

# Submission on Improving the ability to switch to a better offer draft determination

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Submission to the Australian Energy  
Market Commission

**DATE:** 31/07/2025



**Energy Consumers Australia is the national voice for household and small business energy consumers. We advocate for a fair, affordable, and reliable energy system—one that meets everyone’s needs and leaves no one behind on the journey to net zero.**

## Introduction

Energy Consumers Australia (ECA) appreciates the opportunity to make a submission on the Australian Energy Market Commission’s (AEMC) draft determination on Improving the ability to switch to a better offer.

The draft determination aims to ‘address why consumers on longer plans do not switch more regularly,’ but takes a narrow view of the barriers to switching and proposes only a minor change to improve visibility of better offer messages. While we support that change, we urge the AEMC to consider more holistically the reasons people do not switch regularly, or at all. This includes the considerable barriers many people face in engaging with an energy market that can be highly confusing and complex.

We are concerned that the AEMC has determined that a number of potential reforms that could better protect consumers are out of scope of the rule change. The rule change request sought for the AEMC to require retailers to provide a streamlined process for consumers to switch to the better offer. A number of consumer advocates have suggested reforms with this objective in mind, including options for automatic switching. We consider the focus should be on the intended outcome of switching – that consumers are not paying a higher price than they need to – rather than on the act of switching itself.

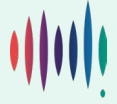
The proposed change to improve visibility of better offers may lead to an increase in switching for the cohort of consumers that are willing and able to engage with the market but do not do so because they are not aware of the opportunities to save. But it will not improve outcomes for the cohort of consumers that face more significant barriers to switching and engaging with the energy market more generally. The proposed change could also be introduced concurrently with other reforms to streamline switching rather than to the exclusion of those reforms.

We welcome the AEMC’s separate reforms to ensure hardship consumers are not financially worse off than if they were on the deemed better offer. But this will only support the 1.6% of consumers accessing hardship programs.<sup>1</sup> ECA’s research has found that 79% of consumers experiencing one or more hardship indicators are not enrolled in a hardship program.<sup>2</sup> And most of the approximately 43% of consumers on older offers (2+ years) will continue to pay a ‘loyalty tax’ if this rule change does not lead to the intended increases in switching.

We acknowledge the premise of the rule change request is to increase switching and the AEMC has therefore focused its attention on that objective. But the reality that many people are not willing or able to engage in the market in this way needs to be recognised as a feature of the market, not something that will go away with the right incentives. Unless more attention is given to how these consumers can be supported to achieve good outcomes – without requiring their constant and active engagement to avoid

<sup>1</sup> AER, [Quarterly retail performance report, January - March 2025, Q3 2024–25](#), 10.

<sup>2</sup> ECA, [Understanding and measuring energy hardship in Australia \(July 2025\)](#), [website-doc-consumer-energy-report-card-jun25-report-understanding-measuring-energy-hardship-australia.pdf](#), 16.



being put on worse plans – the loyalty tax will persist and disproportionately impact consumers in vulnerable circumstances.

Thank you for considering this submission. If you have any questions about the submission please contact Adam Collins at [adam.collins@energyconsumersaustralia.com.au](mailto:adam.collins@energyconsumersaustralia.com.au).

## Consumers face real barriers to switching

The draft determination assesses that ‘consumers face limited switching barriers’.<sup>3</sup> We consider – as several of the submissions to the initial consultation paper highlighted – that many consumers face real and significant barriers to switching and engaging with energy plans more generally.

Many consumers find energy offers and contracts complex and confusing. Our Consumer Energy Report Card surveys show that 30% of consumers don’t know what type of electricity tariff or plan they have, and 31% of consumers don’t know what a tariff is (only 23% ‘definitely know’ what a tariff is).<sup>4</sup>

20% of consumers review their energy plan only ‘once every few years’ and 16% ‘less frequently than every 5 years’ or never.<sup>5</sup> We note this does not mean these consumers have never engaged with the market – most consumers are on market retail contracts and engage at that point – but the structure of the market demands consumers engage regularly and pay close attention to avoid being hit with a ‘loyalty tax’.

ECA’s recent report on *Understanding and measuring energy hardship in Australia* breaks this down further against indicators of energy hardship.<sup>6</sup> Of consumers who reported not reviewing their energy plan regularly, 51% of consumers reporting two or more vulnerability indicators stated that a main reason was that they ‘wouldn’t know where to start’ – compared to only 22% of consumers not reporting hardship indicators.<sup>7</sup> While 36% of consumers with no hardship indicator were satisfied with their current plan, this number drops to just 18% for consumers with two or more hardship indicators.<sup>8</sup>

The draft determination appears to limit itself to only considering the mechanical process arising ‘once a customer decides to switch’ and does not consider the costs associated with ‘comparing varied and complex plans’ to be part of the transaction costs.<sup>9</sup> Regardless of whether or not this limited interpretation of ‘transaction costs’ is technically correct, we do not think it is reasonable to disregard the consumer decision-making process in a consultation process that is seeking to identify and address barriers to switching.

Confusion about energy plans contributes to apprehension about the switching process and is a major barrier to switching. For example, COTA’s submission notes that, ‘Many older Australians have shared that the process of deciphering the complexities of various offers and comparing potential costs and benefits inherent in each often leads to feelings of uncertainty, mistrust and resignation. This uncertainty

<sup>3</sup> AEMC, Draft determination, 7.

<sup>4</sup> ECA, [Consumer Energy Report Card data | Energy Consumers Australia](#).

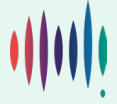
<sup>5</sup> ECA, [Consumer Energy Report Card data | Energy Consumers Australia](#).

<sup>6</sup> The three indicators used are: spending more than 6% of income on energy bills; finding it ‘very difficult’ to pay energy bills; reporting both financial stress and turning off heating and cooling to save money: ECA, , *Understanding and measuring energy hardship in Australia* (July 2025), [website-doc-consumer-energy-report-card-jun25-report-understanding-measuring-energy-hardship-australia.pdf](#), 7.

<sup>7</sup> ECA, , *Understanding and measuring energy hardship in Australia* (July 2025), [website-doc-consumer-energy-report-card-jun25-report-understanding-measuring-energy-hardship-australia.pdf](#), 17.

<sup>8</sup> Ibid.

<sup>9</sup> AEMC, Draft determination, [7], i.



makes it difficult for individual energy consumers to confidently determine whether switching will deliver any 'real' financial benefit.<sup>10</sup>

We encourage the AEMC to reconsider barriers to switching more holistically and consider how retailers can – and should be required to – better support the desired consumer outcomes.

### **Better options are needed to support consumers who are unable or unwilling to engage in the retail market – and therefore not likely to switch**

We remain concerned at the emphasis on customer switching to achieve good outcomes, given the significant proportion of consumers who are unable or unwilling to engage in the market in this way. We consider the focus should be on the intended outcome of switching – that consumers are not paying a higher price than they need to – rather than on the act of switching itself.

We strongly support the AEMC's reforms to ensure hardship consumers are not financially worse off than if they were on the deemed better offer. This will meaningfully assist the 1.6% of consumers accessing hardship programs (as of Q3 2024-25).<sup>11</sup> However we note that 79% of consumers experiencing one or more hardship indicators are not enrolled in a hardship program with their retailer.<sup>12</sup>

There are also vastly more consumers affected by the 'loyalty tax' – the ACCC found that 59% of consumers on older offers of 2+ years (approximately 43% of all consumers on flat rate offers) are paying at or above default offers, and almost all consumers paying more than 25% above default offers are on older offers.<sup>13</sup>

A significant proportion of consumers face barriers to engagement and are unlikely to switch frequently or at all – these consumers will continue to pay the 'loyalty tax' in the absence of other reforms, though we recognise the AEMC's rule changes restricting increases in contract prices more than once every 12 months, and improving protections for consumers on contracts with benefits that expire or change, should provide some assistance. The ACCC's findings suggest that there is currently no meaningful downward pressure on prices for consumers who do not switch. We do not think the proposed rule change, on its own, will increase switching significantly enough to change this situation.

The draft determination rules out of scope the suggestions from a number of stakeholders to consider a form of automatic switching process to better offers.<sup>14</sup> For example:

- ECA suggested 'a new obligation on retailers to place consumers on the best offer unless the consumer opts out of such an arrangement'<sup>15</sup>
- SACOSS suggested 'enabling advanced consent for automatic switching to a better offer'<sup>16</sup>
- JEC suggested 'options for sign-up consent to include simple provisions for future 'automatic' switching to a better offer'.<sup>17</sup>

The draft determination suggests that explicit informed consent (EIC) requirements are a barrier to these options and are therefore out of scope for the AEMC to consider. We accept this is the case where this

<sup>10</sup> COTA, Submission to the consultation paper, 2.

<sup>11</sup> AER, [Quarterly retail performance report, January - March 2025, Q3 2024-25](#), 10.

<sup>12</sup> ECA, , Understanding and measuring energy hardship in Australia (July 2025) [website-doc-consumer-energy-report-card-jun25-report-understanding-measuring-energy-hardship-australia.pdf](#), 16.

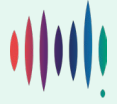
<sup>13</sup> ACCC, [Inquiry into the National Electricity Market report - December 2024](#).

<sup>14</sup> AEMC, Draft Determination, [23], iii.

<sup>15</sup> ECA, Submission to the consultation paper, [ECA.pdf](#), 1.

<sup>16</sup> SACOSS, Submission to the consultation paper, 5.

<sup>17</sup> JEC, Submission to the consultation paper, 7.



would require a consumer to enter into a new market contract, but we encourage the AEMC to further consider whether the 'advanced consent' options could be made workable within current EIC rules.

In many cases (probably most) the only meaningful difference between a customer's high-priced legacy contract and the better offer is the tariffs paid under the contract. In these circumstances the same outcome for the consumer can be achieved by the retailer varying the prices under the contract, which does not require EIC.

The draft determination states that, '[w]e cannot assume that all consumers want the same thing.' We agree that this may be the case where consumers are choosing between different types of offers (for example one that includes certain non-financial benefits versus one that does not). But where consumers are presented a choice between two offers from the same retailer where the only meaningful difference is the tariffs the customer pays, it is perfectly reasonable to assume that all consumers want the lower-priced offer.

We encourage the AEMC to consider whether there is any meaningful difference, from a consumer's perspective, between the following scenarios:

- a) A consumer on a flat tariff offer switches to the better offer (which is a flat tariff offer with a lower supply charge and usage charge).
- b) A consumer on a flat tariff offer has their tariffs varied by the retailer so that they are equivalent to the better offer.

The outcome is the same for the consumer except that scenario a) requires the consumer to take action and provide EIC, while scenario b) does not require the consumer to take action or provide EIC.

We note the AEMC's rule for hardship consumers gives flexibility to retailers in how to meet the rule including options that do not require EIC such as a downward price adjustment. Similar options could be considered for other consumers, or a cohort of these consumers that are most disadvantaged by current market practices, such as those on older offers subject to the 'loyalty tax'.

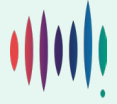
The ESC has proposed a requirement for retailers to ensure that consumers on contracts that are four years or older are paying a reasonable price for energy.<sup>18</sup> This is a conservative proposal (given the ACCC's findings that suggest the loyalty tax kicks in as soon as 1-2 years) but at least attempts in some way to address the issue, without requiring that a cohort of consumers who are unlikely to ever switch must do so in order to avoid continuing to be penalised.

We recommended in our submission to the Consultation Paper that retailers should be required to work with consumers to identify 'default settings' for their accounts, e.g. a flat tariff plan set to automatically enrol in the best priced offer when one is available.<sup>19</sup> Noting the AEMC's comments on the current limitations of EIC, we recommend the AEMC further consider options to support better pricing outcomes for consumers who are unwilling or unable to switch frequently that are achievable within the current EIC limitations (i.e. that do not require the customer entering into a new market retail contract), such as:

- requiring or otherwise incentivising retailers to provide, as an option, simple offers that periodically and automatically adjust consumers' tariffs to match the retailers' best offer for that type of tariff (e.g. the best flat tariff offer) – or at least tariffs equivalent to a better offer, if one is available

<sup>18</sup> ESC, Energy Consumer Reforms Regulatory Impact Statement (May 2025), [Energy Consumer Reforms](#), 4.

<sup>19</sup> ECA, Submission to the consultation paper, 4.



- requiring retailers to provide a downward price adjustment (e.g. equivalent to a better offer) for consumers on older contracts of a specified length to ensure those consumers are paying a reasonable price.

### Switching processes should be effective, simple and accessible

We support the proposal to increase consumers' awareness of savings by including better offer messages in a cover email or letter accompanying bills (as well as the bill itself). This may lead to an increase in switching for the cohort of consumers that are willing and able to engage with the market but do not do so because they are not aware of the opportunities to save. However, we do not think this should be pursued to the exclusion of other opportunities to improve switching. The AEMC should also consider reforms to ensure switching processes are effective, simple and accessible.

The rule change request sought for the AEMC to require retailers to provide a streamlined process for consumers to switch to the better offer. The draft determination does not propose any new requirements for switching processes, on the basis that the AEMC accepts retailers' assertions that their switching processes are simple. While the AEMC recognises confusing plan names as a barrier to switching, this is ruled out of scope. The draft determination acknowledges, but does not appear to give weight to, ECA survey data indicating that 25% of consumers who did not follow through with switching found it too time-consuming.

The Victorian Essential Services Commission (ESC) has considered the same issue and has proposed 'an outcomes-based rule that requires a retailer to have effective processes for a customer to switch to their best offer. The process must be simple and accessible.'<sup>20</sup> The ESC found that 'internal analysis by the commission revealed that many retailers do not have clear information on their websites instructing a customer how to switch their plan'.<sup>21</sup> The ESC also proposes that retailers report on metrics in relation to the effectiveness of switching processes.<sup>22</sup>

Retailers' assertions that their switching processes are simple should be further tested. It may well be the case that an engaged consumer will find the process simple – but the switching process needs to be specifically considered from the perspective of a vulnerable consumer, or a consumer with limited knowledge of energy offers who may find it more difficult to engage with the process of assessing a better offer and determining if they want to switch. 30% of consumers don't know what type of electricity tariff or plan they have, and 31% of consumers don't know what a tariff is (only 23% 'definitely know' what a tariff is),<sup>23</sup> and 31% of customers who say they don't review their energy plan regularly find it too hard to compare plans.<sup>24</sup> If the switching process can be made more effective for these consumers it is likely to benefit other consumers as well.

While the AER is separately undertaking work to reduce confusing plan names, we do not see why this means the issue is out of scope for the current rule change, as it is clearly an issue that has an impact consumers' ability to switch to a better offer. An outcomes-based requirement similar to that proposed by the ESC could assist with this issue in addition to any other changes being considered by the AER. A requirement for switching processes to be effective, simple and accessible could prompt retailers to consider whether confusing plan names would meet this requirement. If a customer is likely to be

<sup>20</sup> ESC, , Energy Consumer Reforms Regulatory Impact Statement (May 2025), [Energy Consumer Reforms](#), 3.

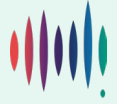
<sup>21</sup> Ibid, 98.

<sup>22</sup> Ibid, 100-101.

<sup>23</sup> ECA, [Consumer Energy Report Card data](#) | Energy Consumers Australia.

<sup>24</sup> Ibid.





confused about whether the offer they are being prompted to switch to is a different offer or not (and therefore be less likely to actually switch), then the switching process may not be effective or simple.

The draft determination also considers other specific reforms such as providing a direct link to the deemed better offer but concludes this would be complicated and potentially unworkable. An outcomes-based approach may be more suitable as it would establish a clear expected outcome but give retailers some flexibility as to how to ensure switching processes are effective, simple and accessible.

The draft determination suggests alignment with the ESC's proposal would require retailers to redesign their switching processes.<sup>25</sup> However, if the AEMC agrees that most retailers' switching processes are already simple and accessible, introducing an outcomes-based obligation to require this should not require significant changes to current processes and should have negligible cost to retailers. If even a small proportion of the 25% of consumers who reported finding switching too time-consuming are more likely to switch as a result, this benefit is likely to outweigh that small cost.

We recommend the AEMC adopt an outcomes-based requirement similar to that proposed by the ESC for retailers to have effective, simple and accessible processes for switching to the better offer.

If the AEMC remains of the view that there is not sufficient evidence to consider improvements to switching processes, as an initial step to gather more evidence retailers could be required to report on metrics similar to those proposed by the ESC (e.g. percentage of consumers who start a switching process but do not complete it).

### **The AEMC should provide more clarity on its vision for consumer outcomes in the retail market**

ECA has previously raised its concerns about the emphasis on customer churn in the energy retail market and the premise that near-constant engagement with the market is necessary and desirable for consumers to achieve good outcomes.<sup>26</sup>

We do not think that the energy retail market, being a market that delivers an essential service, can continue to be underpinned by an assumption that consumers will, or should, switch offers regularly. 20% of consumers review their energy plan 'once every few years' and 16% 'less frequently than every 5 years' or never.<sup>27</sup> And more than half say they only want a basic relationship with their energy retailer.<sup>28</sup> As well as not recognising the reality of consumer behaviour, this leads to increased acquisition and retention costs that are ultimately passed on to consumers in the form of higher bills.

Other stakeholders have raised similar issues: SACOSS states that the assumption that consumers should actively shop around and switch regularly 'does not align with the lived experience of many households, particularly those in financial stress'<sup>29</sup> and JEC states that this assumption 'is not reasonable due to structural market failures to consistently deliver and support meaningful consumer choice and consent'.<sup>30</sup>

<sup>25</sup> AEMC, Draft determination, 21.

<sup>26</sup> ECA, Submission on the Pricing Review (July 2025), [submission-doc-aemc-pricing-review-electricity-pricing-consumer-driven-future-discussion-paper.pdf](#), 9.

<sup>27</sup> ECA, [Consumer Energy Report Card data](#) | Energy Consumers Australia.

<sup>28</sup> ECA, [Consumer Energy Report Card data](#) | Energy Consumers Australia.

<sup>29</sup> SACOSS, Submission to the consultation paper, 5.

<sup>30</sup> JEC, Submission to the consultation paper, 4.

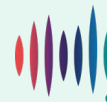


We consider the focus should be on the intended outcome of switching – that consumers are not paying a higher price than they need to – rather than on the act of switching itself. It may be that the AEMC places some additional value on (some or all of): consumers having to take action to achieve a better outcome, and therefore being more ‘engaged’ in the market; the opportunity for retailers to earn additional profit as a result of consumers’ inaction; the impact on the spread of market offers or other competitive dynamics. These may well be reasonable concerns in the context of the AEMC’s role, but it would be helpful to have more clarity on the AEMC’s vision for consumer outcomes in the market.

The draft determination does not appear to substantively engage with these broader market issues. We acknowledge that the premise of the rule change request is to increase switching rates and the AEMC’s draft determination naturally focuses on this, and also that these issues may be considered through the AEMC’s Pricing Review. But we think it is important that – in the context of a rule change on switching – the AEMC provides some clarity about how it sees the significant number of consumers, many vulnerable, who are unable or unwilling to engage in the market in this way will be able to achieve good outcomes.

While we are cognisant of other reviews taking place, we encourage the AEMC to give further consideration, as part of this rule change, to supplementing the proposed change to improve visibility of better offers with other reforms that address barriers to switching and help ensure that consumers who are not able or willing to do so are not left worse off.





**The national voice for residential and  
small business energy consumers**