

## Assisting hardship customers

### We made a more preferable final retail rule (final rule) for the *Assisting hardship customers* rule change

The Commission has decided to make a more preferable final retail rule (final rule) in response to the *Assisting hardship customers* rule change request submitted by the Hon Chris Bowen MP, Minister for Climate Change and Energy, as Chair of the Energy and Climate Change Ministerial Council (ECMC).

The Commission's final rule recognises that hardship customers face many barriers to engaging with their retailer. The final rule will:

- increase support and improve outcomes for hardship customers so they are not financially worse off if they do not take up their retailer's deemed better offer. This includes preventing hardship customers from incurring more debt or expenses than is necessary
- place a stronger onus on retailers to assist hardship customers with deemed better offers, but afford retailers flexibility in delivering these protections
- improve the reporting and transparency of the type of hardship offers customers are on and assist the Australian Energy Regulator (AER) with monitoring to ensure retailers comply with the final rule.

The rule change request outlined a number of barriers prevent hardship customers from getting the best retailer offer available, and support for these customers could be improved. ECMC proposed to amend the National Energy Retail Rules (NERR) to require retailers to provide hardship customers with a credit on their bill if there is a deemed better offer<sup>1</sup> for that customer.

The rule change process has leveraged the AER's Game Changer work. The AER viewed consumer outcomes for those in financial hardship as needing improvement, and considered that there should be more intensive support for these consumers to overcome their debt burden to break the cycle of energy debt.<sup>2</sup>

The Commission views that a principle or outcomes-based approach that provides for hardship customers to be financially no worse off than the deemed better offer is appropriate. This is because retailers are best placed to assess, manage and minimise costs associated with ensuring customers are on the deemed better offer. Under the outcomes-based approach, retailers can consider different lower-cost implementation approaches to meet their obligations.

The Commission also considers that the final rule contributes to our vision for [A consumer-focused net zero energy system](#), specifically our consumer priority that seeks to inform, empower and protect consumers individually and as a collective. The final rule will reduce the onus and burden for hardship customers to take action to move to a retailer's deemed better offer, that is, the lowest-priced plan in terms of cost for a customer.

<sup>1</sup> As referred in AER's Better Bills Guideline.

<sup>2</sup> AER, Game changer, November 2023, p. 9

## There are three key components in the final rule

### Overview of the final rule



### The final rule includes a new principle to ensure that hardship customers are not financially worse off than the deemed better offer

The final rule sets out a clear and direct obligation on retailers to ensure that where the hardship customer is not on the retailer's lowest cost deemed better offer, the hardship customer will be financially no worse off than if they were on the deemed better offer. The final rule affords flexibility to the retailer in how they must meet this new principle – either by:

- obtaining explicit informed consent (EIC) and moving a hardship customer onto the deemed better offer as per existing mechanisms in the National Energy Retail Law (NERL). Under rule 38 of the NERL, retailers must obtain a customer's EIC before they can move them onto a new contract, including a deemed better offer, or
- providing a financial benefit under their current plan, such as a downward price adjustment, enduring discount or credit where they cannot obtain EIC to move to the deemed better offer.

The Commission notes that it does not have the ability to require retailers to transfer customers onto the deemed better offer without the customers' EIC. This would require changes being made to EIC, which are set out in the NERL and is beyond the AEMC's rule-making powers. Due to the importance of EIC in the framework, any changes to the NERL would need to be considered carefully as part of a holistic review.

The financial benefit must be at least the equivalent monetary value the hardship customer would have received or saved if they were on the retailer's deemed better offer. This differs from the draft rule, which stated that it should be the same monetary value.

The final rule will require the AER to define the term 'deemed better offer', taking into account the following factors, which we have derived from the existing AER description of the better offer:<sup>3</sup>

- The better offer is the lowest-priced plan in terms of cost for a customer - maintaining this will ensure that where the hardship customer is not on the retailer's lowest cost deemed better offer, the hardship customer will be no financially worse off than if they were on the deemed better offer.
- A customer's energy usage history - this is important for calculating the financial benefit.
- Whether all non-financial benefits are part of the deemed better offer - this will provide clarity and address retailers' concerns about whether deemed better offers will or will not

<sup>3</sup> Under AER Better Bills Guideline, a 'deemed better offer' must be either: (a) the plan the retailer offer which: (i) is the lowest generally available plan applicable to the customer having regard to the customer's annual usage history; and (ii) does not have as a precondition or condition that the customer have or maintain an affiliation or membership with an entity that is unrelated to the retailer; or (b) a plan that has a lower cost than the lowest cost generally available plan applicable to the customer. AER, [Better Bills Guideline](#), 2023.

include offers with non-financial benefits going forward. We consider that the AER is best placed to consider and clarify this in its guidelines, rather than in the rules. This is because it allows the AER to have regard to the factors in the context of the definition and the elements needed for its calculation over time, including how retailers will be able to comply.

The Commission has included guidance to the AER in the rules because it maintains those factors in the existing description that we consider important for the final rule. It also provides certainty to retailers that any changes to the definition over time will be minimised. At the same time, we consider that the guidance provides the AER with flexibility to adjust the definition as the market changes over time.

### **The final rule requires retailers to offer hardship customers a deemed better offer on an ongoing basis**

The final rule provides an explicit obligation in the NERR that retailers offer the deemed better offer:

- upon a customer joining their hardship program
- at the time of letting the hardship customer know on their bill, there is a deemed better offer that is lower cost than the offer the hardship customer is on. The retailer must make this offer at least once every 100 days, or where the retailer and customer have agreed to a different cycle that is greater than 100 days. This is in line with the AER's Better Bills Guideline.

Unlike the draft rule, our final determination places the explicit obligation in the NERR, meaning that retailers will not be required to update their customer hardship policies for the new requirement to take effect.

### **The final rule requires new hardship program indicators**

The final rule requires the AER to consider and determine the hardship indicators in accordance with the AER retail consultation procedures. The final rule requires that the revised hardship program indicators cover:

- purchase of energy by hardship customers at prices relative to standing offer prices
- uptake of the lowest cost energy offer available to hardship customers.

This change will improve the reporting and transparency on the uptake of the lowest cost energy offer available to hardship customers, including whether and how retailers are meeting the new principle.

The AER will include the new hardship program indicators in its Performance Reporting Procedures and Guidelines that retailers will report to the AER. The AER will be required to report them in their [annual retail market reports](#) similar to the existing hardship indicators in the NERR.

### **The final rule will contribute to the National Energy Retail Objective**

In making our final rule, we considered the National Energy Retail Objective by applying the assessment criteria that we outlined in the consultation paper and the impacts to consumers and retailers (including costs). We also considered stakeholder submissions and feedback for the more preferable final rule.<sup>4</sup>

The Commission considered the impacts on consumers and retailers (including benefits and costs). The Commission considers that the outcome-based approach of the final rule will provide important protections for hardship customers by reducing the onus and burden for all hardship customers to engage with their retailer and take action to move to or benefit from the lowest-cost deemed better offer. Although there may be some costs to retailers to update their billing systems and meet additional compliance requirements, we have crafted the final rule to leverage or build upon existing systems and processes where possible and appropriate. We also note that impacts to retailers are not expected to be large, given that the proportion of hardship customers makes up a small proportion of a retailer's total business costs.

We also had regard to promoting equitable energy outcomes across households experiencing hardship in terms of accessing or benefiting from their retailer's deemed

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<sup>4</sup> Further detail on stakeholder feedback and submissions is provided in chapter 1 and 3 of the final determination.

better offer. This complements the AEMC developing new guidance to ensure issues of equity are consistently and transparently addressed in a structured way when we are making rule changes and delivering recommendations – that is, putting a consistent focus on accounting for the diversity of consumer needs, experiences and preferences; removing structural barriers to participation; and avoiding creating or exacerbating vulnerability. The final rule will promote equity, so that hardship customers have the support and protection they need to access and benefit from their retailer's lowest-cost deemed better offer, particularly those who may face additional barriers to engaging with the market or their retailer.

### **The rule change request forms part of the broader ECMC consumer rule change package**

The rule change request forms part of the broader ECMC consumer rule change package submitted on 12 and 28 August 2024. The package involves seven rule change requests that together seek to help households access cheaper energy deals, increase support for people experiencing hardship and deliver more protections for consumers.<sup>5</sup>

We published a separate final determination on four of the other rule change requests, consolidated into *Improving consumer confidence in retail energy plans* on 19 June 2025.

The [Improving the ability to switch to a better offer](#) rule change will publish its draft determination and draft rule on 19 June 2025. The [Improving the application of concessions to bills](#) rule change will follow shortly thereafter.

### **Implementation considerations**

The final rule will commence on 30 December 2026.

### **For information contact:**

Media enquiries: [media@aemc.gov.au](mailto:media@aemc.gov.au)

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<sup>5</sup> The package of consumer-related rule change requests includes: [Improving consumer confidence in retail energy plans](#); [Assisting hardship customers](#); [Improving the ability to switch to a better offer](#) and [Improving the application of concessions to bills](#).