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14 May 2025

Mr Andrew Lewis  
Acting Chief Executive Officer  
Australian Energy Market Commission  
Level 15/60 Castlereagh St, Sydney  
NSW 2000

Dear Mr Lewis,

## **IPART submission to the AEMC's draft National Energy Retail Amendment (Improving consumer confidence in retail energy plans) Rule 2025**

The Independent Pricing and Regulatory Tribunal (IPART) welcomes the opportunity to provide a submission to the Australian Energy Market Commission's (AEMC) Draft Rule Determination on **Improving Consumer Confidence in Retail Energy Plans** (the Draft Determination).

IPART is an independent, strategic agency of the NSW Government that regulates key markets and NSW Government services to ensure effective social, environmental and economic outcomes.

IPART has statutory and commissioned roles across the water, energy and transport sectors, local government, human services and other areas such as the NSW biodiversity credits market. IPART helps the people of NSW get value for money through licensing, price setting and monitoring of essential services, as well as industry and market sector reviews and investigations.

IPART is the Market Monitor for the NSW retail electricity and gas markets. In this role, we annually assess and report on the performance and competitiveness of the markets.

### **The AEMC's Draft Rule Determination**

The AEMC's Draft Determination proposes several rule changes that aim to help improve the provision of information to consumers and empower consumers to make informed decisions about their energy contract.

In our 2023-24 Retail Energy Market Monitoring report, we identified that many customers were paying higher prices than necessary due to certain retailer pricing practices, complex pricing information and barriers in the switching process.<sup>1</sup>

We consider the proposed rule change to limit ongoing prices to the standing offer after benefits expire would contribute to improved consumer outcomes in the NSW retail electricity market.

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We also recognise that the proposed rule change to limit price increases on all new and existing retail contracts to once every 12 months seeks to address an important issue in the energy market and provide greater price certainty to consumers. However, we note there may be unintended consequences that result from this proposed rule change.

Below we detail analysis from our 2023-24 Retail Energy Market Monitoring report that highlights the importance of addressing the issues these proposed rule changes target.

We did not conduct analysis in our 2023-24 Retail Energy Market Monitoring report on fees and charges in retail energy contracts or conditional discounts. As a result, we have not commented on these proposed rule changes in this submission.

## Proposed rule change - limiting post-benefit price increases to the standing offer

IPART supports the proposal to limit retail plan post-benefit prices to standing offer prices. We consider this provides an important protection for consumers who do not engage when the benefit period ends and will assist in reducing the impact of loyalty penalties (or a so-called "loyalty tax").

In our 2023-24 Retail Energy Market Monitoring report, we found an estimated 53% of residential customers in NSW on flat-rate offers were paying prices equal to or more than the Default Market Offer as of 1 August 2023.<sup>2</sup> Further, analysis from the ACCC in their June 2024 Inquiry report found some retailers in NSW had more than 90% of their time-of-use customers (in the Ausgrid network) paying an annual cost equal to or more than the Default Market Offer.<sup>3</sup>

The significant proportion of residential customers paying prices above the Default Market Offer is a concerning outcome as the Default Market Offer is meant to protect customers from unjustifiably high prices.

While data is not available to quantify the proportion of customers on plans with expired benefits paying more than the Default Market Offer, we consider these customers would constitute a material proportion of customers given the AEMC's analysis found around 17% of offers on Energy Made Easy include a discount that does not last the length of the contract.<sup>4</sup>

Switching retailer or offer can enable customers to reduce their electricity bills, however we also found in our 2023-24 Retail Energy Market Monitoring report there are several challenges that customers face when switching offer or retailer, including when benefit periods expire. Submissions to our 2023-24 Energy Market Monitoring report discussed these barriers including concerns that:

- flat-rate offers are typically not available to customers with a smart meter
- customers don't have the tools available to calculate the cost of and compare complex plans, including demand tariff plans
- recently introduced disclosure requirements (the Better Offer requirement in the Better Bills Guideline) may be having a limited effect due to the pricing practices of retailers.<sup>5</sup>

We found a large cohort of households in NSW do not engage regularly to consider switching. Data from the June 2024 Energy Consumer Sentiment Survey also shows that 37% of households in NSW had not investigated switching retailer or offer at least once in the past 2 years to June 2024, compared to only 25% of households that had switched in the past 12 months.<sup>6</sup>

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We consider retail electricity customers should be protected from unreasonably high prices through the Default Market Offer regardless of whether their contractual benefits expire, their contract is ongoing, or they do not engage in the market. By limiting ongoing prices to no more than the standing offer after benefits expire, the draft rule should assist in reducing the loyalty penalty and ensure customers are not penalised for failing to engage and switch offer or retailer.

## Proposed rule change - restricting price increases under market retail contracts

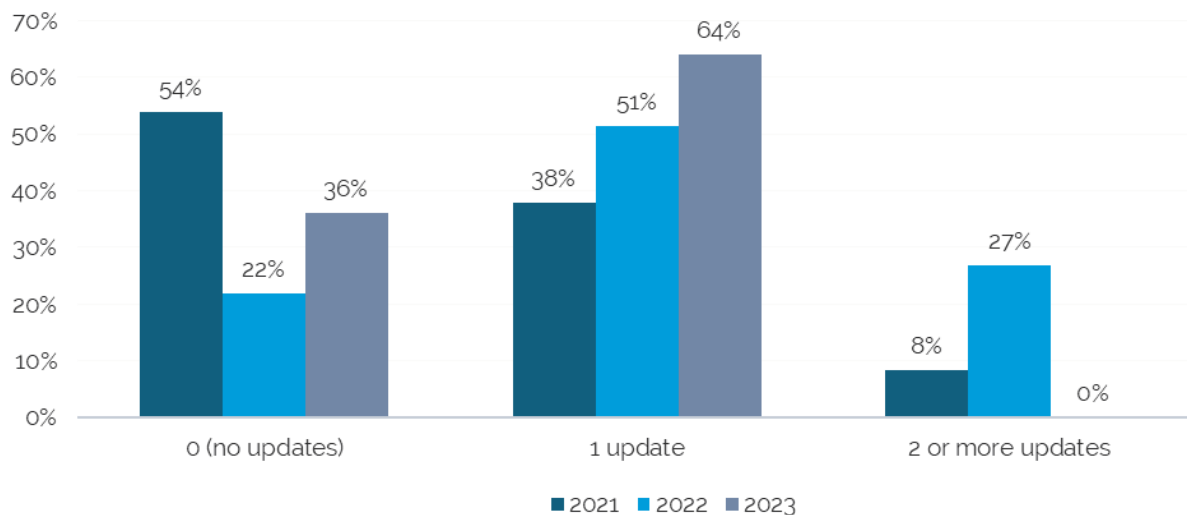
IPART supports the AEMC considering solutions to the issue of consumers signing up to a new energy plan only to have the prices increased soon after by their retailer.

In our 2023-24 Retail Energy Market Monitoring report, several stakeholders submitted that it is a common practice for retailers to rapidly escalate prices once a customer switches to a new plan, often as soon as 3 months after signing up. The Justice and Equity Centre (JEC) detailed this practice erodes or eliminates the benefits of switching soon after sign-up and can discourage consumers from further engaging in the market.<sup>7</sup> The ACCC also included similar findings in their December 2023 Inquiry Report noting that it is not uncommon for retailers to increase prices not long after a customer signs up to a new plan and retailers often set attractively low acquisition offers and make subsequent unilateral price increases for existing customers over time.<sup>8</sup>

As part of our 2023-24 Energy Market Monitoring report, we analysed how frequently the retailers increased the daily supply charge and/or the usage charge on new flat-rate retail electricity offers published on Energy Made Easy, in the 12 months after the plan was published. We conducted this analysis for all new flat-rate offers in NSW that were published by the 4 largest retailers over 2021 to 2023.

We found that over half of all new flat-rate offers published on Energy Made Easy in 2022 and 2023 had a price increase within 12 months. Further, in 2022, over 27% of new flat-rate offers published on Energy Made Easy had the daily supply charge and/or the usage charge increased at least twice in the following 12 months.<sup>9</sup> This analysis is shown in Figure 1 below.

Figure 1 Number of times the 4 largest retailers increased at least one price component (daily supply charge and/or usage charge) on flat-rate offers in the 12 months after it was published on Energy Made Easy



Notes: "0" (no updates) means the price components were not increased in the 12 months after the offer was published on Energy Made Easy. 1 update means that either the supply charge and/or usage charge was increased once in the 12 months after the plan was listed on Energy Made Easy. 2 or more updates means that the supply charge and/or usage charge was increased at least 2 times in the 12 months after the plan was listed on Energy Made Easy.

This analysis includes all cases where at least one price component of a flat-rate offer was increased. In some cases, a retailer increased one price component (for example, the usage charge), while decreasing the other component (the supply charge). We have still counted this as an increase (update) in the above analysis.

Source: IPART analysis of Energy Made Easy data.

As noted in our Energy Market Monitoring report, this analysis only includes offers listed on the Energy Made Easy website and does not capture price increases for customers on legacy contracts (i.e. offers that have been withdrawn from the market and are no longer available to new customers).

We also found that retailers increased prices by a materially larger amount for customers on legacy offers compared to customers on new market offers. This is consistent with findings from the ACCC's December 2023 Inquiry Report, which indicated that while retailers use the Default Market Offer as a price ceiling for acquisition offers, they do not use it as a ceiling for existing customers (i.e. customers on legacy offers).<sup>10</sup>

Given the findings in our 2023-24 Retail Energy Market Monitoring report, we support the AEMC considering options to provide greater price certainty to all consumers on market offer contracts.

However, while we support the need for a solution, we are nonetheless concerned that the proposed rule change may result in some changes in market dynamics or unintended consequences. For example, as submissions to the AEMC's Consultation Paper have noted, this could result in a risk premium becoming inbuilt into tariffs (to account for market volatility), reduce competitiveness and the spread of offers, and there may be some consumers who frequently engage in the market that could be better off under the current model. That said, we can see the benefit of retailers being required to offer customers a guaranteed price product but have some concerns about the impact on the market if this is mandatory for all contracts and without consideration of market dynamics or other rule changes.

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## IPART's contact officer for this submission

IPART's contact officer for this submission is Jonathan Gawthorne, Principal Analyst, contactable on +61 2 9019 1910 or via email ().

Yours sincerely,

15/05/2025

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Andrew Nicholls, PSM  
Chief Executive Officer  
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- <sup>1</sup> IPART, *2023-24 Energy Market Monitoring Report*, December 2024, p 6-7.
  - <sup>2</sup> IPART, *2023-24 Energy Market Monitoring Report*, December 2024, p 73
  - <sup>3</sup> ACCC, *Appendix C - Supplementary Excel spreadsheet with cost stack data and charts - Inquiry into the National Electricity Market - December 2023 report*, 1 December 2023, Tab: Residential (Unconditional).
  - <sup>4</sup> AEMC, *National Energy Retail Amendment (Improving consumer confidence in retail energy plans) Rule 2025*, 27 March 2025, p ii
  - <sup>5</sup> IPART, *2023-24 Energy Market Monitoring Report*, December 2024, p 9
  - <sup>6</sup> IPART, *2023-24 Energy Market Monitoring Report*, December 2024, p 37
  - <sup>7</sup> IPART, *2023-24 Energy Market Monitoring Report*, December 2024, p 47
  - <sup>8</sup> ACCC, *Inquiry into the National Electricity Market*, December 2023, p 73
  - <sup>9</sup> IPART, *2023-24 Energy Market Monitoring Report*, December 2024, p 48.
  - <sup>10</sup> ACCC, *Inquiry into the National Electricity Market: December 2023 Report*, 1 December 2023, p 67.