Australian Energy Market Commission

AEMC
Australian Energy Market Commission

RULE

Draft rule determination

National Energy Retail Amendment (Improving the ability to switch to a better offer) Rule

Proponent

The Honourable Chris Bowen MP, Minister for Climate Change and Energy, as Chair of the Energy and Climate Change Ministerial Council

19 June 2025

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About the AEMC

The AEMC reports to the energy ministers. We have two functions. We make and amend the national electricity, gas and energy retail rules and conduct independent reviews for the energy ministers.

Acknowledgement of Country

The AEMC acknowledges and shows respect for the traditional custodians of the many different lands across Australia on which we all live and work. We pay respect to all Elders past and present and the continuing connection of Aboriginal and Torres Strait Islander peoples to Country. The AEMC office is located on the land traditionally owned by the Gadigal people of the Eora nation.

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Summary

1 The Australian Energy Market Commission (AEMC or Commission) has made a more preferable draft rule (draft rule) to increase customers' awareness of savings that can be achieved from switching plans with their retailer. This would reduce the amount consumers pay for energy and increase the amount of competition in the retail market.

2 This rule change request was submitted by the Hon. Chris Bowen MP, Minister for Climate Change and Energy, as Chair of the Energy and Climate Change Ministerial Council (ECMC), and seeks to amend the National Energy Retail Rules (NERR) to make changes to switching processes. This forms part of a broader package of consumer-focused rule changes that Minister Bowen submitted on behalf of ECMC.

3 A significant number of customers are likely paying higher prices as they have not switched plans in a number of years. Newer plans generally have a lower cost than older ones. This rule change seeks to address why customers on longer plans do not switch more regularly.

4 We are seeking feedback on our draft determination and rule by 31 July 2025.

The draft determination seeks to increase the number of customers who regularly switch by increasing awareness of savings

5 The Australian Energy Regulator (AER)'s Better Bills Guideline (BBG) requires customers' bills to contain an important message ('the better offer message') that alerts customers to opportunities to save by switching to a different plan ('deemed better offer'), how they can switch, and a prompt to visit the Energy Made Easy website to compare offers from other retailers.

6 Despite this message, many customers are not switching to the retailer's better offer or switching to a cheaper offer from another retailer. The ACCC found that these customers could save by switching more regularly.

7 The proponent's initial proposition was that customers do not switch as the time and effort required to switch (transaction costs) are too high. However, our investigation found that there was little evidence to support this hypothesis. While stakeholders generally stated that comparing varied and complex plans is difficult, once a customer decides to switch, the switching process is fairly easy.

8 We have found that the primary opportunity to increase the rates at which customers switch to their retailer's better offer is to increase awareness of the better offer message, and the savings they could access. Low engagement with energy bills is contributing to low rates of customers switching.

9 Many customers do not see the message on their bill that says they could save if they switched to a better offer with their existing retailer or by visiting the Energy Made Easy website. One reason for this is many customers do not always open their bill and therefore do not see this message. There are several reasons this might occur. Many customers have direct debit arrangements that mean they are not required to open their bill in order to pay, they may find bills too confusing, or they may simply pay based on summary amounts provided in cover communications.

10 Evidence from research conducted by the Behavioural Economics Team of the Australian Government (BETA) shows that customers who are presented with opportunities to save are more likely to engage in the market and switch plans.

11 Our draft rule focuses on addressing the lack of awareness of the savings customers could

access from switching to their retailer's better offer. It will require retailers to include a message in communications about a customer's bill that notifies them that they could save by switching to a different plan offered or by visiting the Energy Made Easy website. For example, this message would be required in the cover email or cover letter that accompanies the bill.

12 We expect that this practical change to require the message's inclusion in additional communications will result in a greater number of customers seeing the message and taking action to switch to lower-cost plans. This would take the form of both customers engaging their retailer to switch to the deemed better offer or engaging in the broader retail market through Energy Made Easy.

13 In particular, our draft rule change, combined with the *Improving consumer confidence in retail energy plans* final rule, which restricts retailers from increasing prices more than once every 12 months for all existing and new market retail contracts, will help to ensure that customers are on better offers for longer.[1] The *Improving consumer confidence in retail energy plans* rule change will also limit the extent of the 'loyalty penalty' customers face through ensuring customers who are on market offers with benefits that change or expire do not pay more than the standing offer price.

The rule change is part of broader reforms to drive outcomes for consumers

14 Raising awareness of opportunities to save is important. However, we also acknowledge that there are barriers to engaging that are broader than this rule change can seek to address.

15 This rule change 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.

16 The *Assisting hardship customers* and *Improving consumer confidence in retail energy plans* rule changes published the final determinations on 19 June 2025. *Improving the application of concessions to bills* rule change will publish a draft determination soon.

17 There are also broader reforms to consumer protections underway. Some of the issues this rule change engages with are being examined more holistically through these processes.

Comparing plans and providers

18 The complexity customers face when engaging with the retail market is an issue that has been raised in broader reforms. Many customers find the retail market complex and confusing and have difficulty comparing alternative offers and/or retailers. Comparison costs are distinct from transaction costs and are a significant barrier to customer engagement. These costs include the time and effort required to understand and compare different offers from different retailers that might have varied pricing structures and characteristics.

19 The AEMC is undertaking a forward-looking review (The pricing review: Electricity pricing for a consumer-driven future) to consider future electricity products and services, and the prices that consumers pay for these. The objective of the pricing review is to ensure that the pricing framework supports the availability of the products and services that consumers want in the future, while also delivering a lower-cost system for all consumers. We are investigating if and how this review can address issues in the retail market to ensure the products and services needed will be available. This review could examine some of the underlying complexity of pricing that contributes to comparison costs customers face in engaging with the retail market.

1 AEMC, Improving consumer confidence in retail energy plans, rule determination, June 2025.

20 Costs associated with comparing plans are exacerbated by customers seeing plans with the same name (duplicate names), which makes it confusing for customers to know whether they are already on the deemed better offer when it has the same name as their existing plan. This issue has been identified by, among others, the Australian Consumer and Competition Commission (ACCC), the AER and CHOICE.[2]

21 We are supportive of the AER's work, in both the short and long term, to mitigate the confusion caused by plan names. The AER has published a decision document to address this issue and will consider the issue further in upcoming reviews of their retail guidelines.[3] We have engaged with the AER on this issue and shared the stakeholder feedback we have received.

Customer engagement, explicit informed consent and automatic switching to the best offer

22 We note that this rule change maintains the onus on customers to take action to switch to new contracts. A number of consumer advocates wanted this to be re-considered and retailers required to actively switch customers on their behalf.

23 This draft rule would not require retailers to automatically switch their customers to the deemed better offer. To introduce this obligation would require changes to the explicit informed consent (EIC) framework, which requires retailers to obtain the EIC of customers to transfer them onto a new retail contract. EIC requirements are enshrined in the National Energy Retail Law (NERL), and it is not within the AEMC's powers to amend these. We consider that EIC is an important way to recognise consumer agency and choice and, in line with our understanding of equity, EIC recognises that consumers have a diverse range of needs, experiences, and preferences that must be accounted for. We cannot assume that all customers want the same thing. As such, EIC allows customers to reflect their own preferences for non-financial benefits and services, as well as for newer energy services. It also plays a role in addressing the asymmetry of information that retailers have access to that customers do not, by requiring the provision of information that enables customers to exercise their preferences.

24 While this draft rule is focused on raising awareness of savings from switching, we have taken a different approach in the final rule of the *Assisting hardship customers* rule change. This rule includes a new principle that 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 no financially 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:

- providing a financial benefit under their current plan, such as a downward price adjustment so that the total bill would be no more than if they were on the deemed better offer that is lower cost than the offer the hardship customer is on if it's available, enduring discount or credit where they cannot obtain EIC to move to the deemed better offer, or
- obtaining EIC and moving a hardship customer onto the deemed better offer as per existing mechanisms in the NERL.

25 This different approach, reflects the vulnerable status of hardship customers, and the fact that these customers face more significant barriers to switching than other customers.

26 The EIC provisions under the NERL are an important consumer protection, and we would not recommend changes that weaken consumers' ability to make decisions that suit their preferences. Any reforms to EIC to ensure it is fit for purpose for the future, need to be done carefully and in a holistic way rather than via incremental reform.

2 CHOICE, The Power of Confusion: CHOICE 'super'complaint on energy plans, May 2025.

3 AER, Decision letter under section 37 of the Better Bills Guideline, May 2025.

27 The Department of Climate Change, Energy, the Environment and Water (DCCEEW) is progressing the Better Energy Customer Experiences (BECE) work to understand reforms needed to modernise and ensure the consumer protections framework is fit for purpose for the evolving energy market. As part of this, DCCEEW is assessing how the current protections regime is operating, including its strengths and weaknesses. This includes examining protections such as EIC and information provision requirements, and how these may need to evolve as the market transitions.

The draft rule promotes the National Energy Retail Objective and equitable outcomes for consumers

28 The Commission has considered the National Energy Retail Objective (NERO) and the issues raised in the rule change request.

29 We have carefully assessed the draft rule against our statutory objectives, leading us to make a more preferable draft rule. The more preferable draft rule would promote the NERO by reducing the number of customers who are paying more than they could be for their energy bills. This improved engagement of customers in the retail market also produces competition benefits that place downward pressure on prices. We consider these benefits are material, while the costs this draft rule would impose are minimal. The costs are low because this draft rule would require further communication of information retailers are already required to generate. Therefore, we consider this draft rule would promote the NERO and be in the long term interest of consumers.

30 We considered stakeholder feedback and considered costs and benefits in relation to the following criteria to assess whether the proposed rule change, no change to the rules (business-as-usual), or other viable, rule-based options are likely to better contribute to achieving the NERO. We assessed the draft rule against four assessment criteria:

- Outcomes for consumers - the draft rule would improve consumer outcomes by raising awareness of the potential savings available from switching. It recognises and builds on research into consumer insights and behaviours so is likely to have long-lasting impacts.
- Principles of market efficiency - the draft rule promotes innovation in products and services by encouraging customers to consider their options and reducing information asymmetry between retailers and consumers by providing consumers with information to take action in the market.
- Implementation considerations - the draft rule builds on current requirements (such as providing a better offer message on a bill) to minimise costs for retailers. Additionally, it uses established concepts to reduce complexity for customers and retailers. As the AER is already reviewing its guidelines, it also uses planned processes to reduce costs for the regulator.
- Principles of good regulatory practice - the draft rule aligns with current requirements in Victoria to display the better offer message, so is likely lower cost for retailers and better practice with this consistency.

31 We have sought to balance consumer protections and market efficiency to deliver policies to drive outcomes that best serve Australian energy consumers in the long term. The Commission considers that the draft rule aligns with our strategic vision for a consumer-focused net-zero energy system and our AEMC strategic priorities to inform, empower, and protect consumers individually and as a collective.

32 For this draft determination, we also had regard to promoting equitable energy outcomes. This complements the new guidance we have developed 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:

- removing structural barriers to engagement in the retail market through making the message to switch and save more accessible to customers
- avoiding creating or exacerbating vulnerability by increasing the number of customers who switch to better offers while minimising the cost imposition on retailers.
- the diversity of customer needs, experiences, and preferences by encouraging customers to engage with their retailers to find the offer that suits them.

33 We further note that improving equity through better access to information and removing to structural barriers to engagement also improves efficiency. Higher levels of switching and engagement with Energy Made Easy results in improved competition and more efficient outcomes that benefit all customers.

The draft rule would come into effect in September 2025

34 The draft rule would require the AER to update its *billing guideline* to specify that the better offer message is included in communications related to a bill, for example an email accompanying a bill.

35 The AER would be required to update their guideline by 30 September 2026 to reflect this rule change.

The Commission has considered stakeholder feedback in making its decision

36 We published a Consultation Paper on 6 February 2025, which set out the nature of the problem identified in the rule change request and two main implementation approaches for reducing transaction costs.

37 Since submissions closed on 6 March 2025, we have further engaged with stakeholders to characterise the issue and explore solutions. This input has been valuable in informing this draft determination.

38 We welcome further engagement with stakeholders, including through submissions to this draft determination, due 31 July 2025.

How to make a submission

We encourage you to make a submission

Stakeholders can help shape the solution by participating in the rule change process. Engaging with stakeholders helps us understand the potential impacts of our decisions and contributes to well-informed, high quality rule changes.

How to make a written submission

Due date: Written submissions responding to this draft determination [and rule] must be lodged with Commission by 31 July 2025

How to make a submission: Go to the Commission's website, www.aemc.gov.au, find the "lodge a submission" function under the "Contact Us" tab, and select the project reference code RRC0062.[4]

Tips for making submissions on rule change requests are available on our website.[5]

Publication: The Commission publishes submissions on its website. However, we will not publish parts of a submission that we agree are confidential, or that we consider inappropriate (for example offensive or defamatory content, or content that is likely to infringe intellectual property rights).[6]

Next steps and opportunities for engagement

There are other opportunities for you to engage with us, such as one-on-one discussions or industry briefing sessions.

You can also request the Commission to hold a public hearing in relation to this draft rule determination.[7]

Due date: Requests for a hearing must be lodged with the Commission by 26 June 2025.

How to request a hearing: Go to the Commission's website, www.aemc.gov.au, find the "lodge a submission" function under the "Contact Us" tab, and select the project reference code RRC0062**.** Specify in the comment field that you are requesting a hearing rather than making a submission.[8]

For more information, you can contact us

Please contact the project leader with questions or feedback at any stage.

Project leader:	Max Bonic
Email:	max.bonic@aemc.gov.au

4 If you are not able to lodge a submission online, please contact us and we will provide instructions for alternative methods to lodge the submission

5 See: https://www.aemc.gov.au/our-work/changing-energy-rules-unique-process/making-rule-change-request/our-work-3

6 Further information about publication of submissions and our privacy policy can be found here: https://www.aemc.gov.au/contact-us/lodge-submission

7 Section 258(2) of the NERL.

8 If you are not able to lodge a request online, please contact us and we will provide instructions for alternative methods to lodge the request.

Contents

1 The Commission has made a draft determination

This draft determination is to make a more preferable rule in response to a rule change request submitted by the Hon Chris Bowen MP, Minister for Climate Change and Energy the Environment and Water about improving the ability for customers to switch to a better offer. We are seeking feedback on this draft rule.

This draft determination has the following structure:

- This chapter outlines our process for deciding to make a more preferable draft determination.
- Chapter 2 discusses the key barriers customers face in switching as well as related issues raised through stakeholder engagement.
- Chapter 3 outlines how our rule would operate, including how we consider the AER would implement this draft rule.
- Chapter 4 assesses our draft rule against our assessment criteria and discusses how our draft rule would achieve the NERO.
- Appendix A sets out the rule making process.
- Appendix B sets out the relevant legal tests and requirements to make a more preferable draft rule.
- Appendix C discusses other issues raised by stakeholders that are not discussed in the main document.

1.1 The rule change request seeks to increase the number of customers who switch to a better offer

On 12 and 28 August 2024, the Hon Chris Bowen MP, Minister for Climate Change and Energy, the Environment and Water, as Chair of the Energy and Climate Change Ministerial Council (ECMC) (the proponent), submitted a package of consumer-related rule change requests.[9]

The Australian Energy Regulator (AER)'s Better Bills Guideline (BBG) requires customers' bills to contain an important message ('the better offer message') that alerts customers to opportunities to save by switching to a different plan ('deemed better offer'), how they can switch, and a prompt to visit the Energy Made Easy website to compare offers from other retailers.

The rule change request states that high transaction costs associated with switching to the deemed better offer result in there being a large number of customers who could be paying less for their energy if they switched to another offer with their retailer (ofter referred to as 'product switching').[10] The rule change request states that these transaction costs represent a market failure, and proposes a rule change to require retailers to provide a streamlined process for switching to the deemed better offer.

1.2 Customers who switch regularly achieve better price outcomes

As identified in the rule change request, the Australian Competition and Consumer Commission's (ACCC's) December 2023 Inquiry into the National Electricity Market (NEM) report found that:[11]

- "customers may achieve better price outcomes if they switch regularly

9 See the broader package here: https://www.aemc.gov.au/rule-changes/improving-ability-switch-better-offer.

10 ACCC December 2023 Inquiry into the National Electricity Market, p. 5.

11 ACCC, Inquiry into the National Electricity Market, December 2023, p. 69.

- customers need to continually re-engage in the market to obtain the benefits of competition
- customers who have not switched are more likely to pay higher prices”

Furthermore, the ACCC found in the December 2024 Inquiry into the NEM report that 81 per cent of customers could be on a better offer.[12] Thus, there is a significant number of customers who could realise savings on their energy bill through switching.

The level of savings available for these customers is not fully clear. For some it could be significant, while for others it could be marginal. The ACCC report that

- “customers on flat rate offers that are two or more years old have calculated annual prices on average 16.9 per cent or $317 higher than those on newer offers.”[13]
- while 22.3 per cent of customers pay more than the default market offer (DMO), roughly half of these are paying within 1-5 per cent of the DMO.[14]
- For customers on plans two or more years old, 35.5 per cent are paying above the DMO, with approximately 75 per cent of these paying within 10 per cent of the DMO.[15]

Energy Consumers Australia (ECA) provided in their submission that the figures that the ACCC reported imply potential savings across the market in excess of $800 million.[16] The figures quoted by the ACCC are derived from looking at the age of retail contracts and available offers in the market. Thus, this analysis also includes opportunities to save through switching to another retailer. This means that some of these savings might be broader than the scope of this rule change, which seeks to improve rates of product-switching, i.e., moving to a different plan with the same retailer.

Increasing customer engagement in the market allows more customers to switch to cheaper offers. A higher rate of switching also improves market efficiency and encourages retail innovation to reduce costs and meet the varied needs of their customers.

1.3 Our rule change would likely increase the number of customers who switch

This draft rule would provide customers with a message that they could save if they switched to a different plan or by visiting the Energy Made Easy website, in communications that they receive related to the bill. We think this would increase awareness and switching rates because:

- often customers do not know that they could be saving money
- evidence indicates that presenting customers with potential savings messages increase engagement and the likelihood of switching.

These two arguments are set out in chapter 2.

Our draft rule addresses this by requiring the AER to update its *billing guideline* to improve visibility of opportunities to save. This is set out in chapter 3.

1.4 Stakeholder engagement has informed our decision

We published a Consultation Paper on 6 February 2025, which sought feedback on the extent to which transaction costs are impeding switching as well as two main implementation approaches

12 ACCC, Inquiry into the National Electricity Market, December 2024, p. 54.
13 ACCC, Inquiry into the National Electricity Market, December 2024, p. 3.
14 ACCC, Inquiry into the National Electricity Market, December 2024, p. 28.
15 ACCC, Inquiry into the National Electricity Market, December 2024, p. 49.
16 ECA, submission to the consultation paper, 6 March 2025, p. 3.

for reducing transaction costs. Since submissions closed on 6 March 2025, we have further engaged with stakeholders to characterise the issue and explore solutions.

1.4.1 Stakeholder feedback shaped the key issues

We received 17 submissions to the Consultation Paper. Of these, 11 supported implementing a rule change to increase product switching rates, while five stakeholders explicitly opposed a rule change, citing insufficient evidence that transaction costs were the key impediment to product switching.

The Consultation Paper outlined two approaches a rule change to streamline switching processes might take, namely a prescriptive approach and a principles-based approach. Stakeholders generally did not support taking a prescriptive approach. However, some stakeholders suggested a number of ways in which this rule change may go further, including through automatic switching.

Through our engagement, our areas of investigation have evolved to focus on three main issues. These are:

- the key barriers to customer engagement in the retail market
- existing product switching processes provided by retailers
- the impacts of a rule change on customer engagement and retailers' costs.

Stakeholder submissions, targeted engagement with key stakeholders, and market research conducted by other market bodies, regulators, government teams, and consumer representatives, including, in particular, the ACCC and the Behavioual Economics Team of the Australian Government (BETA), have contributed heavily towards our views on the above issues. Ultimately, our views on these three issues have informed our draft determination.

2 Low awareness of savings is resulting in reduced customer switching

There are two main opportunities for improving switching rates that emerged from stakeholder feedback.

These two opportunities are:

- Improving awareness of lower-priced plans: we have determined this to be the primary opportunity and the focus of this draft determination and rule change.
- Reducing transaction costs of switching: there was little supporting evidence that this is the primary issue, and we have not identified any changes that could be made that would address this in a way that would increase switching rates. These are the time and effort costs of switching once the decision has been made to switch and are distinct from comparison costs, which represent a real barrier.

In addition, there were two related issues that were raised that are out of scope for the rule change. These are comparing plans and retailers, and automatic customer switching. These are matters being considered via other processes and are discussed further below.

2.1 There is low awareness of lower-priced plans

We have found that the primary opportunity to increase the rates at which customers switch to their retailer's better offer is to increase awareness of the better offer message, and the savings they could access. Low engagement with energy bills is contributing to low rates of customers switching. This represents a barrier to engagement in the market. Mitigating the impact of low engagement with bills promotes more equitable outcomes in the market.

2.1.1 Currently, not all customers know the savings they could achieve by switching

The AER's BBG requires customers' bills to contain an important message ('the better offer message') that alerts customers to opportunities to save by switching to a different plan ('deemed better offer'), how they can switch, and a prompt to visit the Energy Made Easy website to compare offers from other retailers.[17]

Evidence from market research reports, including research conducted by the AER's Behavioural Insights Team (BIT) on the better offer notice on bills, found that many customers do not open up and look at their actual bill.[18] This research corroborated research BIT conducted for the Essential Services Commission (ESC) in Victoria in 2018, which found that roughly 40 per cent of customers would pay their bill without opening and reading it.[19]

There are several reasons this might occur. Customers may have direct debit arrangements that mean they are not required to open their bill in order to pay, they may find bills too confusing, or they may simply pay based on summary amounts provided in cover communications. This could also feasibly be a simple case of customers being busy when trying to pay bills and simply following a payment link in a cover email rather than opening their bill. As a result, many customers who have not switched in some time, may not be aware of savings, and miss this important information.

17 AER, Better Bills Guideline - Version 2, January 2023.

18 AER Behavioural Insights Team, Testing the better offer notice on energy bills - Final report, February 2022. ESC, Victorian Energy Market Report, September 2023, p. 8.

19 BIT, Testing the impact of behaviourally informed energy bills and best offers, 2018, p. 35.

AGL and Energy and Water Ombudsman Victoria (EWOV) identified in their submissions that low engagement with energy bills contributes to low rates of customers switching to the deemed better offer.[20] This is also provided as a potential cause of low switching rates in the ESC's September 2023 Victorian Energy Market Report.[21]

In their submission to the consultation paper, EnergyAustralia noted that the key barrier to switching may be perceived savings.[22] AGL and the AEC also noted this as a potential barrier to switching.[23] This is supported by evidence from the ECA's June 2024 Energy consumer sentiment survey, which found that the most common reason why customers do not switch is that the savings were not considered worth it.[25] Given that customers don't always see the better offer message, they may not fully know the potential savings available. The savings could be more substantial than they realise. The draft rule, by requiring retailers to communicate the deemed better offer message more broadly, better informs customers of potential savings, while also prompting them to investigate better offers elsewhere.

2.1.2 Seeing the better offer message increases switching

Evidence from market research shows that customers who are presented with opportunities to save are more likely to engage in the market and switch products.[26]

BETA has conducted a post-implementation evaluation research on the impact of the BBG. One of the findings of this research is that the deemed better offer message, which retailers have been required to provide since September 2023, is an effective tool for prompting customers to engage in the retail market. Since the introduction of the guideline, a greater proportion of customers who visit Energy Made Easy do so as a result of seeing the deemed better offer message. Furthermore, a greater number of customers who visit Energy Made Easy have not switched retailers before.[27] This research shows that the deemed better offer message is effective in encouraging proactive engagement in the market. The methodology and findings of BETA's research are discussed in more detail below.

BETA research into the impact of the Better Bills Guideline

BETA is the Australian Government's unit dedicated to applying behavioural economics to public policy questions. In 2023-2024, they conducted, in partnership with the AER, a review of the impact of the BBG on customers' comprehension of bill contents and engagement in the retail market. In order to examine these impacts, BETA:[28]

- monitored Energy Made Easy usage
- interviewed consumers and collected eye tracking data
- ran an expert review activity.

The findings of this research have been instrumental in informing our position on the most effective ways to improve product switching rates, particularly by engaging otherwise disengaged customers. Evidence from this evaluation research into the BBG shows that the deemed better

20 AGL, submission to the consultation paper, 6 March 2025, p. 6.EWOV, submission to the consultation paper, 6 March 2025, p. 2.

21 ESC, September 2023 Victorian Energy Market Report, p. 8.

22 EnergyAustralia, submission to the consultation paper, 6 March 2025, p. 6.

23 AGL, submission to the consultation paper, 6 March 2025, p. 6.

25 ECA, Energy consumer sentiment survey, June 2024.

26 AER, submission to the consultation paper, 13 March 2026, p. 2.

27 AER, submission to the consultation paper, 13 March 2026, p. 2.

28 [BETA in 2024: Behavioural insights with impact | Behavioural Economics]

offer message is effective in engaging customers who would otherwise not have engaged in the market.

The research used a pop-up survey on Energy Made Easy, as well as Google Analytics, to better understand the factors driving engagement with the website. The proportion of customers on Energy Made Easy who were using the site as a result of having seen it on their energy bill increased from seven per cent pre-implementation of the BBG to 23 per cent two months post implementation, when the link to Energy Made Easy began to be featured on the first page in the deemed better offer message.[29] This proportion fluctuated slightly in subsequent months but remained near those levels.

Of those customers who reported visiting Energy Made Easy as a result of seeing it on their deemed better offer message, more than 60 per cent had never switched retailers before.[30] Engagement with Energy Made Easy and the propensity of customers to switch retailers is not directly the purpose of this rule change, which seeks to improve the rates at which customers switch to the deemed better offer. However, this insight is informative for two reasons. Firstly, this speaks to the ability of the deemed better offer message to engage customers generally in the retail market. Secondly, we consider that while improving the rate at which customers switch to the deemed better offer is the objective of this rule change, an added benefit of achieving this objective is likely to be better engagement in the retail market more generally. This includes improving the number of customers who engage with offers from other retailers. This is likely to be the outcome since the mechanism by which this rule change would improve switching rates is through engaging otherwise disengaged customers.

Another finding of the research is that absent of a better offer message, consumers are more likely to consider changing their energy usage habits in order to save than switching retailers. By extending the provision of the deemed better offer message to communication documents separate to a bill (for example the cover email to a bill), and removing the necessity for customers to open their energy bill to see the message, a greater number of customers would engage with the message and by extension with the retail market. This approach maximises the number of customers who engage with the retail market and the likelihood they will proactively switch. We anticipate this will result in more customers paying less for their electricity.

2.1.3 Our rule change would increase visibility of potential savings

The draft rule, by extending the provision of information pertaining to customers' ability to compare plans, would remove the necessity that customers open bills in order to see the deemed better offer message. Improving the visibility of the deemed better offer message would increase the number of customers who realise the benefits identified by BETA's evaluation research by engaging in the retail market.[31]

This draft rule will operate with the AEMC's *Improving consumer confidence* rule change to help address the loyalty penalty issues.[32] This rule change will limit the extent of the 'loyalty penalty' customers face through ensuring customers who are on market offers with benefits that change or expire do not pay more than the standing offer price.

29 AER, submission to the consultation paper, 13 March 2026, p. 2.

30 AER, submission to the consultation paper, p. 2.

31 AER, submission to the consultation paper, 13 March 2026, p. 2.

32 AEMC, Improving consumer confidence, Rule Determination, 19 June 2025.ACCC, Inquiry into the National Electricity Market, December 2024, p. 3.

We consider that customer disengagement of this sort is likely to manifest as one of the barriers discussed in the next section, such as disengagement with energy bills. Thus, the draft rule would work in tandem with other reforms to mitigate the issue of customer inertia.

See chapter 3 for how this rule would work.

2.2 Customers face limited switching barriers

The ACCC's December 2024 Inquiry into the NEM report found that 81 per cent of customers could pay less if they switched to another offer.[33] The rule change request cites this figure and attributes the number to the time and effort required of customers to switch (transaction costs). The rule change request does not provide any evidence that transaction costs are the primary factor causing low switching rates. We have engaged extensively with stakeholders to understand the transaction costs customers face, as well as the other barriers customers face associated with the switching process. Our assessment is that opportunities to improve the rate at which customers engage in the market through a rule change to streamline the switching process are limited.

2.2.1 Stakeholder views on the key barriers to switching varied

Some stakeholders supported the view taken in the rule change request that transaction costs are the barrier that prevents customers from switching to the deemed better offer. SAPN commented in their submission that "customer feedback obtained through SAPN's community engagement and through our Vulnerable Customer Advisory Group... supports the view that transaction costs are a key barrier and disproportionately affect vulnerable customers."[34] WSU Urban Transformations Research Centre and ECA agreed, with ECA commenting, "Yes, transaction costs are a major barrier to customer switching. It takes considerable time and effort to switch one's retail plan, and most people don't have the time or don't care."[35] The Energy and Water Ombudsmen of NSW, Queensland and South Australia, in a joint submission, spoke to the confusion customers face, as well as difficulties in reporting issues associated with the switching process, stating "We have repeatedly seen that the issues arising from switching and transfer processes do not fit neatly into typical energy complaint categories."

EWOV and the Justice and Equity Centre agreed that transaction costs are impeding customers from switching, but considered that this is just one of a number of barriers customers face, with EWOV noting that there are "a range of more common difficulties consumers experience when seeking to switch from their current plan to the best offer."[36]

Some stakeholders, particularly retailers, did not consider that transaction costs were a significant barrier to customer switching rates. AGL, EnergyAustralia, Alinta and ENGIE disagreed with the position that transaction costs are too high and lead to lower product switching among customers, with AGL commenting "there is no evidence to suggest that the low better offer uptake is a failure of the market or is a result of high transaction costs."[37] The AEC further commented that "there are various reasons why a customer may decide not to switch" and that "retailers are incentivised to make the process of switching to the best offer as streamlined, short and safe as possible to remain competitive."[38] ENGIE, AGL and EnergyAustralia consider that the process of

33 ACCC, Inquiry into the National Electricity Market, December 2024.

34 SAPN, submission to the consultation paper, 6 March 2025, p. 2.

35 ECA, submission to the consultation paper, 6 March 2025, p. 3.
WSU Urban Transformation Research Centre, submission to the consultation paper, 6 March 2025, p. 1.

36 JEC, submission to the consultation paper, 6 March 2025, p. 3.EWOV, submission to consultations paper, 6 March 2025, p. 2.

37 AGL, submission to the consultation paper, 6 March 2025, p. 4.

switching is already very simple, and that transaction costs are minimal. ENGIE further added that where transaction costs exist, they are often related to acquiring explicit informed consent, commenting that "it is difficult to see how the process could be made simpler, or reduce transaction costs, without reconsidering explicit informed consent requirements."[39]

2.2.2 We have evaluated some key barriers related to switching

Transaction costs

The Commission has engaged with stakeholders extensively, including with a stakeholder that provides product switching services to customers. Transaction costs are the time and effort required to switch plans. Engagement generally indicated that transaction costs associated with switching to the deemed better offer being limited. To this extent, the Commission considers that a rule change to reduce transaction costs would not be as effective as the draft rule in improving customer engagement with the market.

Feedback from retailers in particular generally emphasised that switching is a simple process and that transaction costs are already relatively low. Several stakeholders who supported a rule change to streamline switching processes cited the ECA's June 2024 Energy consumer sentiment survey, in which it is reported, among other factors, that 25 per cent of customers who considered but did not follow through with switching said that it was too time-consuming.[40] We note that the same survey provided that the 'savings didn't make it worth it' was the most common response to the same question, with 28 per cent of households selecting this option.[41] We further consider that customers who considered the switching process to be too complicated, confusing or time-consuming, may do so on the basis of barriers other than the transaction costs associated with switching to the deemed better offer. These could include, for example, comparison costs or confusion as to duplicate plan names.

A rule change to reduce transaction costs by requiring retailers to provide a streamlined switching process would likely only impact customers who are already engaged in the market. This is because customers would need to engage in the market by undertaking the product switching process to experience any reduced transaction costs. We consider that too few customers are currently engaged in the market. Because we consider transaction costs are not significant, and because reducing them would not engage otherwise disengaged customers, a rule change to reduce transaction costs is likely to have minimal benefit.

Transaction costs due to EIC requirements

Some of the transaction costs faced by customers relate to Explicit Informed Consent (EIC) requirements. Retailers must have the EIC of customers before entering into a new contract with them. In the case of switching over the phone, this means that customers must listen to a script provided by the retailer before switching. In the case of switching online, this requires a customer to read and agree to the terms and conditions of the contract they are entering into. It is not in the AEMC's power to amend or reduce EIC requirements as these are enshrined in the law.[42] See section 2.3.2 for further detail.

38 AEC, submission to the consultation paper, 6 March 2025, p. 1.

39 ENGIE, submission to the consultation paper, 6 March 2025, p. 3.

40 ECA, Energy consumer sentiment survey, June 2024.

41 Note that options were not mutually exclusive.

42 See Division 5 of Part 2 of the National Energy Retail Law.

Some stakeholders suggested that product switching over the phone is time-consuming and cited call wait times as a cause of this. The AER reports on call wait times in their Annual Retail Market Reports. Evidence from the November 2024 report shows that call wait times are generally low (3-7 minutes), though complaints about call wait times are increasing.[43] A rule change to reduce call wait times could require retailers to hire more staff or extend working hours. This represents a potentially significant cost for retailers, which customers ultimately face, for an unclear benefit.

Connection between retailers' plan comparison pages and the deemed better offer

The link provided to customers on the deemed better offer notice typically takes customers to the retailer's product page to compare their offers. This does not identify which is the deemed better offer but will list the available plans and their characteristics. This could potentially be confusing for customers who visit the plan comparison page as a result of seeing the deemed better offer identified on their bill. They may expect to see the better offer identified for them. The Commission considers, however, that a rule change should not be made to rectify this issue.

Addressing this may not be in customers' best interest

A direct link to the deemed better offer may not be in the customer's best interest. The deemed better offer check that retailers must conduct and present on customers' bills are calculations that reflect a point in time. Thus, these may not be reflective of the best offer at the time the customer opens their bill or sees the deemed better offer message. There are also simplification elements that are required for the deemed better offer check that retailers conduct that may mean the process misses other options that might be in the customers' interest. Therefore, the retailer's product comparison page on their website would be the most up-to-date source of information, rather than the deemed better offer message.

Engagement with retailers also revealed that they use customer engagement to 'health check' or triage the customer's existing arrangement. This potentially includes checking if concessions or payment difficulty arrangements could be applicable. Requiring retailers to provide a direct link to the deemed better offer message may mean that this opportunity is lost. A rule change to improve engagement in the retail market should not stifle opportunities for retailers to proactively improve outcomes for their customers.

Furthermore, innovative products are often not part of the deemed better offer calculation. Innovative products may have characteristics that small customers may want. Customers may be able to select these offerings online, or retailers may be able to consider if these products better suit the customer over the phone. Retail innovation is a positive feature of the market that allows retailers to meet the varied needs of their customers. Fostering improved engagement in the retail market generally, further allows for innovative products to emerge. Recognising and accommodating the varied needs, experiences, and preferences of customers is important for achieving more equitable outcomes.

This would not be best addressed through a rule change

A rule change to address this issue would be complicated and potentially unworkable. The BBG specifies that retailers must provide clear instructions for switching to the deemed better offer.[44] This typically manifests as retailers providing a link to their product comparison webpage. If reforms were required to rectify this issue, the BBG would be the most appropriate tool for actioning this.

43 AER, Annual Retail Market Report 2023-24, 30 November 2024.

44 AER, Better Bills Guideline - Version 2, January 2023.

The Commission also does not consider the benefits of a rule change to rectify this issue are likely to be significant. No stakeholder submissions to the consultation paper raised this issue, nor was this issue revealed through subsequent engagement with stakeholders. Staff-level examinations of the product-switching process provided by retailers revealed this potential opportunity for streamlining. However, resolving this issue through a rule change would also require retailers to redevelop their product comparison webpages. Feedback from stakeholders suggests that the costs associated with website upgrades are potentially significant, particularly for small retailers. Thus, we consider the benefits of a rule change to mitigate this issue are likely to be minimal, while costs could be significant.

2.3 Two other issues were raised but are out of scope of this rule change

There are two other key issues that have been raised in relation to this rule change. These issues are being considered in other ongoing workstreams.

- Duplicate plan names exacerbate the complexities of comparing plans and retailers
- Automated switching and explicit informed consent

2.3.1 Complexity of comparing plans and retailers

It is important that customers can compare plans and switch easily. Retail plans often have varying characteristics with different price structures, and comparing these is complicated. Furthermore, different retailers have different processes and offer different products.

Comparison costs, then, are most pertinent in switching between retailers. The complexity customers face engaging with the retail market is an issue that has been raised in broader reforms. Many customers find the retail market complex and confusing and have difficulty comparing alternative offers and/or retailers. Comparison costs are distinct from transaction costs and a significant barrier to customer engagement. These costs include the time and effort required to understand and compare different offers from different retailers that might have varied pricing structures and characteristics.

The AEMC is undertaking a forward-looking review, called the pricing review, to consider future electricity products and services, and the prices that consumers pay for these.[45] The objective of the pricing review is to ensure that the pricing framework supports the availability of the products and services that consumers want in the future, while also delivering a lower-cost system for all consumers. We are investigating if and how this review can address issues in the retail market to ensure the products and services needed will be available.

While switching between retailers is not within scope for this review, we consider that our draft rule will have a positive impact in this regard. Evidence from BETA's evaluation research shows that the deemed better offer message is effective in prompting customers to visit Energy Made Easy.[46] Energy Made Easy is one of the ways in which comparison costs are simplified for customers, and encouraging greater engagement with it reduces comparison costs for consumers. Furthermore, improved visibility of the deemed better offer also reduces comparison costs for customers. Retailers are required to provide, where available, information on the cheapest plan a customer can access. This represents an opportunity for customers to save without needing to switch retailers or actively compare with other plans.

45 AEMC, The pricing review: Electricity pricing for a consumer-driven future

46 AER, submission to the consultation paper, 13 March 2026, p. 2.

The complexities associated with comparing plans is exacerbated by the reuse of plan names. Particularly in regard to the deemed better offer message, customers are confused by the presentation of opportunities to save by switching to a plan that has the same name as the plan they are currently on.[47] The AER is working to resolve this issue, which will further improve the efficacy of this draft rule.

The AER is working to mitigate the duplicate plan name issue

The AER has published a paper outlining their interim solution to an issue that has arisen in relation to switching to a better offer several times.[48] In the ACCC's December 2024 Inquiry into the NEM report, they raised the issue that customers may not understand the deemed better offer message as the deemed better offer may present an alternative plan with the same name as the plan they are currently on.[49] The report further suggests that this may be a key barrier to the BBG resulting in improved product switching rates among customers. This issue was again raised in the proponent's submission to the Consultation paper, and has been discussed in several stakeholder meetings.[50]

The AER's decision is to require retailers who reuse plan names to provide additional tier one information on customers' bills.[51] This information is to be provided under the deemed better offer message, and will state that customers may still have access to the quoted savings, even if the plan name is the same, and that customers should contact their retailer to find out more.

This is an interim decision to address this issue in the short term. A more permanent solution, which may or may not differ from the current approach, will be implemented with the completion of the ongoing reviews of the Retail Pricing Information Guidelines (RPIG) and the BBG. RPIG is responsible for the marketing and naming of retail plans and the plan information that retailers must provide. The BBG outlines how retailers must provide information on bills. The AER is thus best placed to manage this issue through one or both of these guidelines.

This rule change would represent a mutual benefit with the work the AER is conducting to enhance the efficacy of the BBG. Through improving the visibility of the deemed better offer message, this rule would amplify the benefits of the BBG. That is to say, to the degree which the BBG increases the likelihood that a customer who sees the deemed better offer message will switch to the deemed better offer, visit Energy Made Easy, or otherwise engage in the retail market, increasing the number of customers who see the message would increase customer engagement in the market.

Similarly, the AER's work to resolve the duplicate naming issue removes a barrier currently faced by customers to switching. This improves the efficacy of the deemed better offer message in engaging otherwise disengaged customers. This, in turn, would enhance the efficacy of this rule in improving customer engagement in the market and reducing the number of customers who could pay less through switching.

2.3.2 Several stakeholders proposed to require automated switching

ECA, SACOSS and Justice and Equity Centre considered in their submissions that we should make a rule to require retailers to automatically switch their customers onto their best offer. As noted in

47 CHOICE, The Power of Confusion: CHOICE 'super' complaint on energy plans, May 2025, p. 11.

48 AER, Section 37 decision for retailers re-using plan names, 23 May 2025.

49 ACCC, Inquiry into the National Electricity Market, December 2024, p. 54.

50 Federal Minister for Climate Change and Energy, submission to the Consultation Paper, 4 March 2025.

51 AER, Section 37 decision for retailers re-using plan names, 23 May 2025.

these submissions, this has interactions with the EIC requirements that are enshrined in the National Energy Retail Law (NERL).[52] The law requires that retailers obtain the EIC of customers before entering into a new contract. Switching retail plans to the deemed better offer requires entering into a new contract, thus the retailer cannot currently place a customer on the deemed better offer without the explicit informed consent of the customer.

This is an important consumer protection that the AEMC does not have the power to remove or amend. Any change to explicit informed consent would need to be carefully considered through a review of the National Energy Customer Framework (NECF). Any reforms to EIC to ensure it is fit for purpose for the future, need to be done in a holistic way rather than via incremental reform. The current review of the evolution of the consumer protection framework through the Energy Minister's BECE process, provides an opportunity to examine this issue further.

The final rule for *Assisting hardship customers* includes a new principle that 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 no financially worse off than if they were on the deemed better offer.[53] The final rule affords flexibility to the retailer in how they must meet this new principle — either by:

- providing a financial benefit under their current plan, such as a downward price adjustment so that the total bill would be no more than if they were on the deemed better offer that is lower cost than the offer the hardship customer is on if it's available, enduring discount or credit where they cannot obtain EIC to move to the deemed better offer, or
- obtaining EIC and moving a hardship customer onto the deemed better offer as per existing mechanisms in the NERL.

This reflects the vulnerable status of hardship customers, and the fact that these customers face more significant barriers to switching than other customers.

The EIC provisions under the NERL are an important consumer protection, and we would not recommend changes that weaken EIC. Any reforms to EIC to ensure it is fit for purpose for the future, need to be done in a holistic way rather than via incremental reform.

52 See Division 5 of Part 2 of the National Energy Retail Law.

53 AEMC, Assisting hardship customers, rule determination, June 2025.

3 How our rule would operate

The draft rule would do two things:

- extend the requirements for the *billing guideline* to communications related to billing
- require the AER to update the *billing guideline* to address how retailers should provide comparison information in communications, as well as bills.

3.1 Our draft rule would extend the billing requirements to communications related to billing

The draft rule would extend the scope of the *billing guideline* to communications documents related to billing. This would allow the AER to make requirements about the information retailers provide small customers in separate communications documents, such as bill summaries or cover letters, rather than only on bills.

This accommodates the subsequent draft rule discussed below, which makes provisions for additional information the AER must require retailers to provide.

We expect that this expanded scope would require additional resourcing from the AER. This will not only expand the scope of the upcoming review of the BBG that the AER is conducting, but will require additional resourcing from the AER's monitoring and enforcement functions in educating retailers and promoting compliance.

3.2 The AER would implement this through an update to the *billing guideline*

Box 1: The AER would update their *billing guideline* to require information in written communications separate to bills

- The draft rule would require the *billing guideline* to specify that comparative information is included in written communications separate to a bill
- The AER would retain ownership in its guideline over what information is required and the form in which it must be provided
- The AER would be required to update their guideline by 30 September 2026 to reflect this rule change

The AER's BBG outlines the information that retailers must include in the bills they provide to customers, and the manner in which it must be provided. The AER sets the guideline in accordance with Rule 25A of the NERR.[54] The draft rule would amend rule 25A to extend the provision of comparative information the AER currently requires retailers to provide in bills to also include written communications. This would be implemented through an update to the *billing guideline*.

This draft rule would amend Rule 25A by inserting, following subrule 25A(6), a subrule (7)

In the *billing guideline*, the AER must specify that a retailer must provide

54 See rule 25A of the NERR.

comparative information for the purposes of subrule (3)(c)(ii) to a small customer in written communications separate to a bill, in the manner and form required by the *billing guideline*.

We envisage that the form this takes is for the deemed better offer message to be included in supplementary communications documents, such as covering emails to bills if the customer has consented to these, or cover letters to physical bills. The Commission considers that the AER should retain ownership of the particular information the guidelines require retailers to provide, including the form that information takes. We consider this as the AER regularly undertakes behavioural research to ensure this messaging is effective. The message should clearly identify opportunities to save, as well as the process available to customers to switch. This approach achieves the desired outcome of improving the visibility of the deemed better offer message, while providing the AER with the flexibility to update the nature of the information the guideline requires under the objective described in subrule 25A(3)(c)(ii).

The draft rule includes a transitional requirement for the AER to update their guidelines to reflect the change to Rule 25A.

This timeline aligns with the timeline for the update to the guidelines required under the *Assisting hardship customers* rule change.[55] This prevents duplicative requirements and minimises regulatory burden on the AER.

3.2.1 We envisage the deemed better offer message would appear on communications documents

Box 2: Improving visibility of the deemed better offer message likely increases the number of customers who would switch and save money on their energy.

- We have identified the key barriers customers likely face in switching to the deemed better offer. These are discussed in chapter 2
- For each of these barriers, we have assessed the extent to which they impede customer switching, and determined, where necessary, the best approach for addressing them
- This process, informed by stakeholder engagement and market research, determined that the most appropriate approach is to improve the visibility of the deemed better offer message

Stakeholder engagement and market research have informed our assessment of each of the barriers identified in chapter 2, including, where applicable, how to best address them. The Commission considers that including the deemed better offer message in the supplementary communications documents to bills most effectively targets the key barriers identified, while minimising cost impositions on retailers and building on the strengths of other ongoing regulatory workstreams.

As described in chapter 2, the deemed better offer message is effective in engaging customers in the retail market.[56] Currently, this message is only provided on bills, and therefore many customers do not see the message. We envisage that the AER would update their guideline to reflect this rule change by requiring retailers to present the deemed better offer message on supplementary communications documents, particularly cover emails to bills. This would result in

55 AEMC, Assisting hardship customers, Rule determination, June 2025.

56 AER, submission to the consultation paper, 13 March 2026, p. 2.

customers who do not currently check their bill seeing the deemed better offer message. This improved visibility of opportunities to save would result in a greater number of customers engaging in the retail market and proactively switching. Evidence from the ACCC's Inquiry into the NEM reports show that disengaged customers who have been on the same plan for an extended period of time are more likely to pay more for their energy bills.[57] Thus, engagement with the market and proactive product switching reduces costs for those customers who would not otherwise have switched.

57 ACCC, Inquiry into the National Electricity Market, December 2024, p. 4.

4 The rule would contribute to the energy objectives

We have sought to balance consumer protections and market efficiency to deliver policies to drive outcomes that best serve Australian energy consumers in the long term. The Commission considers that the draft rule aligns with our strategic vision for a consumer-focused net-zero energy system and our AEMC strategic priorities to inform, empower, and protect consumers individually and as a collective.

The more preferable draft rule would promote the National Energy Retail Objective (NERO) by reducing the number of customers who are paying more than they could be for their energy bills. This improved engagement of customers in the retail market also produces competition benefits that place downward pressure on prices. The draft rule would impose minimal costs on retailers to implement, while the benefits for consumers who are encouraged to switch are significant.

The Commission compared a range of viable policy options that are within our statutory powers. The Commission analysed these options:

- the rule proposed in the rule change request, which would require retailers to provide a streamlined process for customers to switch to the deemed better offer
- a business-as-usual scenario where we do not make a rule
- a more preferable rule featuring a requirement for the AER to update their *billing guideline* to include guidance on providing small customers with information on opportunities to save by switching plans in supplementary communication documents.

The Commission's analysis for this rule change involved identifying the stakeholders impacted and assessing the benefits and costs of policy options. The depth of analysis was commensurate with the potential impacts. The Commission focused on the types of impacts within the scope of the NERO.

The Commission evaluated the primary potential costs and benefits of policy options against the assessment criteria. Based on this analysis, the Commission considers that this more preferable draft rule would best meet the NERO by generating benefits for consumers through improved switching rates while imposing minimal costs on retailers who are already required to create and communicate better offer messages.

4.1 The Commission must act in the long-term interests of energy consumers

The Commission can only make a rule if it is satisfied that the rule will or is likely to contribute to the achievement of the relevant energy objectives.[58]

For this rule change, the relevant energy objective is the NERO:

The NERO is: [59]

> to promote efficient investment in, and efficient operation and use of, energy services for the long term interests of consumers of energy with respect to—
>
> (a) price, quality, safety, reliability and security of supply of energy; and
>
> (b) the achievement of targets set by a participating jurisdiction—

58 Section 236(1) of the NERL.

59 Section 13 of the NERL.

(i) for reducing Australia's greenhouse gas emissions; or

(ii) that are likely to contribute to reducing Australia's greenhouse gas emissions.

The targets statement, available on the AEMC website, lists the emissions reduction targets to be considered, as a minimum, in having regard to the NERO.[60]

4.2 We must also take these factors into account

In making this draft rule, the Commission must consider if a more preferable rule better achieves the NERO, which, in this case, we consider it does. We have also considered the consumer protections test for this rule change.

4.2.1 We have decided to make a draft more preferable rule

The Commission may make a rule that is different, including materially different, to a proposed rule (a more preferable rule) if it is satisfied that, having regard to the issue or issues raised in the rule change request, the more preferable rule is likely to better contribute to the achievement of the NERO.[61]

For this draft determination, we also had regard to promoting equitable energy outcomes. This complements the new guidance we have developed 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:

- the diversity of customer needs, experiences, and preferences by encouraging customers to engage with their retailers to find the offer that suits them
- removing structural barriers to engagement in the retail market through addressing customer inertia and low engagement with bills
- avoiding creating or exacerbating vulnerability by increasing the number of customers who switch to better offers while minimising the cost imposition on retailers.

For this rule change, the Commission has made a more preferable draft rule. The reasons are set out in section 4.3 below. As discussed in section 4.3.2, improving equity outcomes through better access to information and removing structural barriers also improves efficiency of the market, leading to better outcomes for all consumers.

4.2.2 We have considered the consumer protections test for this rule change

In addition to applying the NERO, the Commission must, where relevant, satisfy itself that the rule is "compatible with the development and application of consumer protections for small customers, including (but not limited to) protections relating to hardship customers" (the consumer protections test).[62] Where the consumer protections test is relevant in making a rule, the Commission must be satisfied that both the NERO test and the consumer protections test have been met.[63] If the Commission is satisfied that one test, but not the other, has been met, the rule cannot be made (noting that there may be some overlap in the application of the two tests).

60 Section 224A(5) of the NERL.

61 Section 244 of the NERL.

62 Section 236(2)(b) of the NERL.

63 That is, the legal tests set out on sections 236(1) and (2)(b) of the NERL.

The Commission is satisfied that the draft rule meets the consumer protections test for the reasons set out in section 4.3 below.

4.3 How we have applied the legal framework to our decision

The Commission must apply the legal framework in considering the issue in this rule change request, which is: how to address the issue of many customers paying more than they could be for their energy bill because they have not switched to the better offer.

We identified the following criteria to assess which option is likely to better contribute to achieving the NERO:

- Outcomes for consumers
- Principles of market efficiency
- Implementation considerations
- Principles of good regulatory practice

These assessment criteria reflect the key potential impacts – costs and benefits – of the rule change request, for impacts within the scope of the NERO. Our reasons for choosing these criteria are set out in section 4.2 of the consultation paper.

The rest of this section explains why the draft rule best promotes the long-term interest of consumers when compared to other options and assessed against the criteria. The benefits of this rule in improving outcomes for consumers and fostering competition to improve market efficiency exceed the implementation costs, which we consider minimal.

A more preferable rule would better contribute to the achievement of these objectives. This is because the more preferable rule engages otherwise disengaged customers without imposing significant costs on retailers. This would result in a greater number of customers switching to the deemed better offer or otherwise engaging in the market than a rule change that only seeks to reduce the transaction costs associated with switching.

4.3.1 This rule would result in lower costs for consumers

As discussed in chapter 2, our rule change would likely result in a greater number of customers engaging in the market and switching to a better offer. This would result in individual customers paying less for their energy. As discussed in chapter 1, the ACCC found in the December 2024 Inquiry into the NEM report that 81 per cent of customers could be on a better offer.[64] Thus, there is a significant number of customers who could realise savings on their energy bill through switching.

The level of savings available for these customers is not fully clear. For some it could be significant, while for others it could be marginal. The ACCC further reports that "customers on flat rate offers that are two or more years old have calculated annual prices on average 16.9 per cent or $317 higher than those on newer offers."[65] The ECA provided in their submission that the figures that the ACCC reported imply potential savings across the market in excess of $800 million.[66]

While it is not realistic that this rule change would achieve total customer engagement across the NEM, this illustrates the level of potential benefits that customers can experience through

64 ACCC, Inquiry into the National Electricity Market, December 2024, p. 54.

65 ACCC, Inquiry into the National Electricity Market, December 2024, p. 3.

66 ECA, submission to the consultation paper, 6 March 2025, p. 3.

engaging with the market, as this draft rule would encourage. Evidence from the AER's BIT shows that even when presented with simple switching, customers still require savings in excess of $200 in order to be willing to switch.[67] However, the draft rule would require retailers to further communicate messaging they are already required to provide on bills. Thus, we consider the benefits of this draft rule would exceed the costs imposed.

4.3.2 More active engagement would result in increased market efficiency

A greater number of customers switching to the deemed better offer, or otherwise engaging in the market, places downward pressure on energy pricing. This occurs for two reasons. Firstly, fewer customers remain on contracts for longer periods of time, where, the evidence shows, they are more likely to pay a 'loyalty penalty'.[68] Secondly, evidence from BETA's evaluation research of the impact of the deemed better offer message shows that customers who see the message are more likely to visit Energy Made Easy.[69] Energy Made Easy allows customers to compare market offers from a range of retailers, not just their existing retailer, further increasing competition among retailers. This increases customers' visibility of the market and the different offers available, and places downward pressure on prices, encouraging innovation to minimise retailers' costs and promote equity through meeting a variety of customer needs.

4.3.3 This rule achieves benefits while minimising implementation costs

The consultation paper outlined two broad approaches that a rule change to streamline the process by which customers switch to the deemed better offer might take. These were a prescriptive and a principles-based approach. For the reasons outlined in section 2.1, the Commission considers that improving the visibility of the deemed better offer message is the most appropriate mechanism for reducing the barriers customers face in engaging in the market. Thus, this is the most effective mechanism for reducing the number of customers who pay more than they could on their energy bills. We also consider that this mechanism imposes fewer implementation costs on retailers than either of the mechanisms outlined in the consultation paper.

Stakeholder submissions to the consultation paper generally preferred a principles-based approach to a prescriptive approach. The most common reason provided for this is that redesigning processes is a costly burden for retailers, and these costs are ultimately borne by customers. Further, stakeholders generally considered that it was important that retailers retain flexibility to meet the bespoke needs of their customers. No stakeholders supported a rule change to prescribe a specific switching process that retailers must provide to their customers. Only Justice Equity Centre suggested that both principles-based and prescriptive approaches should be used to streamline switching.[70]

The Commission considers that the draft rule is more preferable to the options described in the consultation paper for the same reasons that stakeholders generally preferred a principles-based approach to a prescriptive one. We expect the draft rule would require retailers, under the updated *billing guideline*, to provide largely similar information they would otherwise have to provide, such as the deemed better offer message, only that this information would also be included in communications documents. We understand that retailers have separate processes for developing bills and customer engagement. However, we consider the cost imposition of also

67 BIT, Testing the impact of behaviourally informed energy bills and best offers, 2018, p. 36.

68 ACCC, Inquiry into the National Electricity Market, December 2024, pp. 3-4.

69 AER, submission to the consultation paper, 13 March 2026, p. 2.

70 JEC, submission to the consultation paper, 6 March 2025, p. 8.

providing some of this information in communications to be small. This approach further allows retailers to retain flexibility in how they manage costs and meet the bespoke needs of their customers.

4.3.4 This rule would align with other regulatory processes currently underway

We consider the draft rule represents good regulatory practice by being consistent with other regulatory workstreams. This alignment lowers costs for market bodies and participants allows for fast implementation, bringing forward the benefits of this rule.

This rule change forms part of a broader package of consumer-focused rule changes proposed by Minister Bowen in 2024. The ESC in Victoria has published a Regulatory Impact Statement (RIS) that assesses potential amendments to the Energy Retail Code of Practice, one of which also seeks to improve the ability for customers to switch to the best offer.[71] DCCEEW is undertaking a review of the NECF through the BECE review.[72] This review will engage with some of the issues addressed through this rule change process, but with a more holistic approach.

The package of consumer-focused rule changes, of which this rule change is part, all seek to help households access cheaper energy deals, support customers experiencing hardship, and deliver more protections for consumers. This rule change, through improving visibility of opportunities to save, would result in more customers saving through engaging in the market. In this regard, the outcome of this rule change aligns with the broader objective of the consumer package rule changes. This rule complements, in particular, the *Assisting hardship customers* rule change, which introduced a principle that customers experiencing hardship will be no worse off than the deemed better offer.[73] See section 2.3.2.

The draft rule seeks to build on other ongoing workstreams. The AER is undertaking reviews and will be updating four retail guidelines.[74] The draft rule would support the AER's work to update the BBG by, firstly, aligning the timeline of a transitional requirement on the AER to update its guideline to reflect this rule change with the timeline required by the *Assisting hardship customers* rule change.[75] Secondly, by improving the visibility of the deemed better offer message, or other information to assist the customer to compare retail plans, this rule would increase the efficacy of the *billing guideline* in empowering customers to engage in the market and minimise their costs.[76]

Alignment with the Essential Services Commission of Victoria

On 16 May 2025, the ESC published their RIS for their draft decision on their Energy Consumer Reforms.[77] This paper examines the costs and benefits of policy options for a suite of ongoing reforms which includes a change to the retail code to improve the ability to switch to the best offer.

71 Essential Services Commission, Energy Consumer Reforms, Regulatory Impact Statement, 16 May 2025.

72 ECMC, Better Energy Customer Experiences, Consultation Paper, April 2025.

73 AEMC, Assisting hardship customers, rule determination, June 2025.

74 Benefit Change Notice Guidelines
Better Bills Guideline
Customer Hardship Policy Guideline
Retail Pricing Information Guideline.

75 AEMC, Assisting hardship customers, Rule determination, June 2025.

76 AER, submission to the consultation paper, 13 March 2026, p. 2.

77 ESC, Energy Consumer Reforms Regulatory Impact Statement, 16 May 2025.

The ESC's RIS conducted a multi-criteria analysis of three options for improving the ability to switch offers. This analysis determined that the best approach is an outcomes-based rule change with minimum standards.[78] This is primarily based on the effectiveness of this approach in ensuring consumers have access to effective, simple and accessible switching processes.

Our draft rule would align the deemed better offer requirements with those in Victoria. The Best Offer Guideline in Victoria currently makes provisions for information that is provided in bills, bill change alerts, and 'bill summaries'.[79] To this end, our rule change, which extends the provision of information relating to customers' ability to compare plans to communications documents, increases regulatory alignment with Victoria. This therefore meets the NERO by reducing the regulatory burden on retailers and representing good regulatory practice, and provides the greatest benefit at lowest cost.

Our draft rule, however, would not make provisions on the switching processes retailers are required to provide. This is not aligned with the ESC's Regulatory Impact Statement on improving the ability to switch to the best offer.[80] Supported by evidence from research conducted by BETA, the AEMC's view is that product switching rates are best improved through engaging otherwise disengaged customers through improving the visibility of the deemed better offer message.[81] While any misalignment between Victoria and NECF regions represents an additional regulatory burden for retailers, in this case our draft rule would minimise the cost imposition on retailers, as it would not require retailers to redesign any of their switching processes. Our rule would extend the provision of the deemed better offer message, which retailers are already required to calculate and present on bills, while allowing retailers to retain flexibility in the customer engagement experience they provide.

The AER is undertaking reviews of its retail guidelines

In 2025 and 2026, the AER will be reviewing four retail guidelines. These are:

- the Benefit Change Notice Guidelines
- the Better Bills Guideline
- the Customer Hardship Policy Guideline
- the Retail Pricing Information Guidelines

We expect that this expanded scope would require additional resourcing from the AER. This will not only expand the scope of the upcoming review of the BBG that the AER is conducting, but will require additional resourcing from the AER's monitoring and enforcement functions in educating retailers and promoting compliance.

Though we expect that this rule change would place some additional burden on the AER requiring additional resources, the AER is currently or will soon be undertaking reviews of each of the four retail guidelines. We have aligned our transitional requirements with the AER's existing review timelines to minimise regulatory burden.

78 ESC, Energy Consumer Reforms Regulatory Impact Statement, 16 May 2025, pp. 103-106.

79 ESC, Guideline 1 (2023) - Form and content of deemed best offer messages, 23 November 2023.
The Energy Retail Code of Practice sets out the following definition of a 'bill summary': "a communication from the retailer to the small customer that: (a) informs the small customer that the retailer has issued a new bill; and (b) includes the bill due date and the amount due."

80 ESC, Energy Consumer Reforms Regulatory Impact Statement, 16 May 2025.

81 AER, submission to the consultation paper, 13 March 2026, p. 2.

A Rule making process

A standard rule change request includes the following stages:

- a proponent submits a rule change request
- the Commission initiates the rule change process by publishing a consultation paper and seeking stakeholder feedback
- stakeholders lodge submissions on the consultation paper and engage through other channels to make their views known to the AEMC project team
- the Commission publishes a draft determination and draft rule (if relevant)
  - stakeholders lodge submissions on the draft determination and engage through other channels to make their views known to the AEMC project team
- the Commission publishes a final determination and final rule (if relevant).

You can find more information on the rule change process on our website.[82]

A.1 The process to date

On 6 February 2025, the Commission published a notice advising of the initiation of the rule making process and consultation in respect of the rule change request.[83] A consultation paper identifying specific issues for consultation was also published. Submissions closed on 6 March 2025. The Commission received 17 submissions as part of the first round of consultation. The Commission considered all issues raised by stakeholders in submissions. Issues raised in submissions are discussed and responded to throughout this draft rule determination. A summary of other issues raised in submissions and the Commission's response to each issue is contained in Appendix C. On 15 May, the Commission published a notice under s 266 of the NERL to extend the publication of the draft determination to 19 June 2025.

82 See our website for more information on the rule change process: https://www.aemc.gov.au/our-work/changing-energy-rules

83 This notice was published under section 251 of the NERL.

B Legal requirements to make a rule

This appendix sets out the relevant legal requirements under the NERL for the Commission to make a draft rule determination.

B.1 Draft rule determination and draft rule

In accordance with section 256 of the NERL, the Commission has made this draft rule determination for a more preferable draft rule in relation to the rule proposed by the Hon Chris Bowen MP, in his capacity as Chair of ECMC.

The Commission's reasons for making this draft rule determination are set out in chapter 2.

A copy of the more preferable draft rule is attached to and published with this draft determination. Its key features are described in chapter 3.

B.2 Power to make the rule

The Commission is satisfied that the more preferable draft rule falls within the subject matter about which the Commission may make rules.

The more preferable draft rule falls within section 237 of the NERL as it relates to s. 237(1)(a). .

B.3 Commission's considerations

In assessing the rule change request the Commission considered:

- its powers under the NERL to make the draft rule
- the rule change request
- submissions received during first round consultation
- the Commission's analysis as to the ways in which the draft rule will or is likely to contribute to the achievement of the NERO
- the extent to which the rule is compatible with the development and application of consumer protections for small customers

There is no relevant Ministerial Council on Energy statement of policy principles for this rule change request.[84]

B.4 Civil penalty provisions and conduct provisions

The Commission cannot create new civil penalty provisions or conduct provisions. However, it may recommend to the Energy Ministers' Meeting that new or existing provisions of the NERL be classified as civil penalty provisions or conduct provisions.

The NERL sets out a three-tier penalty structure for civil penalty provisions in the NERL and the NERR.[85] A Decision Matrix and Concepts Table,[86] approved by Energy Ministers, provide a decision-

84 Under s. 225 of the NERL the AEMC must have regard to any relevant MCE statement of policy principles in making a rule. The MCE is referenced in the AEMC's governing legislation and is a legally enduring body comprising the Federal, State and Territory Ministers responsible for energy. On 1 July 2011, the MCE was amalgamated with the Ministerial Council on Mineral and Petroleum Resources. In December 2013, it became known as the Council of Australian Government (COAG) Energy Council. In May 2020, the Energy National Cabinet Reform Committee and the Energy Ministers' Meeting were established to replace the former COAG Energy Council.

85 Further information is available at https://www.aemc.gov.au/regulation/energy-rules/civil-penalty-tools

86 The Decision Matrix and Concepts Table is available at: https://web.archive.org.au/awa/20210603104757mp_/https://energyministers.gov.au/sites/prod.energycouncil/files/publications/documents/Final%20-%20Civil%20Penalties%20Decision%20Matrix%20and%20Concepts%20Table_Jan%202021.pdf

making framework that the Commission applies, in consultation with the AER, when assessing whether to recommend that provisions of the NERR should be classified as civil penalty provisions, and if so, under which tier.

Subject to consulting with the AER, the Commission proposes to make the following civil penalty recommendations to the Energy Ministers' Meeting in relation to the final rule if made.

Table B.1: Civil penalty provision recommendation

Rule	Description of rule	Proposed classification	Reason
Subrule 25(1) of the NERR	The draft rule amends the existing civil penalty provision at subrule 25(1) by including a reference to any communications separate but related to a bill.	Tier 3 civil penalty provision: recommend retain existing tier.	This increases the visibility of the information the AER requires retailers to provide in the *billing guideline* by extending the scope of the guideline to include separate communications.

Where the draft rule amends provisions that are currently classified as civil penalty provisions (in this case an amendment to subrule 25(1) of the NERR which is an existing civil penalty provision), the Commission does not propose to recommend to the Energy Ministers' Meeting any changes to the classification of that provision.

C Summary of other issues raised in submissions

Table C.1: Summary of other issues raised in submissions

Stakeholder	Issue	Response
Energy and Water Ombudsmen of NSW, Queensland and South Australia (joint submission) (p. 4)	**Consumer protections** - The retail market is complex and difficult, particularly for vulnerable customers, to understand. The AEMC should consider a consumer education and awareness pathway to assist customers in engaging in the retail market.	The BECE review that is currently underway will examine the consumer protections framework more broadly. The AEMC's *Assisting hardship customers* rule change ensures that hardship customers will not be worse off than the deemed better offer. This protects vulnerable customers who do not switch products from paying excessively for their electricity.
Alinta (pp. 2-3)	**Consumer protections** - Consumer protection frameworks would need to be reviewed before the alternative mechanism could be implemented.	The upcoming BECE review will examine the appropriateness of the consumer protection framework. This rule change would have medium-term benefits and would not impact the BECE reforms.
Energy Consumers Australia (p. 5)	**Assessment Criteria** - "Implementation considerations" as an assessment criterion should inform how a rule change should operate but not whether to make a rule.	Any implementation costs that would arise from a rule change would likely be passed through to customers. Therefore, it is important to consider these implementation costs as they compare to the benefits that customers would experience. This is an important determinant of whether to make a rule as it is an input into considerations of the impact of a rule on the long-term interest of consumers. See AEMC - How the National Energy Objectives Shape Our Decisions.
Energy Consumers Australia (p. 5)	**Alternative mechanism** - The alternative proposal	EIC requirements do not allow for automatic

Stakeholder	Issue	Response
	included in the rule change request and discussed in the Consultation Paper, which would require retailers to provide a streamlined process for switching between products with similar characteristics has merit as it would be easy to implement alongside the ECA's proposal that customers be automatically switched to the best offer.	switching of customers to the deemed better offer as ECA have proposed. We consider that the draft rule effectively engages otherwise disengaged customers, and improves the rates at which customers would switch products more than a rule that seeks to reduce transaction costs. This also applies to the "like-for-like" alternative proposal. See section 2.3.2.
AER (p. 3)	**Alternative mechanism -** The alternative mechanism to require streamlined "like-for-like" switching could have unintended consequences associated with increased complexities in comparing plans with varying characteristics that result in higher costs for consumers. Furthermore, customers' preferences may vary and change over time, making the alignment of these "like-for-like" plans with preferences difficult.	The AEMC agrees that comparing these plans with varying characteristics is administratively challenging and potentially confusing for customers. This makes it challenging for streamlining of like-for-like plans to result in material benefits for customers.
ENGIE (p. 4) AGL (pp. 8-9)	**Alternative mechanism -** The alternative mechanism to require streamlined "like-for-like" switching would lead to significant implementation costs and difficulties	The AEMC agrees that the alternative mechanism could lead to significant implementation costs.
AGL (pp. 1-2)	**Better offer** - The concept of the "better offer" should be reconsidered to reflect that cost is only one consideration for customers. Others might include green energy plans, or feed-in tariffs, for example.	The concept of the deemed better offer is defined in the AER's BBG. This guideline will be reviewed by 30 September 2026.

Abbreviations and defined terms

ACCC	Australian Competition and Consumer Commission
AEMC	Australian Energy Market Commission
AER	Australian Energy Regulator
BBG	Better Bills Guideline
BECE	Better Energy Customer Experiences
BETA	Behavioural Economics Team of the Australian Government
BIT	Behavioural Insights Team
Commission	See AEMC
DCCEEW	Department of Climate Change, Energy, the Environment and Water
DMO	Default Market Offer
ECA	Energy Consumers Australia
ECMC	Energy and Climate Change Ministerial Council
EIC	Explicit Informed Consent
ESC	Essential Services Commission, Victoria
EWOV	Energy and Water Ombudsman Victoria
JEC	Justice and Equity Centre
NECF	National Energy Customer Framework
NEM	National Electricity Market
NEO	National Electricity Objective
NERL	National Energy Retail Law
NERO	National Energy Retail Objective
NERR	National Energy Retail Rules
Proponent	The Hon. Chris Bowen MP, Minister for Climate Change and Energy, as Chair of the Energy and Climate Change Ministerial Council
RPIG	Retail Pricing Information Guideline