

Submission to the Draft rule to assist hardship customers

Submission to the Australian Energy
Market Commission

DATE: 8/05/2025



Summary

Energy Consumers Australia appreciates the opportunity to provide feedback to the Australian Energy Market Commission's (AEMC) draft determination (the Draft) and more preferred rule change for *Assisting hardship customers*. We strongly support the intent of the rule change request and the Draft.

We generally support the AEMC's Draft. We agree with the intention of ensuring all hardship customers are paying no more than their retailer's best offer and with the Draft's approach to placing a greater onus on retailers to identify the consumer's best offer and then ensure hardship consumers receive it. We strongly support improved reporting to the AER on the type of offers hardship customers are on across retailers to improve transparency into the diversity of prices and experiences these consumers face.

Moreover, we are pleased to see the AEMC has agreed with many of the recommendations we made in our submission to the Consultation paper, including by enabling hardship customers to pay less through either a credit or a better offer (and leaving them no worse off regardless of which approach they choose), and by requiring retailers to check and provide the benefits of a better offer at least once every 100 days.

Balance in how consumer pricing can change

We encourage the AEMC to ensure that the restrictions from the explicit, informed consent requirements in the law are as cumbersome as the Commission appears to find them.

For example, imagine if a consumer failed to respond to repeated notifications from their retailer saying that they would be placed on a lower priced offer. Then, the retailer simply put that consumer on the best offer. What would the impacts be? Under what circumstances might the consumer complain about being on a lower priced offer? If the consumer did complain (about saving money), would the AER or ACCC be required to punish the retailer if they took reasonable steps to notify the customer they were saving them money, and without hearing from them, chose to ensure the consumer was paying no more than any other consumer in their circumstance?

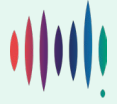
There is a striking imbalance in the ways in which retailers appear able to change a consumer's pricing: their contracts allow them to increase prices without consumer content, but the law – at least according to the AEMC's interpretation of it – restricts retailers from placing consumers on a lower priced plan without consumer content. Perhaps the rules should state that retailers can write no contract the disallows decreasing a consumer's price, even without the consumer's explicit informed consent.

More clarity in the final rule

Like the Justice and Equity Centre, we believe there are a few places where the AEMC could provide more clarity in the final rule to ensure hardship customers receive the assistance we all want them to have. In particular, we encourage the AEMC to consider:

- Calculating the financial benefit by only examining the energy-service related benefits of the better offer; and
- Clarifying that retailers are obliged to provide financial benefits or better offer prices from the date a consumer joins a hardship program.

Rather than deferring to the AER's Customer Hardship Policy Guideline to consider the degree to which "certain features of a plan other than the price, such as rewards programs (eg, frequent flyer points),



carbon offsets or vouchers (eg, movie tickets),” the Final Rule should clarify that only energy service-related benefits can be included in the better offer calculation. While some hardship customers may value these non-price features, hardship provisions should relate only to the energy service and its price. While retailers are welcome to offer such features, they are not relevant considerations for calculating the assistance required to improve the affordability of essential energy service for hardship customers.

The Final Rule should also clarify that hardship customers receive all the benefits from being placed on a better offer and/or receiving equivalent financial benefit from the date the consumer enters a hardship program and at every other time when the retailer identifies that the consumer could be on a better offer. The intent of the Draft seems to align with this approach to calculating financial benefits, but it is not clear. Greater clarity in the Final Rule will ensure hardship customers receive all the assistance this rule change aims to provide.

Conclusion

While the intent of the rule change request by the Energy and Climate Ministerial Council was clear, the mechanics of delivering it are challenging. We applaud the AEMC for developing this Draft, which on balance appears to deliver the intent of the rule change request within the parameters of the National Energy Retail Law.

For any questions or comments about our submission, please contact Brian Spak at brian.spak@energyconsumersaustralia.com.au.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Brian Spak'.

Brian Spak

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