

8 May 2025

Ms Anna Collyer
Mr Tim Jordan
Mr Rainer Korte
Ms Sally McMahon
Ms Lana Stockman
Australian Energy Market Commission
GPO Box 2603
SYDNEY NSW 2001



EnergyAustralia Pty Ltd
ABN 99 086 014 968

Level 19
Two Melbourne Quarter
697 Collins Street
Docklands Victoria 3008

Phone +61 3 9060 0000
Facsimile +61 3 9060 0006

enq@energyaustralia.com.au
energyaustralia.com.au

Submitted electronically: <https://www.aemc.gov.au/contact-us/lodge-submission>

References: RRC0060, RRC0058

Dear Commissioners

Assisting Hardship Customers and Improving Consumer Confidence in Retail Energy Plans

EnergyAustralia appreciates the opportunity to participate in the consultation for the *Assisting Hardship Customers* and *Improving Consumer Confidence in Retail Energy Plans* rule changes. The changes aim to better protect vulnerable customers and to ensure that all customers are not exposed to unreasonable pricing practices, and while we support the intent of the proposed changes, there are some elements that we believe require further consideration.

We appreciate the proposed regulations are targeted at practices within the energy industry that are perceived to unreasonably disadvantage customers, and we are supportive of changes that can improve customer outcomes; however, we believe the changes could have unintended consequences that may lead to worse outcomes for customers overall:

- *Fundamental changes to retail markets should be sequenced after major market reviews*

The proposal will change how retailers' price for acquisition in market, assess existing customer pricing and overall impact how retailers manage risk and recover costs. Significant retail market changes should be considered alongside and following broader market reviews. For example, as the AEMC's *Pricing review* is currently active as well as the Department's consultation on the Better Energy Customer Experience. It is in our opinion that it is inappropriate to progress the changes proposed in the rule change because these reviews may, and are likely to, change how retailers price risk and therefore shape how retailers recover costs through retail tariffs. Implementing these changes now risks embedding structural inefficiencies and avoidable costs if broader reviews reshape retailer risk. **EnergyAustralia therefore considers it would be prudent for the AEMC to delay the decision or required implementation of this rule change package until after these broader market reviews are complete.**

If the AEMC proceeds with implementation now, the rule change may lead to stranded implementation costs and misaligned obligations. This would ultimately increase costs for all customers and undermine the intent of

the proposed rule change, falling short of the National Electricity Objective's goal to promote efficient investment in, and operation of, energy services for the long-term interests of customers.

- *Price compression risks reducing customer choice and weakening retail competition*

Retail costs make up only a small proportion of a customer's total energy bill. The ACCC reports that retail costs comprise around 10% of the residential customer bill, while wholesale and network costs comprise almost 40% each, respectively.¹ These wholesale and network costs, which are largely outside of retailers' control – remain the primary drivers of overall price movements. Irrespective of the proposed rule change, upward pressure on prices may persist as the energy system continues to transition.

In this context, a possible outcome of the proposal would be a reduction in the availability and diversity of attractive retail offers for consumers, rather than a material dampening of overall prices for customers. By capping prices at the standing offer after benefit expiry, the proposal is likely to compress the difference between standing and market offers, reducing the value of switching.

This dynamic is already observable in the latest ACCC pricing data, which shows the declining share of market offers meaningfully below the DMO/VDO.² For example, the proportion of flat rate offers priced more than 25% below the DMO/VDO has fallen from 8.9% in 2022 to just 2.1% in 2024. Offers priced more than 15% below the DMO/VDO have also reduced significantly, suggesting a shrinking pool of attractive discounts *sustained* in the market. If price compression is further entrenched through regulatory intervention, we are concerned that the overall range of offers available to customers will narrow in the longer term, undermining both competition and engagement in the retail market. The AEMC has previously recognised the risk of price compression in the retail market, including reporting on the long-term risks of the default market offer reporting:³

1. Increased risk to retailers driving higher financial and overall costs.
2. Lower levels of innovation leading to less available products and services
3. Higher barriers to entry and changes to consumer behaviour resulting in decreased competition.

- *Constraints on retailer pricing flexibility limit risk management and cost recovery*

There appears to be an expectation that retailers should be 'smarter' about how they price, how they engage with customers, and how they manage risks – rather than relying on post-benefit charges to recover costs. While retailers have tools available to manage risk, they are increasingly constrained by regulation, customer and government expectation and intervention which make it very challenging to manage and fully offset the rising risks in recovering costs. This includes network and wholesale costs, which comprise most of the customer bill.

For example, retailers can theoretically design flexible structures to better match cost recovery network needs, however there is regulatory and political friction to making retail tariffs "too complex" for customers. This stands in contrast to the AER approving more complex network tariff structures – such as time-varying or demand-based structures – which are designed to reflect the operational efficiency of the grid as rooftop solar

¹ Inquiry into the National Electricity Market report - December 2024, p66.

² ACCC appendix to Inquiry into the NEM report, Supplementary excel spreadsheet, Supplementary Table C1.3.

³ AEMC, *Customer and competition impacts of the default offer - Final report*, 20 December 2018, p vii.

and electrification increase. While cost-reflective network tariffs are considered acceptable - mirroring them in flexible retail structures is often considered by regulators and governments as inappropriate. This creates a growing mismatch between how costs are incurred from networks and how retailers can recover these, ultimately increasing retailer risk.

Further compounding this challenge, retailers cannot freely adjust tariffs over time due to regulatory mechanisms - including the DMO/VDO, which act as effective price ceilings or benchmarks. These constraints make it difficult to adapt pricing strategies to reflect changing wholesale conditions or cost pass throughs in a timely and commercially sustainable way. This rigidity is particularly concerning given that forecasting uncertainty across the energy market – including wholesale, network charges and regulatory settings is increasing – not decreasing – as the energy market becomes more complex and volatile during the transition. Additionally, the annual setting of the DMO/VDO introduces further uncertainty, both in terms of the level and the methodology used each year. This process is heavily politicised, and the approach changes each year, adding another layer of unpredictability to retail pricing that undermines investor and business confidence in longer-term planning.

In this environment, retailers' ability to manage risk and maintain sustainable competitive offers is becoming increasingly limited. These challenges are also further compounded by ever changing prescriptive regulation around customer communications, restrictions on when retailers can reprice and how much notice must be given, for example. The proposed rule change would add to this complexity and create an additional layer of compliance and operational risk.

- *There's a growing risk that retailers may be unable to meet expectations for the energy transition*

A concern with the approach in recent DMO and VDO price determinations is that retailers bear more risk – not less - in the current high-cost energy environment. This includes shouldering the risk from rising network costs, a trend likely to continue with the energy transition. We questioned whether retailers could absorb all this risk, invest in innovative Consumer Energy Resource Products, and continue to compete in this challenging environment.

As we move into future pricing decisions, and the unprecedented volume of retail market reforms including this rule change package, we continue to have these concerns and call for regulators and market bodies to carefully consider the appropriate balance when making decisions and introducing regulatory policy. We consider that the short-term focus on affordability can have unintended outcomes and trade-offs with achieving sustainability and climate goals (including investing and innovating in CER) and maintaining retailer viability, competition and the value of shopping around for customers.

CER is a critical component of the energy transition and supports electrification in the NEM. As the grid moves towards greater electrification, retailers play an increasingly vital role in managing the complexities of this shift. Recent political announcements, such as the expansion of the Small-Scale Renewable Energy Scheme (SRES) to include batteries, highlight the growing responsibility of retailers to support customers in adopting battery systems at scale.⁴ Subsidies and incentives encourage customers to invest in batteries and retailers are essential to the broader transition. Policies promoting battery adoption require retailers to manage a larger customer base with storage systems and integrate customers into virtual power plants (VPPs). Retailers must

⁴ Joint Media Release, Prime Minister of Australia and Minister for Climate Change and Energy, Labor to Deliver One Million Energy Bill Busting Batteries, 6 April 2025.

also navigate complex regulatory challenges that continue to change, including billing and communication requirements.

To meet our federal and state climate targets and build a resilient energy system, retailers must be able to invest and innovate today. However, the cost pressures faced by retailers, combined with regulatory demands and ever complex and growing regulatory change, cannot be overlooked. Without adequate and balanced regulatory frameworks that provide sufficient ability to manage retailer risk and cost recovery—we consider the ability to keep up with electrification and innovation is at significant risk.

Additional to the overarching concerns that the proposed rule change raises, we outline specific feedback on the proposed changes in the **Attachment**.

If you would like to discuss this submission, please contact me on 03 9060 1361 or Travis.Worsteling@energyaustralia.com.au.

Regards

Travis Worsteling and Maria Ducusin

Regulatory Affairs Leads

Assisting Hardship Customers

1. *A new principle that places a direct and clear obligation on retailers to ensure hardship customers pay no more than the deemed better offer. The draft rule affords flexibility to the retailer in how they must meet this new principle.*

We agree with the intent of the rule change, to protect vulnerable customers by ensuring they pay no more than the deemed better offer. EnergyAustralia is passionate about protecting vulnerable customers, we are one of Australia's largest energy companies with around 2.4 million electricity and gas accounts, of which around 57.5k customers are supported under our hardship program (EnergyAssist). We are concerned however that the draft rule will create significant compliance burden and risk, with limited customer benefit compared with preferable alternatives.

Retailers conduct deemed better offer assessments upon customer entry to their hardship program, and then periodically conduct this assessment; this is commonly conducted when there is contact from the customer, or 6-months to annually. We contact the customer either via phone or by written communication to advise that a better offer is available, where the customer does not engage, we are unable to move the customer's plan to the deemed better offer.

The proposed rule will address the inability to shift the plan without Explicit Informed Consent (EIC) but will exacerbate the issue that has limited retailer's capacity to have all vulnerable customers on the deemed better offer, customer engagement. Customer agency is expressed through their engagement with their energy retailer about their energy product. Engagement is crucial to ensure those experiencing vulnerability are receiving the support they require (this exceeds simply being on the better deemed offer), we believe the proposal will limit the need for vulnerable customers to engage with their retailer.

Additionally, the proposed regulatory requirement to complete this assessment every billing cycle and to ensure that the customer pays no more than the deemed better offer, will create significant complexity, additional workload for time-constrained resources, and potential compliance risk:

- Deemed better offer checks can be difficult to conduct accurately, depending on the customer's network tariff. For example, if the customer has recently been put on a network tariff with a demand component, the retailer will have no understanding of this cost until the network provides the cost (which can take up to 12-months of usage to establish).
- The drafting requires a frequency of assessment that will likely lead to customer dissatisfactions.
 - If a customer on a retailer's hardship program was not on the deemed better offer and they were on monthly billing, this would result in the need for retailers to attempt contact each month to try to obtain EIC to shift the customer to the deemed better offer.
 - The retailer could make successful contact and receive EIC, but the plan may subsequently not be the deemed better offer the following month (depending on the frequency the retailer updates their market offers), which would result in a further contact attempt required. This would be an undesirable result for customers and may lead to retailers avoiding offering monthly billing options.

These examples illustrate a frequency of contact that will create confusion and increase distrust. Particularly, when a retailer updates their market offers frequently, something that would historically have been a positive outcome for all energy customers and a sign of a healthy competitive market.

EnergyAustralia agrees it is preferable to have vulnerable customers paying no more than the deemed better offer. We believe there are preferable alternatives to achieve this, that will limit the compliance and resource impacts, and provide the same benefit to customers:

- **Change the *Standard Terms and Conditions* or require changes to AER's *Hardship Guideline* that would allow retailers to shift customers to a deemed better offer when one is identified.**

The change to either *Terms and Conditions* or the *Hardship Guideline* can allow retailers to automate the transfer to deemed better offers, which will be simpler and cheaper to implement than the potential crediting mechanism proposed in the draft rules.

The changes to the *Terms and Conditions* or *Hardship Guideline* should allow for customers to establish their preference for remaining on their existing plan, as some customers prefer the benefits of their current plans over the reduced cost of a deemed better offer.

- **Require the comparison in a more reasonable timeframe**

It would be more reasonable for this assessment to be conducted less frequently than the proposed drafting (*when a bill is issued or at least every 100 days*). If retailers were required to conduct this assessment annually it would limit the compliance risk from inaccurate deemed better offer messages (caused by distribution network's demand network tariffs), limit the resourcing impacts to identify and seek EIC for change a customer's plan, and could align with the new annual price change obligations. At a minimum, the frequency should be limited to '*at least every 100 days*', as this will align with the Better Bills Guideline.

There would need to be an expectation that any reduction in value in this period would be passed through to the customer, either through a crediting mechanism or billing adjustment based on the new retailer plan. Additional safeguards could be included to ensure that if the deemed better offer value exceeds a reasonable amount (~<\$20 per billing period) that the retailer revert to the obligation to seek EIC for a plan change or to ensure the customer is no worse off.

2. *Enhancing existing obligations with an additional principle that requires retailers to explicitly state in their hardship policy that they will check and offer the deemed better offer.*

EnergyAustralia accepts this proposal.

3. *Adding new hardship program indicators that retailers would report to the AER. The AER must report this data in its annual retail market report.*

We accept the intent of the reporting requirements is to develop a better understanding on how many customer this impacts and to establish any reasoning for why a customer may not want to be on the deemed better offer; however, we question how beneficial this reporting will be, as reporting on why a customer does not want to be on the deemed better offer would presumably only be to identify how to improve the uptake

of customer's on the deemed better offer, and as we would already be required to put customers into a position equal to the deemed better offer this seems unnecessary.

Additionally, we believe the requirement to use 'best endeavours' to report on why a customer doesn't want to be on a better offer, is too manual and will create an unreasonable resourcing burden and that '*best endeavours*' is not suitable for regulation as it is too subjective and open to interpretation.

Improving consumer confidence in retail energy plans

1. *Requires new and existing customers not to be charged more than the standing offer price after their energy plan's benefits change or expire.*

As discussed in the cover page, we are concerned that this proposal would fundamentally alter how retailers price acquisition offers, manage existing customer pricing and recover costs in an increasingly volatile and uncertain regulatory environment. In our view, reforms of this scale should be considered holistically and in coordination with broader processes already under way – including the AEMC's Pricing review and the Federal Departments consultation on Better Energy Customer Experience.

We are particularly concerned that this proposal could entrench price compression, reduce the diversity of market offers and weaken competition. It would also make the role of the DMO/VDO even more critical as an effective price cap, reinforcing the need for a robust and predictable DMO/VDO methodology to safeguard retailer viability.

For these reasons we suggest it would be prudent for the AEMC to delay implementation of this rule until these broader reviews are complete and their implications for retailer risk, pricing and cost recovery are better understood.

2. *Ensure customers on deemed customer retail arrangements cannot be disconnected if they are paying their bills.*

We understand the removal of NERR Rule 115 aims to remove the ability to disconnect 'carry-over' and 'move-in' (unknown) customers that are paying their bills. We appreciate that there is likely to be more 'carry-over' customers because of the proposed rule above, as following the end of a customer's benefit they could then be classed as 'carry over'.

EnergyAustralia agrees that any customer paying for their energy should not be disconnected and that Rule 115 may have allowed for an option to disconnect customers based on the 'carry-over' or 'move-in' (unknown) customer moniker; however, we are concerned that the removal of the rule in entirety will also limit the ability for retailers to disconnect a 'move-in' (unknown) consumer that is not paying for their energy consumption.

With the removal of rule 115, the only option to disconnect a 'move-in' (unknown) consumer would be to follow NERR rule 111, which has more justifiably onerous responsibilities, as the intention is to protect 'known' customers from wrongful disconnection. By following this process for 'move-in' (unknown) consumers the minimum disconnection timeframe would be following an unpaid bill, after two reminder notices, and following the disconnection warning notice period. This would conceivably delay the disconnection of an 'unknown consumer' for ~>120 days, with this revenue unlikely to be recoverable.

EnergyAustralia request the AEMC to amend the draft rule, keeping rule 115, allowing for disconnection to occur for 'move-in' (unknown) consumers, and to update the rule to remove the ability to disconnect 'carry-over' customers, and 'move-in' (unknown) customers that are paying for their energy consumption.

3. *Require high conditional fees (for pre-2020 grandfathered contracts) to be reduced to reasonable levels, and would require the high discounts to be applied in full, whether or not the customer met the condition relating to that discount.*

EnergyAustralia accepts this proposal.

4. Only allow retailers to increase prices once every 12 months.

We accept that it has been a source of dissatisfaction for customers to have their pricing change relatively soon after entering a contract with a retailer, and it is a better customer experience to have a reprice occur every 12-months. We also agree that there are benefits in having a nationally consistent reprice period, and that aligning with the Victorian timing is a suitable recommendation.

To achieve this, the draft rule should align more closely with the Victorian regulation and extend the timeframe for the reprice period to be inclusive of 1st July to 1st August. However, we believe the current drafting allowing flexibility in when this occurs is preferable to the Victorian regulation, and would recommend that the flexible option of when we reprice within this period remain; this is necessary to allow for the interdependencies of DMO and distribution network pricing and the variability in when they are released.

Additionally, we believe it is prudent to consider including a contingency in the regulation that allows for significant pricing events.

5. Require retailers to inform customers when prices may change under the contract prior to the customer entering a contract.

EnergyAustralia accepts this proposal.

6. Require retailers to provide customers 20 business days' notice before a customer's new tariff or charges will apply.

EnergyAustralia does not support the proposed increased notification timeframe. There are instances in which a distribution network will change the customer's tariff and provide notice in a shorter period than 20-business days, energy retailers should not be at risk of non-compliance due to the action of a third party. Additionally, the proposed timeframe could be insufficient depending on when the AER release the final DMO.

We request the AEMC to consider aligning notification timeframes with Victoria.

7. Prohibit retailers charging any ancillary fees and charges to hardship customers, customers on payment plans, customers experiencing family violence and customers receiving a concession.

We support the prohibition on charging ancillary fees to customers experiencing hardship. However, we do not believe that all concession or payment plan customers would be considered 'vulnerable':

- Concession eligibility is not specific to being in a vulnerable situation (although this is the case for many concessions such as the low-income health care concession), and can be related to age or military service, neither of which necessarily imply the customer is experiencing vulnerability; and,
- Customer may elect to pay via a payment plan because it is simpler than paying by the due date of a bill, it does not always confirm that they are experiencing payment difficulty.

We request the AEMC to consider amending the draft rule to remove concession and payment plan customers, or to provide further guidance and/or clarity in how to differentiate between concession and payment plan customers that require this assistance and those that do not.

8. *Restrict all ancillary fees and charges to reflect the reasonable costs incurred by the retailer, for all other customers, as well as prohibit account establishment fees and special meter read fees for move-in/out, for all customers.*

EnergyAustralia supports restricting ancillary fees and charges to reflect the reasonable costs incurred by the retailer. We do not believe that prohibiting special meter read fees for move-in/out is allowing retailers to reflect their reasonable costs.

The cost of this service will ultimately need to be allocated somewhere, and if the AEMC believe that it is unreasonable for special meter-read fees (move-in/out) to be incurred by customers, we believe it is fairer and more equitable for these costs to be assigned and managed by the party responsible for the charge. Therefore, **we recommend changing the National Energy Rules to limit distribution network and/or any other party (Metering Co-Ordinator, etc.) being able to charge for special meter-read fees (move-in/out).**

9. *Required to provide at least one free payment method that is commonly used and easily accessible for their customers.*

EnergyAustralia accepts this proposal.