Ms Anna Collyer
Chair
Australian Energy Market Commission
GPO Box 2603
Sydney NSW 2001

08 May 2025

Dear Ms Collyer,

Assisting hardship customers – draft determination

ENGIE Australia & New Zealand (ENGIE) appreciates the opportunity to respond to the Australian Energy Market Commission's (AEMC) draft rule determination to amend the National Energy Retail Rules (NERR) by introducing and enhancing retailer obligations relating to hardship customers and the deemed better offer.

The ENGIE Group is a global energy operator in the businesses of electricity, natural gas and energy services. In Australia, ENGIE operates an asset fleet that includes renewables, gas-powered generation, and battery energy storage systems. ENGIE also provides electricity and gas to retail customers across Victoria, South Australia, New South Wales, Queensland, and Western Australia.

ENGIE supports ensuring that hardship customers can appropriately access and be on the deemed better offer when it best suits their circumstances and preferences. It is important to recognise that it is in both the hardship customers and the retailer's best interests for this cohort to be on a suitable energy plan to minimise the risk of further debt accrual and help pay energy bills.

With the above context in mind, ENGIE is concerned about two potentially adverse customer outcomes arising from the proposed reform. Firstly, requiring retailers to move hardship customers to the deemed better offer may not adequately consider the value some customers place on the benefits of their existing plan, especially where a payment plan would better suit their situation. Secondly, applying a passive financial benefit to hardship customers' bills may risk undermining the effectiveness of hardship programs, which may lead to poorer customer outcomes by discouraging active engagement between hardship customers and their retailer.

ENGIE is also concerned that the draft rule determination does not adequately address the significant implementation costs retailers would face or provide sufficient clarity on the need for the proposed reporting obligations. These concerns are compounded by the absence of a clear understanding of how this reform seeks to inform or empower customers, two areas of focus in the AEMC's *Consumer-Focused Net Zero Energy System* vision.[1]

ENGIE's response in the remainder of this submission outlines these concerns in more detail and provides several alternative solutions that would likely promote more meaningful long-term outcomes for hardship customers and retailers alike.

Requiring retailers to ensure that hardship customers pay no more than the deemed better offer

Hardship customers may prefer to retain the benefits of their existing energy plan

ENGIE's experience is that customers enter hardship programs for a range of reasons, not all of which purely stem from financial hardship. For instance, a customer may be managing a household where their partner, who previously oversaw their energy bill, is temporarily unable to do so due to illness. The household may have been on a market offer with benefits such as a higher solar feed-in tariff or bundled with insurance. While the customer may have fallen behind on payments during this period, what they require is short-term support and flexibility, not a change to their plan that may impact these benefits.

While well-intentioned, ENGIE contends that the proposed rule change to move hardship customers onto the deemed better offer may adversely impact some customers who value existing benefits as part of their energy plan. As illustrated in the example above, moving this customer to the deemed better offer rather than 'a payment plan to suit their situation' in line with the current *Customer Hardship Policy Guideline* may leave them worse off if they rely on specific benefits from their energy plan as part of their day-to-day lives.[2]

The reform may inadvertently encourage passive engagement in hardship programs

ENGIE notes that the most effective hardship program outcomes occur when retailers and hardship customers engage in two-way dialogue to understand and respond to the customer's unique circumstances. As such, ENGIE is concerned that the proposed requirement for retailers to apply a financial benefit to customers who do not provide EIC to move to the deemed better offer may inadvertently discourage engagement from this cohort by shifting the focus away from active participation to more temporary or passive measures.

ENGIE notes that a scenario may occur where customers who receive a passive credit on their bill without appropriate program engagement may become reliant on this benefit, meaning they may spend more time on hardship programs than they would have done with active engagement. As such, the reform does little to mitigate many of the risks identified in Section 3.1.2 of the draft determination, including bill shock and

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[1] Australian Energy Market Commission*, A Consumer-focused Net Zero Energy System,* 2024. Link.

[2] Australian Energy Regulator, *Customer Hardship Policy Guideline - Version 1*, 2019. Link.

debt accumulation if the credit is removed, which would still likely materialise for disengaged customers under the proposed reform.[3]

Implementing the financial benefit mechanism is likely to be time-consuming and costly

ENGIE disagrees that the proposed outcomes-based regulatory approach would minimise implementation costs and complexity for retailers. The alternative approaches suggested in the draft determination, such as downward price adjustments or a crediting mechanism to provide a financial benefit, are not current system functionalities and would require significant upgrades to reconfigure the way product bundles are currently handled.

As outlined in ENGIE's submission to the consultation paper, retailers would need to undertake a system build to, at a minimum:

- Link better offer calculations to billing platforms,
- Automate the pro-rating of savings over each billing cycle, and
- Ensure the mechanism is auditable and compliant with regulatory obligations.[4]

Given these realities, it is unclear how the AEMC has concluded that this approach constitutes a more preferable rule. ENGIE seeks further understanding of the assumptions leading to this conclusion, particularly around implementation feasibility and cost.

It is difficult to apply a financial benefit to hardship customer bills at all times

ENGIE notes that, as currently drafted, Rule 75C - *Hardship customer not on a deemed better offer* states that:

> *"At all times where a hardship customer is not purchasing energy under a deemed better offer, a retailer must provide that hardship customer with a financial benefit on each bill (such as a price discount or a credit on their bill) of equivalent monetary value to the financial benefit that the hardship customer would receive if that customer were purchasing energy under a deemed better offer."*[5]

ENGIE is concerned that the phrase 'at all times' may inadvertently discount scenarios where new offers are launched during a hardship customer's billing period that are lower priced than what they are currently paying. As such, ENGIE contends that any mechanism that seeks to apply a financial benefit should only apply to subsequent bills after a deemed better offer message is presented to the hardship customer on

[3] Australian Energy Market Commission*, Assisting Hardship Customers – Draft Determination,* 2025. Link.

[4] ENGIE, *Submission to Assisting Hardship Customers – Consultation Paper*, 2025. Link.

[5] Australian Energy Market Commission, *Draft National Energy Retail Amendment (Assisting Hardship Customers) Rule 2025*, 2025. Link.

their bill, which would ultimately align closer with the envisioned customer journey outlined in Figure 3.1 of the draft determination.[6]

Enhancing existing guideline obligations for retailers to check if customers are on the deemed better offer

Requirements to engage with customers on prescribed frequencies may not reflect all customer needs

ENGIE contends that requiring retailers to initiate a new sign-up process at least every 100 days or each billing cycle may risk undermining the tailored arrangements typically established between hardship customers and retailers. While ENGIE generally attempts to engage with hardship customers more frequently than every 100 days, imposing a fixed cadence may not reflect individual customer needs or preferences and could unintentionally lead to disengagement. Some customers may interpret such outreach, particularly when focused solely on discussing a new offer, as marketing, or may avoid contact altogether if they anticipate a lengthy conversation due to current EIC requirements.

The draft rules duplicate deemed better offer messaging requirements already present in the Better Bills Guidelines

ENGIE notes that through the Australian Energy Regulator's (AER) *Better Bills Guidelines*, retailers are already required to identify whether a better offer is available for all customers at least once every 100 days and provide customers with information on how to access this offer.[7] It is unclear why an additional requirement would be necessary in the NERR when the AEMC had already deferred the drafting of the billing requirements, including the better offer requirements, to the AER through this guideline.

New hardship indicators to support monitoring and compliance

The draft rule determination does not sufficiently justify the benefits and use case for the proposed reporting obligations

ENGIE seeks further clarification on the value of the proposed additional reporting requirements, particularly in the context of cumulative reporting obligations on retailers with varying degrees of impact. As currently drafted, it is unclear what value the proposed reporting metrics are expected to deliver relative to the financial and human resource costs for retailers. ENGIE contends that reporting obligations should exist only when they have a tangible net benefit to all stakeholders, with consideration for retailer costs and effort.

Greater clarity should be provided to explain what constitutes reasonable endeavours reporting

ENGIE notes that the draft rule proposes that retailers be required to use 'reasonable endeavours' to understand and report on why hardship customers are not on the deemed better offer.[8] From both a

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[6] Australian Energy Market Commission*, Assisting Hardship Customers – Draft Determination,* 2025. Link.

[7] Australian Energy Regulator, *Better Bills Guidelines – Version 2*, 2023. Link.

[8] Australian Energy Market Commission, *Draft National Energy Retail Amendment (Assisting Hardship Customers) Rule 2025*, 2025. Link.

compliance and a practical lens, ENGIE contends that the term 'reasonable endeavours' may be vague and subjective, which can make it difficult for the term to be consistently applied in a regulatory context.

This ambiguity can create challenges for customer service agents managing hardship calls, as they are often required to process a significant amount of information in real time. Attempting to capture non-prescriptive information during these conversations may unnecessarily complicate the call and impact the quality of support provided. ENGIE also notes that meeting this obligation would likely require retailers to build new data fields in their customer management systems for agents to populate, which would necessitate additional system development and further operational costs.

Alternative solutions

In light of the concerns outlined in this submission, ENGIE contends that alternative measures or reform may be more appropriate in helping achieve the intended policy objectives while minimising implementation complexity and adverse customer outcomes.

Easing EIC requirements for hardship customers could offer a better long-term solution

ENGIE acknowledges that EIC provisions are embedded in the National Energy Retail Law (NERL) and cannot be amended via rule changes alone; however, ENGIE contends that there may be merit in pursuing legislative changes to allow a more flexible approach that avoids the significant costs involved in the implementation of the draft rule. It may be worthwhile for the AEMC to recommend that the Energy and Climate Change Ministerial Council (ECMC) progress targeted amendments to the NERL to allow for a more streamlined EIC process for hardship customers transferring to a deemed better offer that maintains appropriate customer protections without requiring the full sign-up process currently required to obtain EIC.

Alternatively, the *Better Energy Customer Experiences* review, based on a terms of reference from the ECMC, is currently being undertaken by the Department of Climate Change, Energy, the Environment and Water (DCCEEW).[9] Given that the review takes a holistic approach to reviewing consumer protections, it is likely that DCCEEW will recommend broader amendments to the NERL, which may present an alternative pathway for the AEMC to consider amendments to the NERL.

This rule change may overlap with other ongoing reforms, which could present implementation constraints

ENGIE encourages the AEMC to ensure alignment between this rule change and other concurrent reforms that may directly or indirectly influence its outcomes. If the AEMC does not use the *Better Energy Customer Experiences* review as an alternative avenue to pursue EIC easement, it may be prudent to align the timing of this rule change with the review recommendations due to the ECMC in early 2027, as well as ensuring there is no duplicative outcomes with the concurrent rule change on *Improving the Ability to Switch to a*

[9] DCCEEW, *Better Energy Customer Experiences*, 2025. Link.

Better Offer.[10] Considering these reforms within the context of this rule change would help avoid potential overlap and provide retailers with sufficient time to prepare for any overlapping implementation requirements.

Concluding remarks

ENGIE looks forward to working actively with the AEMC to support the objective of this rule change while considering the broader regulatory environment, implementation costs, and adverse customer outcomes from the preferred rule.

Should you have any queries in relation to this submission, please do not hesitate to contact me by telephone on 0400 731 274.

Yours sincerely,

Ronan Cotter

Ronan Cotter
Regulatory Advisor

[10] Australian Energy Market Commission, *Improving the Ability to Switch to a Better Offer Rule Change,* 2025. Link.