

6 March 2025

Australian Energy Market Commission

Via: aemc@aemc.gov.au

EWOV feedback on the AEMC's proposed 'Improving the ability to switch to a better offer' rule change

The Energy and Water Ombudsman (Victoria) (EWOV) welcomes the opportunity to provide input to the Australian Energy Market Commission (the AEMC) consultation on the *Improving the ability to switch to a better offer* rule change (the rule change).

EWOV is a free and independent service that resolves disputes between Victorian consumers and energy and water companies. We work to ensure fair and reasonable outcomes when energy and water problems arise between customers and their providers. We also use our unique data insights about consumers' experiences of the Victorian energy and water markets to improve consumer and market outcomes, through our engagement with businesses, government, regulators and the wider community.

EWOV broadly supports reforms proposed by the Energy and Climate Change Ministerial Council (the ECCC), focused on how energy consumer protections can further safeguard households and businesses.

As we noted in our submission to the AEMC's Assisting Hardship Customers rule change, some of the reforms proposed by the ECCC have already been implemented in Victoria. The Victorian Minister for Energy and Resources requested the Essential Services Commission Victoria (the ESCV) consider the remaining changes to the Energy Retail Code of Practice (the Code) as part of a broader review of the Code currently underway. This has led to the ESCV consulting on options to improve the ability to switch to a better offer, as proposed by this rule change.

EWOV has been engaging directly with the ESCV, including providing two written submissions outlining insights, data and case studies from our caseload. This feedback provided to the AEMC highlights relevant analysis from our submissions to the ESCV, which are provided in full at attachments [1](#) and [2](#).

As with other rule change proposals in this reform package, this proposed rule change will not directly apply in Victoria. EWOV nevertheless has an interest in this consultation, as we see benefit in the AEMC and the ESCV progressing consistent reforms that drive better outcomes for energy consumers as well as providing a smooth pathway to implementation and reducing regulatory burden for industry.

EWOV welcomes the opportunity to discuss this feedback further with the AEMC as needed.

The need to act – barriers to switching

This responds to question 1 in the AEMC's consultation paper

EWOV acknowledges the rule change proponent's assessment that the transaction costs a consumer faces when switching to a better offer with their retailer are too high. However, EWOV observes a range of more common difficulties consumers experience when seeking to switch from their current plan to the best offer.

We noted these difficulties in submissions to the ESCV as part of its review of the Code¹, which we consider can broadly be categorised into two themes: practical barriers to switching as well as low consumer awareness and understanding of the best offer.

EWOV notes particular barriers to switching for consumers experiencing payment difficulty or experiencing other vulnerabilities, which we canvassed in previous submissions to the AEMC and the ESCV.²

Practical barriers to switching

We observe there are consumers who are aware of the best offer but face challenges with accessing it when they try to switch. For example, consumers continue to report to a range of barriers preventing them from accessing the best offer, including:

- They do not have an email address.
- They do not have a direct debit set up with the retailer.
- Consumers encounter difficulties reaching call centre staff to enquire about best offer, possibly due to long wait times.
- When consumers contact call centre staff they experience difficulties in switching to the best offer.
- Retailers failing to transfer consumers to their best offer despite confirming they have been switched.
- Consumers report confusion that the best offer on the bill is named the same as their current plan offer.

Further analysis of these issues, and case studies illustrating consumer experiences, are detailed in an earlier submission to the ESCV.³

Low consumer awareness of, and access to, the best offer

EWOV also observes a broader lack of awareness and understanding of best offer amongst consumers. This may be because consumers:

- Do not see the best offer notice on their bill, which may be because they have automatic payment arrangements (such as Centrepay or direct debit) set up.
- May see the best offer notice but do not register genuine benefits of switching to a better offer, as they may see it as marketing, or they might have a discount they perceive as already beneficial.
- Are confused about plan names, or wrong/conflicting/confusing information from their provider or an energy compare service.

¹ [EWOV Submission to the Essential Services Commission – Proposed Energy Consumer Reforms to the Energy Retail Code of Practice](#), November 2024, p 6 - 9.

² [EWOV Submission to the AEMC – Assisting hardship customers rule change](#), January 2025, p 2.

³ [EWOV Submission to the Essential Services Commission – Review of the Energy Retail Code of Practice](#), July 2024, p 36.

For example, we observe how large conditional discounts may create confusion for consumers, by masking higher underlying prices, price changes, and the benefits of switching to a better offer, such as in Jeff's story below.

Jeff's* story – low consumer understanding of the benefits of switching to the best offer

Jeff complained to us about a high electricity bill of around \$400, claiming his usual bills were around \$115. Jeff explained he has not purchased any new appliances that would increase the usage. He had contacted his retailer and it advised the bill was correct and payable. His provider had offered a payment plan but Jeff did not want to accept the plan. He had been a customer of the retailer for five years and told us he had never received such a high bill.

During our investigation, we discovered that Jeff had, at times, received bills for \$110 or similar amounts, however, these were often during milder months. We conducted a tariff review and found that Jeff had been billed correctly, and concluded the reason for the high bill was that the cost of electricity had increased significantly year-on-year. Although Jeff's plan included a large 45% pay-on-time discount, the price increases still resulted in significant cost increases on the bill.

Through our conciliation of this case, the retailer applied a \$250 customer service gesture and provided him with a revised bill with an extended due date. The retailer also completed a rate comparison and provided two quotes for alternative energy plans for Jeff to consider switching to.

Retailer approaches to assisting with the best offer

As we noted in a submission to the ESCV, EWOV observes missed opportunities for retailers to provide advice about the best offer or conduct a best offer check before consumers experience payment difficulty or arrears accrue. For example, we observe cases where consumers contact their retailer about high bills and/or affordability concerns, or explicitly express payment difficulty to their retailer. However, the retailer's call centre staff have not discussed switching to the best offer even though it would assist with energy affordability.⁴

Currently, as a minimum standard set out in the Victorian Code, the retailer requirement to offer a tariff review only applies to consumers with arrears who cannot afford ongoing usage and only after receiving other forms of tailored assistance.⁵ While retailers can provide any suitable assistance to consumers in payment difficulty in addition to assistance required as a minimum standard,⁶ EWOV continues to see retailers treat minimum standards as a ceiling, rather than a floor they can exceed, where it is fair and reasonable to do so in light of the consumers' circumstances. Introducing additional requirements for proactive best offer assistance would drive better consumer outcomes at an earlier opportunity.

* Name changed for privacy purposes.

⁴ [EWOV Submission to the Essential Services Commission – Proposed Energy Consumer Reforms to the Energy Retail Code of Practice](#), November 2024, p 7.

⁵ *Energy Retail Code of Practice* (Vic), clauses 128(1)(f)(i) and 128(3).

⁶ *Energy Retail Code of Practice* (Vic), clause 142(1).

Mechanisms for improving the ability to switch

This responds to question 4 in the AEMC's consultation paper

Changes to address practical barriers to switching

The AEMC is proposing to require retailers to provide a streamlined process for consumers to switch to their retailer's deemed better offer as presented on the customer's bill.

The ESCV proposed a similar outcome-based approach in its Review of the Code. It outlined that the desired outcome is for the process of switching to the best offer to be as streamlined, short, and safe as possible.

EWOV believes that a principles-based, rather than a prescriptive rule, could provide greater flexibility in developing an effective mechanism to switch consumers. Supplementary guidance could enable retailers to innovate and improve on the mechanism as technology and markets evolve.

Guidance would also allow relevant regulators to set clear expectations of retailers about what an effective mechanism may look like, with best practice being able to evolve to address a range of barriers consumers may face at the current time. This could include guidance related to:

- Identifying consumers anticipating or experiencing payment difficulty, the need for assistance and an opportunity to assist the consumer with a best offer check and assistance to switch.
- Providing clarity around plan names, to reduce confusion where new energy plans are named the same as older energy plans with higher rates.
- Accessible options for people who face digital access barriers.

A principles-based approach could be supported by further rule changes to increase consumer awareness of, and access, to the best offer, outlined below.

As we have noted in previous submissions to the ESCV⁷ and the Victorian Department of Energy, Environment and Climate Action (DEECA)⁸, EWOV strongly supports the introduction of a principle-based obligation to help providers focus on fair consumer outcomes and deter a culture of rigid compliance that does not meet the intended objective.⁹

EWOV considers that some of the issues the AEMC and the ESCV are seeking to address with the proposed consumer energy reforms package could be addressed by articulating a fundamental, overarching principle, which frames how rules should be applied in practice. EWOV supports introducing an overarching obligation on retailers to *act efficiently, honestly and fairly*. EWOV considers this obligation could encapsulate relevant consumer protections and allow for the framing of more specific rules which apply to particular circumstances and risks of harm. In this way, principles-based obligations come together with rules based regulatory approaches, to deal with the full range of risks and conduct in the dynamic energy market.

EWOV recommends the AEMC consider how an overarching obligation for NECF could strengthen the application of existing rules. Further detail is provided in our submissions to ESCV and DEECA.

⁷ [EWOV Submission to the Essential Services Commission – Proposed Energy Consumer Reforms to the Energy Retail Code of Practice](#), November 2024, p 4.

⁸ [EWOV Submission to DEECA – CER Consumer Protections Review](#), February 2025, p 17 – 19.

⁹ [EWOV Submission to the Essential Services Commission – Review of the Energy Retail Code of Practice](#), July 2024, p 10.

Changes to improve consumer awareness of and access to the best offer

EWOV considers consumer awareness of the best offer could be improved by changes that require retailers to communicate deemed best offers beyond the current bill messaging requirements. EWOV made recommendations to the ESCV in this regard.¹⁰ The AEMC may wish to consider these recommendations, given the AER's current evaluation of the Better Bills guideline and changes that might occur following the conclusion of this evaluation.

EWOV's recommendations to the ESCV in relation to the best offer are set out below.

Include the best offer notice in the transmittal in addition to the bill

- This may be useful for those who do not read their bill (attached to an email) due to automatic payment arrangements.
- This may also help those who struggle to understand their bill in its current form, given the volume of information and branding on bills.
- This may require further limitations on what information is included in emails to avoid overcomplicating email body text.

Improve the salience of the best offer notice on the bill/transmittal

This might be achieved by ensuring best offer notification is not perceived by consumers as marketing.¹¹ Best offers are often included in a retailers' own branding colours and style. The AEMC and the ESCV could consider introducing a requirement to improve prominence of the best offer in colours and formatting that ensures the message is more prominent - e.g. bright red background where consumers are not on best offer and green where they are, as identified in the AER's Better Bills research.¹² This could be achieved through development of specific regulator/government branded messaging on the best offer notification e.g. "This Best Offer notification is required by Essential Services Commission" or a covering letter notification to the bill without retailer branding.

This reframing may help to "de-risk" the best offer – where trust in retailers may be low, leveraging regulator or government branding may help to provide confidence to consumers.

Proactive engagement about the best offer for consumers contacting their retailer about high bills or payment difficulty

In Victoria, the Code entitles consumers to minimum standard forms of assistance to help consumer to avoid getting into arrears with their retailer¹³ and requires a retailer to take steps to offer standard and tailored assistance, depending on the consumer's circumstances. However, as noted above, EWOV observes retailers miss opportunities to provide information and advice when a consumer contacts it about high bills or affordability concerns.

EWOV recommended the ESCV¹⁴ consider an additional requirement in the Code for retailers, when a consumer contacts them anticipating or experiencing payment difficulty, to:

- complete a deemed best offer check and,
- if the customer is found not to be on the best offer, notify the customer at the time at which the deemed best offer check is completed, and

¹⁰ [EWOV Submission to the Essential Services Commission – Proposed Energy Consumer Reforms to the Energy Retail Code of Practice](#), November 2024, p 7.

¹¹ AER, [Better Bills research Final report from the Behavioural Insights Team](#), 2022, p 45.

¹² Ibid p 43.

¹³ The Energy Retail Code of Practice (Vic), clause 124(1).

¹⁴ [EWOV Submission to the Essential Services Commission – Proposed Energy Consumer Reforms to the Energy Retail Code of Practice](#), November 2024, p 14.

- offer to change the customer onto the best offer plan.

Our analysis in relation to these recommendations are provided in further detail in our recent submission to the ESCV's Review of the Code.¹⁵ The AEMC could consider these recommendations as part of implementation of the proposed rule change.

We hope this submission will assist the AEMC with the important task of improving the ability to switch to a better offer. If you would like to discuss any aspect of our submission, please do not hesitate to contact me or Felicity Fast, Head of Public Affairs at Felicity.Fast@ewov.com.au

We welcome the opportunity to further discuss this submission, the consultation and the AEMC's next steps.

Yours sincerely



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¹⁵ [EWOV Submission to the Essential Services Commission – Proposed Energy Consumer Reforms to the Energy Retail Code of Practice](#), November 2024, p 7 - 9.