



31 July 2025

Max Bonic  
Australian Energy Market Commission  
60 Castlereagh St  
Sydney NSW  
2000

## RE: Improving the ability to switch to a better offer – Draft Determination

### About Shell Energy in Australia

Shell Energy provides the energy businesses and households need for today and tomorrow.

Our business invests, trades and retails energy to help power Australia's energy transition – from renewables and firming assets to serving industries, homes, and communities through our retail businesses.

Our portfolio of gas-fired peaking power stations, battery storage, wind and solar generation supports energy security and reliability.

Shell Energy is Australia's largest electricity retailer to commercial and industrial businesses, recognised for our market-leading customer service.<sup>1</sup> We offer business electricity, gas, environmental products and smart energy solutions. Our residential business, Powershop, provides greater choice and confidence to households and small businesses to help them take control of their energy through multiple energy plan options and digital tools.

Further information about Shell Energy and our operations can be found on our website [here](#).

### General Feedback

Shell Energy welcomes the opportunity to provide feedback to the Australian Energy Market Commission (AEMC) consultation on the draft rule determination on improving the ability to switch to a better offer (the Draft Determination).

Shell Energy supports the findings in the Draft Determination that seek to uphold the explicit informed consent (EIC) framework. Shell Energy has maintained the view that EIC is paramount in protecting consumer agency and choice, as well as credibility and trust with energy retailers. Reforms that seek to automate the movement of a customer to another product that they have not selected themselves (the calculated better offer) undermine these provisions. This is because moving a customer to a product without their consent not only removes agency but does so presuming that cost is the sole selection criteria and motivating factor of a customer's product choice, prioritising lowest cost over other benefits associated with market offers that may be valued by customers.

Further, the better offer is calculated purely through data as it considers the customers usage profile against a retailer's current offers and develops the best offer message for the bill. This calculation does not consider nor have the capability to assess customer preferences and values. Customers have dynamic and changing needs which retailers are able to provide for under the current settings.

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<sup>1</sup> By load, based on Shell Energy analysis of publicly available data. Utility Market Intelligence (UMI) survey of large commercial and industrial electricity customers of major electricity retailers, including Shell Energy by independent research company NTF Group in 2011-2024.

The AEMC has appropriately acknowledged how fundamental EIC is as a consumer protection through the Draft Determination by confirming that they would not recommend changes that weaken a consumer's rights or ability to make decisions that suit their preferences.

Shell Energy also supports the intent of the Draft Determination in that there could be greater awareness of when customers could save money by switching to a different plan. However, Shell Energy supports the AEMC taking ownership of this rule change themselves rather than deferring to the Australian Energy Regulator (AER) to develop obligations through the Better Bills Guideline (BBG).

It is Shell Energy's view that prescriptive regulations are not needed for this change. Rather, it would be more appropriate for the change to be incorporated into the National Energy Retail Rules (NERR). This would allow retailers the opportunity to be flexible in their adaptation of the rule, while achieving the intended outcomes set out in the Draft Determination. There is a risk that where this rule is required to be captured through the BBG, that its application will become rigid and difficult for retailers to subsequently request a change should the rule require adaptation to new methods of communicating. The cost of complying with the BBG also increases where there is no flexibility in how retailers adhere to the guideline. This is particularly relevant where the BBG does not have a standard review timeframe, compelling the AER to consult and reassess which parts of the guideline are achieving its original intent, or if others require review.

Adopting the better offer change through the NERR will uphold regulatory governance and enable the AER to have greater agency as a regulator while the AEMC maintains their role as rule maker. However, if the rule were to progress as proposed, we recommend that it should include an obligation for periodic review of the BBG with consultation provided to retailers, given the AER's scope will be expanding.

In relation to the draft rule itself, Shell Energy is concerned that the wording proposed is broad and could capture communications beyond those directly linked to the bill itself. We understand that the current intent is for the email or a cover letter accompanying the bill to include an indication of whether a customer could have savings on a better offer.

The wording of the draft rule currently captures "written communications separate to a bill". This could capture several communications between a retailer and customer, unrelated to a bill such as service and operational updates, or regulatory policy updates such as any changes to privacy policy or consumer rights. These additional communications serve a purpose, and it is important that the message contained within them retains its full impact and not be confused with the inclusion of a better offer message. Operationally, where these notices are not relevant to the bill, there is no scope for the best offer calculation to apply. We do not believe this is intended or relevant scope and such changes which will effectively add considerable IT system costs, processes, time, and compliance complexity. Where the wording is refined as per the intent of the rule change, retailers will be able to streamline implementation.

We recommend the drafting is amended to reflect the below, noting that our proposed additions are underlined in red text and recommended deleted wording is struck out in red text:

Subrule 25(1) be amended to read:

"In preparing and issuing a bill (including any written communication separate from, but ~~about a bill~~ relating to and sent at the same time as the bill) to a small customer."

Subrule 25A(1) be amended to read:

"In relation to preparing and issuing a bill (including any written communication separate from, but ~~about a bill~~ relating to and sent at the same time as the bill) to a small customer".

Shell Energy welcomes further engagement on this topic. If you have any questions or would like further details relating to this submission, please contact Shelby Macfarlane-Hill at [Shelby.macfarlanehill@shellenergy.com.au](mailto:Shelby.macfarlanehill@shellenergy.com.au).

Yours sincerely,

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