.2	What should occur during a transfer?	8
3.3	How could retailers inform or ask current customers about their eligibility for concessions or rebates?	8
3.4	What are your views on compliance?	9
3.5	Could consumer access to concessions and rebates be improved in a different or more efficient way?	9
<b>4</b>	<b>Making our decision</b>	<b>11</b>
4.1	The Commission must act in the long-term interests of consumers	11
4.2	We propose to assess the rule change using these four criteria	11
4.3	We have three options when making our decision	12
<b>Appendices</b>		
<b>A</b>	<b>Background and current requirements</b>	<b>13</b>
A.1	Background on concessions and rebates	13
A.2	Current requirements	13
A.3	NSW Transfer requirements	16
<b>Abbreviations and defined terms</b>		<b>17</b>
<b>Tables</b>		
Table 1.1:	Stages of the rule change process	3
Table A.1:	Retailer obligations as of January 2025	13
<b>Figures</b>		
Figure A.1:	Excerpt of NSW Social Programs for Energy Code	16



# 1 The context for this rule change request

This consultation paper seeks stakeholder feedback on a rule change request submitted by the Hon Chris Bowen MP, Minister for Climate Change and Energy, as Chair of the Energy and Climate Change Ministerial Council (ECMC) (the proponent), on 12 August 2024.<sup>8</sup> The rule change request sets out that not all eligible consumers are receiving the concessions or rebates they are entitled to, and proposes to amend the National Energy Retail Rules (NERR) to “remove the onus on consumers to notify retailers about their eligibility for a concession or rebate,”<sup>9</sup> specifically by requiring retailers to:

- proactively seek information from consumers on their eligibility for energy concessions or rebates upon sign up,
- introduce an information transfer obligation between retailers when a consumer switches retailers, and
- upon the rule taking effect, seek information from existing customers on their eligibility for concessions or rebates.

Concessions and rebates are government-funded programs to reduce consumer energy bills for eligible consumers, and are administered by the jurisdictions. Further background on concessions, rebates, and the current obligations on retailers are set out in appendix A.

This chapter outlines:

- the background of the rule change request
- an overview of the broader consumer rule change package from energy ministers
- the process and timeline we will follow to assess this rule change request.

## 1.1 The rule change request is more narrowly focused than the original AER recommendation

This rule change request is drawn from a recommendation in the Australian Energy Regulator (AER) *Game Changer* report, that consumers should automatically receive concessions and rebates they are entitled to in order to minimise payment difficulties and potential hardship before they arise.<sup>10</sup> The report recommended:

“Concession and rebate systems should be upgraded to facilitate centralised access to eligibility data for retailers, so they can verify if a consumer is entitled to a concession or rebate and automatically apply it to the consumer’s account. System upgrades should also ensure that consumers are able to switch retailers and retain their concessions, without the need to reapply.”<sup>11</sup>

The Minister’s rule change request noted that larger system upgrades may be considered as a longer-term solution, but the scope of the rule change request aims to improve the situation in the short to medium term. We note that changes to the concession and rebate systems of governments are outside of the scope of the NERR and therefore this rule change process.

<sup>8</sup> [Rule change request](#)

<sup>9</sup> [Rule change request](#), p 2.

<sup>10</sup> AER, [Game changer](#), November 2023, p 9.

<sup>11</sup> AER, [Game changer](#), November 2023, p 11.

## 1.2 Victoria is also considering this request

The Victorian Essential Services Commission (ESC) is considering the same obligations proposed in the rule change request in its [review of the Energy Retail Code of Practice](#).<sup>12</sup> It sought submissions on this topic in its [Discussion Paper](#), published 24 October 2024.

We have considered the submissions made to the ESC in developing this consultation paper, and you will find references to this information throughout the following chapters. The ESC expects to make a final decision in June on this matter, and we will consider how the outcomes of their process may impact compliance and implementation costs and processes in our decision-making.<sup>13</sup>

In order to lower the consultation burden, stakeholders who responded to the ESC consultation and wish those submissions to be considered by the Commission are welcome to provide a copy of their ESC submission to the AEMC, or may provide a short statement with additional information or insights attached to their previous ESC submissions.

## 1.3 The AER is currently reviewing the payment difficulty framework

The AER is currently reviewing payment difficulty protections in the National Energy Customer Framework (NECF), which includes how customers experiencing payment difficulty or hardship are informed about assistance available, including concessions and rebates.<sup>14</sup> In light of this and the rule change request's scope, we have focused this consultation paper on how to ensure consumers get access to concessions or rebates prior to experiencing payment difficulty.

## 1.4 This rule change request is part of a broader package of consumer-related rule change requests from Energy Ministers

On 12 and 28 August 2024, Minister Bowen, as Chair of the ECMC, submitted a package of consumer-related rule change requests.

The package involves 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 specific 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 seeks feedback on the rule change request on *Improving the application of concessions to bills*.

<sup>12</sup> The National Energy Consumer Framework (NECF) does not apply in Victoria. The Victorian Minister for Energy and Resources [requested](#) the ESC consider the same reforms as this rule change request.

<sup>13</sup> Essential Services Commission, [Reviewing the Energy Retail Code of Practice](#), viewed 15 January 2025.

<sup>14</sup> The AER published a consultation paper in May 2024 and we understand they will be publishing a report with recommendations this year - see [Review of payment difficulty protections in the National Energy Customer Framework](#).

Two consultation papers, one on the first four rule changes and another on *Assisting hardship customers*, were published on 28 November 2024. A consultation paper on *Improving the ability to switch to a better offer* was published on 6 February 2025.

## 1.5 We have started the rule change process

This paper is the first stage of our consultation process. Information on how to provide your submission is set out at the front of this document, ‘How to make a submission.’

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.<sup>15</sup>

**Table 1.1: Stages of the rule change process**

Milestone	Date
Consultation paper published	6 February 2025
Submissions on consultation paper due	6 March 2025
Draft rule determination and draft rule is published (if made)	15 May 2025
Submissions on the draft rule determination due	26 June 2025
Final determination and final rule published (if made)	7 August 2025

<sup>15</sup> You can find more information on the rule changes process on our website <https://www.aemc.gov.au/our-work/changing-energy-rules>

## 2 Not all eligible consumers are receiving concessions or rebates

The rule change request points to research estimating how many eligible consumers are not receiving concessions or rebates on their energy bills: 31% in the Australian Capital Territory, 35% in New South Wales, 29% in Queensland, 38% in South Australia and 19% in Tasmania.<sup>16</sup>

The Melbourne Institute's Taking the Pulse of the Nation survey also showed a gap between those eligible and those receiving a concession or rebate, and NSW's Energy Social Programs Annual report estimated that only 66% of eligible households in NSW received a rebate or concession.<sup>17</sup> Determining exact numbers of eligible consumers not receiving concessions or rebates is difficult due to a range of reasons, including that the data is not captured in one system and that there may be multiple concession-card holders living in households. However, we note that submissions to the ESC's consultation on this issue did not raise any new or different views on the overall magnitude of the issue.

Therefore, this chapter does not focus on the magnitude of the problem, but instead focuses on the drivers. It seeks stakeholder feedback on whether current processes place too much onus on consumers to know if they are eligible and then to ensure their concession or rebate is applied and if so, whether that is creating a barrier. It also seeks to understand how that fits into the broader context of reasons consumers may not receive concessions or rebates they are eligible for, as while some of those reasons are outside of the scope of this rule change, they may impact the effectiveness of any considered rule changes.

### 2.1 What are the key barriers to consumers not receiving concessions or rebates at sign up?

Existing research and submissions to the ESC's consultation set out a range of issues that may occur when a customer establishes an account with their retailer that could contribute to them not receiving concessions or rebates they are eligible for. This section provides an overview of the current requirements and practice, followed by a discussion of potential barriers, including the one raised by the rule change request.

#### 2.1.1 Current process

Currently, the NERR require retailers to provide residential customers with information on concessions or rebates at sign up, in addition to when a customer informs their retailer they are experiencing payment difficulties.<sup>18</sup> In submissions to the ESC's consultation on this topic, some retailers stated that they go beyond this requirement and ask customers about their eligibility at sign up, as part of the customer sales journey.<sup>19</sup>

Once a consumer is informed about the availability of concessions and rebates, they must provide the retailer with their eligibility information.<sup>20</sup> The retailer then verifies that information with the relevant government department, and if eligibility is established, applies the concession or rebate to the consumer's bill. The specific rules for the application, verification and notification processes

<sup>16</sup> Rule change request, p 2, citing Consumer Policy Research Centre (CPRC) Mind the Gap, p 10.

<sup>17</sup> Melbourne Institute Taking the Pulse of the Nation 24 June 2024, NSW Energy Social Programs Annual Report 2022-2023, p 9.

<sup>18</sup> See rule 33, rule 64 and rule 141.

<sup>19</sup> See submissions from AGL (p 8), Alinta (p 2), Energy Australia (p 8), Energy Locals (p 3), Origin (p 4), Red and Lumo (p 3), Shell (p 4).

<sup>20</sup> We note this process differs in South Australia, where consumers apply directly to a government department.

are set by jurisdictions. There are additional requirements for ongoing information provision in some state and territory-specific rules and agreements, such as on the bill or a retailer's website. The current obligations of retailers in relation to concessions and rebates are summarised in Appendix A.

### 2.1.2 Barriers at initial sign up

The rule change request states that the key barrier at sign up is that “the onus to act to ensure a concession [or] rebate is applied to a bill is on the consumer.”<sup>21</sup>

Submissions to the ESC consultation, along with various reports and surveys, have identified a range of additional challenges that can be broken into two overall categories - barriers preventing consumers from providing their eligibility information to their retailers in the first place, and those that prevent customers from receiving concessions or rebates when they have applied.

#### Reasons consumers may not tell a retailer they are eligible:

- **The additional step of providing information:** The rule change request sets out that consumers being informed about the existence of concessions and rebates, but not directly asked whether they are eligible, creates a barrier. We are interested in stakeholder views on to what extent this is stopping consumer access to concessions and rebates, including information from retailers who added this step to their sign-up process on whether they saw an increase in access, and feedback from consumer advocates on whether they notice different rates of consumer access to concessions and rebates when consumers are with retailers who already take this step.
- **Lack of consumer knowledge:** Surveys and consumer workshops have found high numbers of consumers who were not aware they were eligible for concessions or rebates. The AER found that “consumers particularly highlighted the lack of information provided about concessions, with many feeling that information on concessions is ‘hidden’ rather than being provided in a more proactive way.”<sup>22</sup> This challenge is particularly prevalent for households “experiencing language and digital inclusion barriers.”<sup>23</sup>
- **Reluctance to access entitlements:** In its submission to the ESC, the Council on the Ageing Victoria raised that some customers may be reluctant to apply due to the stigma of claiming a benefit.<sup>24</sup> Stigma was also mentioned as a barrier in submissions from Energy Consumers Australia and the Victorian Council of Social Service (VCOSS).<sup>25</sup>

**Reasons eligible consumers may not receive concessions or rebates upon application:** When a customer has applied but is found to not be eligible, jurisdictional rules set out what actions a retailer must take to notify the consumer, as described in Appendix A. While these challenges are not within the scope of this rule change, we are seeking to understand the complete picture of the barriers consumers may face.

- **Account holder misalignment:** Where the eligible concession or rebate recipient is not the energy account holder, the payment cannot be applied. The Melbourne Institute found that 14% of consumers who applied to their energy retailer did not have it added because they were not the account holder.<sup>26</sup>

21 [Rule change request](#), p 2.

22 AER, [Game Changer](#), November 2023, p 7.

23 Victorian Council of Social Service, [submission to ESC Victoria](#), November 2024, p 6.

24 Council of the Ageing and Seniors Rights Victoria, [submission to ESC Victoria](#), November 2024, p 5.

25 Energy Consumers Australia, [submission to ESC Victoria](#), November 2024, p 10 and [VCOSS ESC submission](#), p 6.

26 Melbourne Institute, [Taking the pulse of the nation](#), p 8.

- **Difference in identity information:** Names or addresses can fail to validate with the relevant government agency. Financial Counselling Victoria also raised that some retailer databases do not work for customers who only have one name, as opposed to separate given and family names.<sup>27</sup>

**Question 1: What are the key barriers to consumers not receiving concessions or rebates at sign up?**

If retailers do not ask consumers about their eligibility for concessions or rebates, does it create a barrier to access, and if so, how?

Do you have any comments on the identified barriers, or additional issues the Commission should be aware of?

## 2.2 What happens to consumer access to concessions or rebates when they transfer retailers?

The rule change request raises that some customers do not reapply for their concessions or rebates upon transferring retailers.<sup>28</sup> Currently, when a customer transfers retailers, limited data is exchanged - only that which relates to the customer's National Metering Identifier (NMI), and not customer data. This means that a customer must notify their new retailer about their eligibility. We are interested in stakeholder input on whether consumers who were receiving a concession or rebate are aware they need to inform their new retailer of their eligibility, or if stakeholders have any insights on how many consumers are losing access at this point in the customer journey.

**Question 2: What happens to consumer access to concessions or rebates when they transfer retailers?**

Can stakeholders provide information on how many consumers who are receiving concessions or rebates do not inform a new retailer of their eligibility upon transferring, and what might drive this?

<sup>27</sup> Financial Counselling Victoria, [submission to ESC Victoria](#), 26 Nov 2024, p 4.

<sup>28</sup> [Rule change request](#), p 4.

## 3 The proposed solution and implementation

As discussed in section 1.1, this rule change is focused on increasing the number of eligible consumers who access concessions and rebates within the context of the current non-automated system, and particularly on removing the onus on consumers to tell retailers about their eligibility status.

This chapter seeks feedback on:

- the solution proposed and any potential alternative solutions; and
- other implementation matters the Commission may need to consider in making its determination.

### 3.1 How could retailers best ask or inform consumers about their eligibility for concessions or rebates at sign up?

The rule change request proposes an obligation for retailers “to proactively seek information from any new...consumers on their eligibility for energy concessions or rebates,” in addition to the current requirement of providing new customers general information about concessions and rebates.<sup>29</sup>

The Commission invites stakeholder views on how retailers should communicate with consumers at sign-up to overcome the identified barriers, including the lack of consumer knowledge, a reluctance to access entitlements due to stigma, and misalignment of account holder and the person eligible within the household.

We would be interested in specific information on the practices of retailers who currently aim to support consumers in accessing concessions or rebates they are eligible for, and the impacts of those approaches. For example, whether there is an increase in consumers accessing concessions when they are asked about specific eligibility conditions (whether the consumer holds a specific concession card or is experiencing circumstances that qualify them for a jurisdictional rebate) upon sign up, or if informing but not asking them about specific eligibility criteria results in different uptake rates.

We also invite input on whether retailers should ask whether other members of a household may be eligible for concessions, and if so whether the retailer should discuss with the consumer if that person therefore should be the account holder, along with any other steps retailers could take to overcome the barriers identified in Chapter 2.

We note that submissions to the ESC consultation on this issue were broadly supportive of applying the rule change request’s proposal in Victoria, particularly those from consumer advocates. Some retailers who supported it recommended a flexible approach, while others put forward that it was unnecessary as it is already established practice, or that it would not solve the problem (and the focus should instead be on a broader automated solution).<sup>30</sup> The Commission would be interested to hear from stakeholders who submitted to the ESC on whether their views differ for jurisdictions in the NECF.

<sup>29</sup> [Rule change request](#), p 3.

<sup>30</sup> See [submissions from retailers](#) to the ESC.

**Question 3: How could retailers best ask or inform consumers about their eligibility for concessions or rebates at sign up?**

How would a principles-based vs prescriptive rule impact both consumers and retailers? What would the implementation costs and process be for any such change?

## 3.2 What should occur during a transfer?

The rule change request proposes “requiring information transfer between retailers when a consumer switches retailers.”<sup>31</sup>

It suggests doing so using the transfer of information that currently occurs through AEMO procedures, by adding a field associating the NMI with an active concession or rebate, noting that this would only work when a consumer is transferring retailers but not moving premises. If a retailer received a transfer of such a customer, they would be obliged to request relevant eligibility data from the customer. Currently, transfers under AEMO procedures do not include any such customer data, and privacy and implementation costs would need to be considered.

As the proposed change to transfer processes would still require an incoming retailer to ask a customer for their eligibility information, we would be interested in stakeholder input on whether such a change would have benefit if the proposed sign-up requirement discussed in section 3.1 was introduced.

We note that NSW currently requires transferring retailers to ensure that customers continue to receive payments when customers change retailers, and requires incoming retailers to verify the customer’s eligibility.<sup>32</sup> We would be interested in stakeholder feedback on how this requirement works in practice, and whether it leads to an increase in transferring customers retaining their concessions or rebates.

We would also be interested in any further recommendations on how to remove the onus on consumers to re-provide their eligibility information when transferring retailers.

**Question 4: What should occur during a transfer?**

How would a transfer-specific obligation interact with an obligation for a retailer to ask a customer about their eligibility at sign-up?

What are your views on the options for a transfer-related obligation, such as adding a field to the current NMI transfer process, a requirement similar to that in NSW, or any other recommendations? What would the implementation costs and processes be for these options?

## 3.3 How could retailers inform or ask current customers about their eligibility for concessions or rebates?

The rule change request suggests that upon commencement of the rule, retailers should be required to contact existing customers to seek information on their eligibility for concessions or rebates.<sup>33</sup>

<sup>31</sup> [Rule change request](#), p 3.

<sup>32</sup> These requirements are set out in detail in appendix A.3.

<sup>33</sup> [Rule change request](#), p 3.



One retailer submission to the ESC's consultation stated it had previously run proactive mail-out campaigns reminding customers to add their eligibility details, but saw low response rates.<sup>34</sup> We would be interested in any additional stakeholder information on the success of other point-in-time outreach programs to increase concessions and rebate uptake, and what different forms they may have taken. We would also be interested in input on if such an obligation should take the same or a different form as any put in place at sign-up.

**Question 5: How could retailers inform or ask current customers about their eligibility for concessions or rebates?**

Do stakeholders have any additional information on the success of similar obligations or programs?

What would the implementation costs and processes be for one-time requirement as proposed?

### 3.4 What are your views on compliance?

The rules currently classify the requirement to provide information on concessions and rebates to customers experiencing payment difficulties or hardship as a tier 2 civil penalty provision, or tier 1 if that customer has a prepayment meter, and do not include a civil penalty provision for the requirement to provide such information to customers at sign up.<sup>35</sup> We invite initial stakeholder views on compliance if any of the canvassed obligations were placed within the rules, noting that we will re-consult on this question in a draft determination if the Commission proceeds with making a rule.

**Question 6: What are your views on compliance?**

Would civil penalties be appropriate for a breach of any of the proposed rules, and if so, which civil penalty tier(s) would be appropriate?

### 3.5 Could consumer access to concessions and rebates be improved in a different or more efficient way?

As previously noted, the rule change request focuses on short to medium-term changes that would remove the onus on consumers to ensure a concession or rebate is applied to their bill.<sup>36</sup> Within that scope, we would be interested in stakeholder views on:

- if there are more appropriate avenues for placing the obligations consulted on in this chapter on retailers, such as jurisdictional arrangements or an AER instrument rather than a rule change
- whether alternative solutions, such as information campaigns, would achieve similar goals.

<sup>34</sup> AGL, [Submission to ESC](#), 26 Nov 2024, p 8.

<sup>35</sup> NER 33(3) and 141 (2)(e).

<sup>36</sup> [Rule change request](#), p 3.

**Question 7: Could consumer access to concessions and rebates be improved in a different or more efficient way?**

Are there alternative approaches outside of the energy rules, such as industry or jurisdictional initiatives or other regulatory tools, that would more successfully address the issue set out in the rule change request?

## 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.<sup>37</sup>

The NERO is:<sup>38</sup>

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 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).<sup>39</sup> 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.<sup>40</sup> 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

#### 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

<sup>37</sup> Section 236 of the NERL.

<sup>38</sup> Section 13 of the NERL.

<sup>39</sup> Section 236(2)(b) of the NERL.

<sup>40</sup> That is, the legal tests set out in sections 236(1) and (2)(b) of the NERL.

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, including questions the Commission will consider, is as follows:

- **Outcomes for consumers:** Would any rule made align with consumer behaviour, resulting in more consumers receiving the concessions and rebates they are eligible for? For example, would consumers be more likely to inform their retailers they are eligible if directly asked? How many consumers might benefit? Would this benefit be ongoing?
- **Principles of market efficiency:** Would risks, including privacy issues, be appropriately allocated? Would this rule change increase transparency for consumers on what costs they could be paying?
- **Implementation considerations:** What would the costs of the proposed solution be? How might those costs be impacted by any changes made by the ESC in Victoria?
- **Principles of good regulatory practice:** Would the proposed rule fit appropriately within the NERR, or are other options more appropriate? How would any changes interact with existing or future jurisdictional arrangements?

#### Question 8: 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?

### 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<sup>41</sup>
- 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.<sup>42</sup>

<sup>41</sup> The proponent describes its proposed rule on page 3 of the rule change request.

<sup>42</sup> Section 244 of the NERL.

## A Background and current requirements

### A.1 Background on concessions and rebates

In this paper, we use the term concessions and rebates to capture government-funded programs, including grants, that assist customers with paying their energy bills. These programs are administered by the states and territories.

The programs within the scope of this consultation are those where retailers act as the intermediary between the consumer and their state or territory government, by gathering eligibility information from their customers and then applying the relevant payment(s) to customer bills.

There are a range of types of concessions and rebates. Typically, jurisdictions offer support to holders of the following cards issued by the Commonwealth:

- Pensioner Concession Card
- Health Care Card
- Low Income Health Care Card
- Veteran Gold Card.

Jurisdictions also offer support to other consumers, with programs and eligibility differing between each jurisdiction. Examples may include those with medical conditions that require the use of heating or cooling, consumers accessing certain Centrelink payments and one-time payments for people facing a crisis such as natural disaster. The Department of Climate Change, Energy the Environment and Water has a list of assistance available on [its website](#).

### A.2 Current requirements

The below table summarises the current obligations we are aware of that retailers have to inform consumers or take other actions regarding concessions and rebates, broken down by the stage of a customer's interaction with the retailer.<sup>43</sup>

This table is not a complete record of all related requirements. It is only intended to act as an informative reference for stakeholders for the purpose of this consultation, and is not intended to act as guidance for any retailer or other party on their obligations.

**Table A.1: Retailer obligations as of January 2025**

Stage	Summary of obligation	Where the obligation is set out
At sign-up	A retail marketer must provide a "small customer... information in relation to...concessions or rebates." This information can be provided electronically, verbally or in writing, and must be provided before the formation of the contract or as soon as practicable after, with requirements to provide it in writing after if provided prior verbally or electronically.	NERR 62, 63 and 64 (1)(a)
	NSW: Sellers must provide information after entering the contract (even if they already	<a href="#">Social Programs for Energy Code</a> , 8.1.1

<sup>43</sup> We do not have information on any specific requirements in the ACT or Tasmania.

Stage	Summary of obligation	Where the obligation is set out
	provided it prior to entering the contract), and if a customer requests it, provide an application form.	
Application assessment, notification and payment	The rules on how a retailer must assess and act on an application for a concession or rebate are set out by the jurisdictions.	Queensland: <a href="#">Electricity Rebate Agreement</a>
	Retailers must inform customers of the outcome of their applications in NSW and Qld.	NSW: <a href="#">Social Programs for Energy Code</a>
	South Australia has a different process, as consumers apply through the government, and the South Australian Department of Human Services manages all application, identification validation and ongoing eligibility or expiry matters.	South Australia: <a href="#">South Australian Government Customer Concession Scheme for Energy</a>
Notification of validation issues	NSW: If a retailer identifies an error, they must notify the customer and assist the customer to fix it.	<a href="#">Social Programs for Energy Code</a> , 11
	If a customer did not provide sufficient information for the retailer to determine eligibility, the retailer can't refuse the application until they make reasonable requests for further information.	
	Qld: If a retailer rejects the application and the customer informs the retailer they are "dissatisfied with the rejection", the retailer must confirm the details submitted for verification were correct. If they weren't, the retailer must re-submit the customer's details for verification.	<a href="#">Electricity Rebate Agreement</a> , 5.1 (8)
Notification of expiry	<p>If a customer is found to be ineligible as the result of a periodic verification check:</p> <ul style="list-style-type: none"> <li>NSW: The retailer must notify the customer, give reasons, and to the extent possible, help the customer to fix the problem if it was because of an administrative error.</li> <li>Qld: The retailer must notify the customer in writing (either on the customer's next bill or in a standalone letter).</li> </ul>	<p>Nsw: <a href="#">Social Programs for Energy Code</a>, 21.3</p> <p>Qld: <a href="#">Electricity Rebate Agreement</a>, Schedule 3, Item 2</p>
Customers experiencing payment difficulties	A retailer's Hardship policy must include "processes to identify appropriate government concession programs...and to notify hardship customers of those programs and services."	National Energy Retail Law, 44(d)
	The AER's <a href="#">Customer Hardship Policy Guideline</a> also sets out how to apply this in detail in its Standardised Statement.	
	A retailer must provide information to a hardship customer and customers who have informed the	NERR 33 (3)

Stage	Summary of obligation	Where the obligation is set out
	retailer they are experiencing payment difficulties “about the availability of government funded energy charge rebate, concession or relief schemes.” NB: This is classified as a tier 2 civil penalty provision.	
	For customers with a prepayment meter who inform the retailer they are experiencing payment difficulties, or if they disconnect too many times, the retailer must contact the customer and “... provide information about and referral to any government funded energy charge rebate, concession or relief scheme...” NB: This is classified as a tier 1 civil penalty provision.	NERR 141 (2) (e)
Ongoing and public information provision	Except where jurisdictional requirements state otherwise, retailers are not required to include information on the availability of concessions or rebates on their bills.	<a href="#">AER Better bills guideline - Version 2</a>
	South Australia: A retailer must include on its website, promotional materials and bills a statement on the availability of concessions and how to apply.	<a href="#">South Australian Government Customer Concession Scheme for Energy</a> , 3 (e) iv.
	NSW: Retailers must include information on the availability of concessions in each bill and publish information on their websites.	<a href="#">Social Programs for Energy Code</a> , 8.1.2 and 8.2
Ongoing provision of information directly to customers	South Australia: When a customer requests information, a retailer must pass on any information on the availability of concessions and if applicable refer the customer to the Department.	<a href="#">South Australian Government Customer Concession Scheme for Energy</a> , 7 (a).

## A.3 NSW Transfer requirements

As discussed in section 3.2, NSW currently sets out requirements for continuity of payments upon transfers in its [Social Programs for Energy Code](#), Section 21.

The specific requirement is as follows:

**Figure A.1: Excerpt of NSW Social Programs for Energy Code**

### 21. Continuity of program payments and failed payments

- 21.1 A **seller** must ensure that an **approved customer** continues to receive a **program payment** when the customer—
  - 21.1.1 changes contracts with the **seller**;
  - 21.1.2 changes **seller**;
  - 21.1.3 changes their principal place of residence;
  - 21.1.4 is the subject of a **verification check**,provided there is no change to the customer's circumstances that would render them ineligible for the payment.
- 21.2 If an **approved customer** changes **seller**—
  - 21.2.1 the customer is deemed to be an **approved customer** from the date the customer's contract with the new **seller** enters into force; and
  - 21.2.2 the new **seller** must—
    - 21.2.2.1 verify the customer's eligibility for the **program payment**; and
    - 21.2.2.2 after verifying eligibility, make **program payments** from the date specified in clause 21.2.1.

The defined terms are set out dictionary of the Code, including:

- **approved customer** means a customer that has been approved for a program for the purposes of this Code.
- **verification check** means a check by a seller to verify the eligibility of a customer receiving a payment under a program under clauses 18 or 19.



## Abbreviations and defined terms

AEMC	Australian Energy Market Commission
AER	Australian Energy Regulator
Commission	See AEMC
ESC	The Victorian Essential Services Commission
NECF	National Energy Customer Framework
NERL	National Energy Retail Law
NERO	National Energy Retail Objective
NERR	National Energy Retail Rules
Proponent	The proponent of the rule change request