

Review of the Wholesale Demand Response Mechanism – Draft Report

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About the Justice and Equity Centre

The Justice and Equity Centre is a leading, independent law and policy centre. Established in 1982 as the Public Interest Advocacy Centre (PIAC), we work with people and communities who are marginalised and facing disadvantage.

The Centre tackles injustice and inequality through:

- legal advice and representation, specialising in test cases and strategic casework;
- research, analysis and policy development; and
- advocacy for systems change to deliver social justice.

Energy and Water Justice

Our Energy and Water Justice work improves regulation and policy so all people can access the sustainable, dependable and affordable energy and water they need. We ensure consumer protections improve equity and limit disadvantage and support communities to play a meaningful role in decision-making. We help to accelerate a transition away from fossil fuels that also improves outcomes for people. We work collaboratively with community and consumer groups across the country, and our work receives input from a community-based reference group whose members include:

- Affiliated Residential Park Residents Association NSW;
- Anglicare;
- Combined Pensioners and Superannuants Association of NSW;
- Energy and Water Ombudsman NSW;
- Ethnic Communities Council NSW;
- Financial Counsellors Association of NSW;
- NSW Council of Social Service;
- Physical Disability Council of NSW;
- St Vincent de Paul Society of NSW;
- Salvation Army;
- Tenants Union NSW; and
- The Sydney Alliance.

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1. Introduction

The Justice and Equity Centre (JEC) welcomes the opportunity to respond to the Australian Energy Market Commission's (AEMC) draft report for the Review of the Wholesale Demand Response Mechanism (the draft report).

The JEC strongly endorses the AEMC's conclusion that the Wholesale Demand Response Mechanism (WDRM) continues to play a useful role in the National Energy Market (NEM). This conclusion should form the basis of efforts to expand and enhance the mechanism to fully realise its potential.

We commend the Commission for acknowledging the impact its view of the mechanism as temporary has had in preventing greater take-up of the mechanism in its first four years. We welcome the Commission's recognition that the WDRM should be a valuable, ongoing fixture of the NEM. This willingness to revisit previous thinking and assumptions is welcome, and critical to successful ongoing reform of the energy system. We acknowledge the Australian Energy Market Operator's (AEMO) similar shift, along with its recent efforts to improve the WDRM and their commitment to constructive engagement with flexible demand stakeholders.

The Commission's acknowledgement that the WDRM provides offerings that the Integrating Price-Responsive Resources (IPRR) framework does not is welcome and an important starting point for further reform. Recognition that demand response (DR) plays an important role in price setting in a market characterised by a prevalence of near-zero marginal cost generation is also welcome and important. We do note, however, that the Commission does not extend this acknowledgement to the case for small customers' DR, however. There is no compelling reason provided to justify reason is given why this distinction is made.

We support the draft decision to progress Enel-X's rule change proposal to allow participation by sites with multiple connection points. This change will remove an unnecessary restriction that

- has likely cost consumers hundreds of millions of dollars in lost consumer benefit over the three years since Enel-X lodged the request, and
- was a disproportionate response to a trivial risk.

The JEC does not support the draft recommendation not to make material changes to the WDRM. We do not agree the Commission has carried out satisfactory analysis of all the proposals, most notably the proposal to extend the WDRM to small consumers.

The draft report makes assertions about potential issues with small consumer demand response and that small consumer participation is best facilitated through the IPRR. Neither of these discussions amounts to sufficiently robust analysis and both positions are not convincingly justified. For instance, the second position is inconsistent with acknowledgements elsewhere in the draft report that the WDRM provides opportunities that the IPRR framework does not.

Extending the WDRM to small consumers, including households, will return positive net benefits to both participating and non-participating consumers. Stakeholders, particularly ourselves, have provided robust and well-reasoned arguments in support of this proposal which have not been meaningfully rebutted. We are disappointed that the response in the draft report raises issues

that have been repeatedly addressed, including in our own submissions to the 2019 WDRM Rule Change and the 2025 WDRM Review. We strongly recommend the Commission conduct the robust analysis required to respond to the issues, recommendations and responses raised by the JEC and others in the course of these processes.

We are also concerned about a number of erroneous or poorly founded assertions made in the draft report. We are particularly concerned about the Commission's dismissal of the main consumer benefit of the WDRM, that of lower wholesale prices. The draft worryingly mischaracterises this as a 'wealth transfer' from energy producers to energy buyers. Under such a conception anything that impacts prices could be described as a wealth transfer. This misconception undermines the Commission's ability to fulfil its mandate to make decisions in the long-term interest of consumers. Lower wholesale market prices resulting from improved competition such as wholesale demand response is demonstrably in the interest of consumers (with respect to price and reliability) and this effect should be appropriately recognised.

We also note a number of concerns with the consultation process which demonstrate a level of practice which does not meet that required for good, transparent engagement. Most critically, the draft report fails to demonstrate consideration of the merit or validity of claims made in some stakeholder submissions – particularly from retailers and generators. This is despite concerns about similar practice being raised in the JEC's previous submission. We strongly encourage the Commission to consistently embrace good engagement practice and a consistent level of consideration of stakeholder input, and provide detailed discussion where further efforts are needed, in the remainder of this process.

2. Expanding the WDRM to small customers

The JEC strongly disagrees with the draft recommendation not to make any material changes to the WDRM. In particular, we urge the Commission to reconsider the decision not to progress expanding the mechanism to small customers, including households.

Extending the WDRM to households will increase the pool of DR available. This can help deliver a more efficient, lower cost, and lower risk system overall. The benefits of this will flow through to all consumers. Expansion also offers households another option to manage their energy bills, providing them a fairer share of the benefit of these actions.

It is not contested that households, or an intermediary acting on their behalf, should have the option (and associated incentives) to respond to spot market signals in real time in order to adjust their consumption. The Commission acknowledges both the direct benefits that would accrue to participating consumers and the systemic benefits that would accrue to all consumers from better enabling this. The contestation centres on whether the WDRM or the IPRR and CER Benefits frameworks are the most appropriate mechanisms through which to achieve this.

While this appears to be a legitimate question, it is not consistent with recognition in the draft report that the WDRM provides unique offerings (and value) and is expected to continue to exist alongside these other elements of the two-sided market in an ongoing way. In asserting that "[t]he recent two-sided market reforms best facilitate small customer participation", the Commission

does not explain why the recognised ongoing role of the WDRM does not apply to small customers as it does to those already eligible for inclusion in the WDRM.

The decision not to either recommend extending the WDRM to small customers and households or to initiate work on the proposal is justified on the basis that doing so would increase the complexity and cost to operate the WDRM. We don't consider this reasoning to be accurate or well founded. This position appears to be grounded in beliefs that

- small customers are not suited to the WDRM because they are not amenable to being scheduled on an individual basis,
- centrally determined and/or aggregated (portfolio) baselines are not appropriate, and
- there is a possibility of distortionary behaviour (presumably meaning gaming).

We have responded extensively to each of these concerns previously, and it is disappointing that these responses do not appear to have been meaningfully engaged with, analysed and responded to. Particularly as the original proponents of the initiate WDRM rule change, we ask that the Commission review those historical submissions on these issues and respond substantively to the perspectives raised in them.

Focus on consumer interests rather than operator and retail costs

More fundamentally, the Draft justifies its proposed approach on the basis the incidence of the risk and cost of proceeding with expansion of the WDRM falls on the market operator and retailers.

The key passage is as follows:

In addition to small customer unsuitability and the distortionary behaviour risks, facilitating small customers would require significant implementation costs for the AEMO and retailers. This is if AEMO and retailer systems are required to account for a greater number of customers, the complexity and costs of those systems to operate the WDRM would significantly increase.

We have not attempted to quantify this risk or contrast it against the benefits of the increased participation from small customers. The Commission considers that the complexity, risks and cost of incorporating small customers in the WDRM in light of the small benefits to date, does not justify increased expenditure and consideration of small customer participation in the WDRM.

We regard this as a wholly unsatisfactory as the basis for the draft decision, particularly where the validity and materiality of the issues is not demonstrated.

Most problematically, this reasoning does not centre consideration of the long-term interests of consumers in any way and instead explicitly prioritises the interests of the operator and retailers. We do not consider this in keeping with the AEMC's obligations to consider and promote the long-term interests of consumers under the National Electricity Objective (NEO). In simple terms, the approach taken does not appear to ask a question that enables assessment of what is in the interests of consumers.

The appropriate question is not whether or not extending the mechanism would add cost or complexity to the operator or retailers; it is whether such a decision would result in positive net benefits to consumers. Such an approach would still allow consideration of the implications for retailers and would, for example, encourage consideration of alternate settlement approaches that avoid imposing new systems cost on retailers, such as settling only on actuals (not a mix of actual for retail and baseline for networks) as has been recommended by JEC previously.

This approach creates an impossible test for the proposal to extend the WDRM. Any extension of the WDRM would increase the cost and complexity of the mechanism, as does most reform. To set this as the central test precludes the proposal before it has been meaningfully considered.

Recognising and assessing benefits

We note the second recommendation of the draft report overall is to expand eligibility under the existing WDRM. While we support this, it is not clear how this is justified where expansion of the mechanism to small consumers is not. There is no clear attempt to reconcile this apparent contradiction in approach and conclusion.

The assertion is that the small benefits to date do not justify the increased expenditure involved in expanding the WDRM. Obviously, the benefits here cannot refer to the experience of small customers and households in the WDRM because they have never been included in the mechanism.

If the benefits refer to the experience of consumers in the WDRM overall, the draft report has listed the operating costs of the scheme at \$350,000 - \$500,000 per year and the benefits at \$4.32million, or \$1.30million per year. We contest this and will argue in section three that 98% of the benefits of the scheme - through lowered wholesale prices to the tune of \$219.3million over the four-year period - are not recognised in this assessment. However, taking the draft report's own estimate of the ratio of cost to benefit, the claim being made is that that small customers are so different to large ones that the 1 to 8 cost to benefit ratio for current participants will be rendered negative. The further implication is that this case is so evident, the claim can be made without any substantive supporting evidence or analysis. We do not consider this a reasonable approach.

The summary on page ii that the AEMC "...has considered stakeholder views and carried out its own analysis and has considered that further changes to the WDRM would not deliver material net benefits and are not warranted at this time" is not substantiated by any analysis or other material being presented in the draft report.

The quote above suggests the AEMC has eschewed the task of proper analysis required of good regulatory practice. In any case, the approach does not appear to meet the standards the AEMC sets of itself.

In the subsections that follow, we respond to some issues raised by the Commission regarding DR for small customers and households, while noting we have responded extensively to these concerns previously, in submissions to the 2019 WDRM Rule Change and the 2025 WDRM Review.

2.1 The role of retailers

A key benefit of the WDRM is that it provides consumers an alternative to retailers to access the spot market. Critically, that alternative is through entities who have incentives to maximise the impact of DR and its benefit to consumers. This is important because retailers have little interest or consistent incentive to enable flexible response in general or DR in particular. They have largely removed their exposure to the spot market prices that incentivise, and are reduced by participation of, DR.

The AEMC should not take at face value retailer claims concerning the DR opportunities they offer, particularly when those same retailers are arguing against the retention or expansion of the WDRM. Instead, it should consider the actual experience of retailers' DR offerings and assess the impact they are having. They should look below the headline figures and consider the degree to which DR capacity is actually utilised by retailers.

Assessing incentive to optimise DR

The Commission should consider and critically assess the limited incentives retailers have to offer DR.

While retailers have had the ability to offer DR for a long time, they largely have not. This is because, in the vast majority of cases, they (the retailers) are not exposed to the spot market due to their hedging arrangements. Retailers manage wholesale price risk with generation (and, increasingly, storage) assets and contracts. This is their core business, and consumers benefit from it – energy bills may be higher if they didn't hedge. It incentivises investment in generation and effective risk management.

Hedging limits exposure to high spot prices for retailers, and derisks generation from price volatility. However, maximising the value of wholesale DR – both for participating energy users and the wider market – *requires* exposure to high spot price volatility to provide the strong incentive.

Moving into DR provision would require new skills and knowledge for retailers, and they would have to cover these costs and then earn a profit equivalent to their profit rates in the existing areas of business, and then return a benefit to participating consumers in order to justify the expansion. There are few cases in which this will be worthwhile. Importantly, this is a prospect retailers very understandably have a strong incentive to resist and argue against.

Retailers can be considered reasonable in their position and their lack of effective embrace of DR. The Commission should cease trying to rely on retailers to embrace flexible demand service provision, and accept that household flexible demand will be more effectively developed through providers who aren't retailers and have a different set of incentives to respond to.

There is value to be accessed by enabling small customers and households to participate in DR, both for direct participants and all consumers, but this will only happen if they are allowed access to the WDRM, which, uniquely, removes the need for retailers to provide the flexible demand service.

Retailer provision of household demand response services

Over the last 12 or more years, the JEC has closely observed retailers' ad-hoc dabbling in demand response for households. Typically, retail DR initiatives appear spurred by one of two things:

1. To address a shortfall in hedges relative to their retail position, leaving some of their demand exposed to the wholesale spot prices.

This has given rise to short-lived, ad hoc behavioural DR programs which aren't widely available or suited to the types of DR that works for most households. That is, they tend not to be the set-and-forget energy services that can be bundled with the purchase and/or operation of consumer energy resources like EVs, batteries and smart appliances or home energy management systems.

Importantly, as they are responding to their own contract and hedging position (rather than spot price alone) the retailers with these schemes don't offer potential DR customers - especially household customers - the same frequency of participation or cut of wholesale energy value that DR aggregator typically would.

2. In response to a pending regulatory or policy decision about DR.

Over the last decade, most retail-led DR programs for households have been announced during periods when the Commission, ESB or Government has been consulting on reforms that would allow third parties to do DR. It could therefore be argued that DR by third parties is effective in incentivising retail DR. However, as demand response is generally not part of core retail business models, retail DR programs tend not to endure and only a small minority of those announced in the last decade remain today. This is a rational response from retailers, as we note above, and to be expected when reforms with potential to impact their well-established business-models are being considered.

Aligning roles and responsibilities with incentives

It is critical that in considering arrangements for DR, the AEMC takes a clear-eyed view of fit-for-purpose business models, the incentives different parties have and how these align with the consumer interest (or not). DR is not well suited to retailers, and we need look no further than contestable metering to see the continuing consumer detriment and governance headache that arises from depending on retailers to deliver products and services that lie outside of their core business, and where their incentives are not well-aligned with the best interests of consumers.

DR is well suited to aggregators for whom it is a core business. In a CER-rich future, relying on market forces (and reforms like IPRR and unlocking CER), without also supporting the options that work better for consumers, falls a long way short of promoting their best interests.

Retailers do not need a separate mechanism to do wholesale demand response. They have the customers large and – unlike WDRM aggregators – small. Like WDRM aggregators, they have the direct access to the wholesale market and can offer participating consumers a share of benefits from demand response that also places downward pressure on wholesale prices that flow through to all energy users' bills.

Unlike demand response aggregators, retailers don't need to jump through registration hoops or submit themselves to external baselines to prove to AEMO they've done the demand response.

The aim of reform should be ensuring the WDRM allows energy users who wish to do DR in the energy spot market without their energy retailer, and ensuring it allows DR providers to compete with generators on a level playing field in the energy spot market in a way that promotes the interests of consumers.

2.2 Baselineing

The assertion that centrally determined baselines are incompatible with CER and small customers has again been raised in the draft report as an argument against the expansion of the WDRM to small customers and households. We have previously responded to this concern in numerous submissions to the AEMC and recommend the AEMC reviews and responds to the detailed arguments presented.

In 2.2.3 of the draft determination, it is asserted the WDRM baselining approach is well suited to stable loads and CER participation is better facilitated through dispatch mode. The JEC consider this to be inaccurate and recommend the Commission consider the following:

- “Predictability” is a more accurate characterisation of load suitability for baselining purposes than “stability”. A load need not be stable, simply reasonably predictable to be suited for DR.
- Diversity is an attribute of aggregated loads which improves their suitability for participating in demand response, though it must be said this is not true for the WDRM as it is currently designed due to the limited baselining, eligibility and participation options currently available.
- Direct metering of flexible loads and subtractive metering to exclude variable CER sources like batteries and solar are practical, technically straightforward approaches to removing the “variability” (or, noting the above, unpredictability) of CER resources.

The Commission has seemed to concur with reasoning we have presented in relation to this when it says “[t]his may be addressed through new baselining technologies...” but then goes on to say “...all else being equal, it would likely make it harder to meet a baseline and to be able to successfully participate in the WDRM”. This appears to suggest the Commission would prefer lower participation in WDRM rather than have AEMO solve it by introducing new baselines.

The paper goes on to say consumers with CER would be best facilitated in the wholesale market through IPRR’s dispatch mode, suggesting the Commission has not understood the distinction between:

- a customer’s CER being the participating activity (a candidate for IPRR); and
- the customer’s flexible load being the activity (a candidate for WDRM, considering that by design and on the advice of AEMO and the Commission’s own analysis, IPRR is unsuited to wholesale DR).

We would welcome a more in-depth response which addresses these issues.

- While the draft determination characterises the absence of a baselining methodology in dispatch mode as a benefit, it is also a significant hindrance to the efficacy of dispatch mode in leveraging flexible demand. This is because the lack of centralised baselining renders dispatch mode an unsuitable tool for AEMO to dispatch¹ demand response.

Exploring baselining and settlement

Creating effective, fit-for-purpose baselining and settlement for aggregated demand response is entirely achievable and possible. Producing baselines appropriate for small customers and households should be asked as a question of how, not if.

For example, in addition to the CER-related solutions above, there is a straightforward solution to the concerns raised by the Commission about portfolio (or aggregated) baseline and settlement that do not create complexity and cost issues the AEMC has assumed would exist for financially responsible market participants (FRMP) and AEMO (p16, 17). A simplified version could be:

- On dispatch from AEMO, an aggregator triggers DR at multiple National Meter Identifiers (NMI; for example, 6MW for 30 minutes from interrupting 3,000 household EV chargers), conceptually similar to the current DR mechanism.
- Meter data from all (or small number of sub-groups) of those NMIs is used to determine a baseline (or baselines) for settlement with AEMO, conceptually similar to the current DR mechanism.
- AEMO settles with the aggregator based on the dispatched energy, measured as the difference between the aggregated baseline and the aggregated actual consumption, but has no need to calculate or transact on a per NMI basis.
- The aggregator pays participating households based on whatever arrangements it has with them, conceptually similar to the current DR mechanism.
- Those households pay their energy bills to their retailer based on actual consumption, conceptually similar to the current DR mechanism

This approach addresses an issue which the Commission has cited in not including small customers in the WDRM – the NMI-specific baselining and settlement approach used for large users not being suitable for small users.

This approach does create a missing money issue, which the current DR mechanism avoids through its split settlement and retail compensation arrangement. So, what next? We recommend focussing on identifying a solution to address this issue which should be very possible. We have proffered solutions to this problem in previous submissions, which have not been referred or responded to meaningfully.

¹ If it appears counterintuitive dispatch mode doesn't facilitate dispatching demand response, that's because it is.

How to consider baselining alternatives

The JEC asks the Commission to bring open mind to the question of making baseline and settlement work to support households participating in the demand response mechanism. In any case, we would welcome demonstration that it has been meaningfully considered, before being dismissed.

Counterfactuals like baselining are always present whenever flexible demand occurs, not just when they are developed and approved by the Australian Energy Market Operator (AEMO). Retailers can't do demand response today without some sort of baselining, however robust or simple. Households responding to price in any way will do so with an explicit or implicit counterfactual. We encourage the Commission to examine the question of how the operator might be empowered and resourced to provide baselines appropriate to new users entering the mechanism as eligibility expands (per the Commission's second recommendation), including expanding the mechanism to households.

The concern about behavioural energy consumption is overstated. As we noted in our 11 January 2019 submission to the WDRM rule change consultation,

“much demand response is likely to be automated, making it easier to measure and control as well as being somewhat simpler to baseline compared to entirely manual DR. In the case of the more advanced demand response markets in the US, only 0.7GW of over 18.3GW of enrolled demand response capacity in the US is behavioural...”

While the numbers are now out of date, the proportion is stark. We request the Commission provides further justification or reconsiders their position on this matter.

New baselining models can accommodate flexible loads

While uncertainty about patterns of behaviour may be well-founded in the case of batteries, the same cannot be said for other anticipated loads, such as EV charging, water heating, HVAC and pool pumps. These may be highly flexible loads, but this is what makes them ideal for demand response. To suggest that they should be ruled out by dint of being flexible is an apparently bizarre and perverse argument.

New modes of baselining would be needed to enable inclusion of these loads, including new versions of existing baselining approaches to allow for aggregated, multiple meters as well as subtractive metering arrangements. But this is achievable and should not rule out the inclusion of such loads.

Addressing distortion concerns

The Commission also raises a concern that centrally determined baselines may incentivise distortionary behaviour from small customers. We responded to this concern in our last submission, but this was not meaningfully acknowledged in the draft report.

In short, intentionally raising consumption over a period of time until a DR opportunity occurs (gaming) is a strategy more akin to playing poker machines than investment. You may very occasionally have a win, but over the long term you are guaranteed to lose money and the risk-

reward does not justify it as a strategy. In any case, it is not a 'strategy' a rational, highly engaged customer would employ. Perhaps more pertinently, any attempt to embrace such a strategy involves a level of engagement beyond what the vast majority of small customers and households exhibit. They are energy users first and foremost, because they need what energy enables, they are not energy speculators.

Finally, the JEC notes that much greater risk (and indeed evidence) of gaming exist in other aspects of the NEM. We question why the Commission appears to have a disproportionate focus – and starting point of distrust – in the case of WDRM participation. For example, generators have long been able 'game' the spot market through rebidding, a practice the NEM Review panel has flagged in the context of batteries. The AEMC's response to this is not to avoid rebidding being a feature of the market, but instead to have monitoring and compliance arrangements to ensure bidding is done in good faith and redress instances where it isn't. The gaming risk related to DR baselining can and should be dealt with similarly.

The AEMC should take an approach in line with its management of the risk in other areas.

2.3 IPRR

As more details come to light on the IPRR and Voluntary Scheduled Resources (VSR) – notably the inability to provide demand response and cementing the centrality of retailers – the less effective and appropriate a tool it looks for supporting household flexible demand.

IPRR has a narrow application, being limited to services provided by retailers which don't require external baselining. Anecdotally, retailers have indicated while they may participate in IPRR with VPPs, they are unlikely to do so with flexible demand. The absence of centralised baselining means IPRR is entirely unsuited to wholesale demand response dispatched by AEMO.

IPRR does not remove barriers to opportunities for households to do demand side participation so much as provide additional incentives to retailers to do things which are already possible. For the reasons stated above, we are sceptical that this additional incentive will lead to a marked increase in flexible demand offerings, and consider it unreasonable to assume IPRR will yield the optimisation of household flexible demand at the economically optimal level which would promote the interests of consumers.

A large and growing number of households have some amount of demand that could be shifted, reduced, or temporarily supplied by their own backup supply for at least a few hours every year. The flexible loads are varied in nature. Most households are motivated to find ways to reduce their electricity costs. The Commission does not contest that there is latent and unserved appetite for demand flexibility in this sector of the market. What it does contest is that the WDRM should play a role in meeting this.

This is at odds with the claims the draft report itself makes about the unique opportunities that the WDRM provides relative to IPRR and CER Benefits:

WDRM resources would be unlikely to participate in the NEM through dispatch mode... because dispatch mode uses actual consumption and generation rather than demand response relative to a baseline. Dispatch mode participation requires participants to follow dispatch instructions for every dispatch interval across the day

this is not compatible with WDRM, whose participants are only dispatched when providing a demand response, reducing participation complexity.²

This accurately describes the limitations of IPRR in relation to household flexible demand. Without a WDRM or equivalent, these consumers are not able to access DR in the wholesale market. IPRR doesn't address this, but it does still need to be addressed.

While the Commission's assertion that "... dispatch mode IPRR is a key vehicle to facilitate broad demand side participation"³ may prove correct, given its limited use case of retailer provided VPPs, it most likely will not, and certainly will not in relation to household DR.

We note recommendation 2B from the NEM review Panel's Draft report: "...each resource should be able to choose the most suitable pathway given its characteristics." The only way to meet this proposition is if households have the same pathway to flexible demand in the wholesale market that large energy users do, through the WDRM.

We strongly encourage the Commission to revisit its relative assessments of IPRR and WDRM in relation to unlocking household demand flexibility.

2.4 CER Benefits

CER Benefits is a very limited rule change, originating from broader historical proposals for Multiple Trading Relationships and Flexible Trading Arrangements.

The AEMC says of the rule change:

"CER Benefits rule change enables energy service providers for small and large customers to separately manage flexible CER from passive loads by establishing secondary settlement points in the energy market."

The JEC understands the 'energy service providers' here to be retailers. We note retailers can already "separately manage flexible CER from passive loads" for the purpose realising market benefits; this is not "enabled" by the rule change. In the case of households, the Unlocking CER rule change precludes new competition from other retailers, let alone aggregators of wholesale DR or other energy service providers - as participation remains restricted to the customer's financially responsible market participant (FRMP).

The Commission should reconsider its assessment of the role of the CER benefits rule change and we would welcome further discussion of options to introduce meaningful competition to retailers in enabling small-consumer demand response.

² AEMC, 10 July 2025, Review of the Wholesale Demand Response Mechanism Draft report, p.1

³ Ibid. p.i

3. Consumer benefit calculation

JEC supports the AEMC's assessment that its 2020 estimate of implementation costs is accurate and agrees consumer benefits should exceed these costs over a reasonable timeframe.

However, the calculation of the consumer benefits falling from the WDRM are excessively conservative, resulting in the Commission arriving at a flawed conclusion that the WDRM has come at a net cost⁴. We strongly recommend a re-evaluation of this assessment as a more accurate estimation would justify expansion of the mechanism substantially, particularly to include small customers and households.

Re-characterising 'wealth transfers'

We strongly disagree with the characterisation of wholesale market price 'benefits' as wealth-transfers. Discounting cost savings flowing from lower wholesale energy prices by characterizing them as a wealth transfer from generators to consumers is an inappropriate use of the concept of wealth transfer. While it is important to distinguish activities that create value from those that merely move it, it is critical to make this distinction appropriately. We argue that is not the case here.

The value created in demand response is expressed as reduced energy cost and wholesale prices – on the basis that demand response can meet an equivalent need at a lower price than generation. This value is captured by both participating and non-participating consumers. It comes at the expense of generators in that if no demand response existed, the difference in energy prices would appear and be realised generators.

It is not appropriate to discount this beneficial price change as a wealth transfer. On this basis, anything that impacts prices is 'merely' a wealth transfer. The concept is useful insofar as it identifies movement of value between two participants on the same side of a market (generators and sellers of demand response aggregators in the market). If the transfer is between participants on opposite sides – or in this case between the entirety of one side and the entirety of the other – it is more accurate to describe the phenomenon as 'more accurate price discovery'.

In short, there may be a transfer of wealth that occurs between generators and consumers, but not in the sense that it is appropriate to discount it, as it would be for a traditional use of the concept.

The second issue in the Commission's dismissal of the price effects is that it places generator and consumer interests as equal. This is contrary to the NEO and the Commission's imperative to make decisions maximising the long-term consumer interest. Ultimately, whether the benefits that fall to consumers from the price effects of DR fall from value creation or value transfer from generators to consumers is not a matter the Commission should concern itself with, either should be regarded as being in the consumer interest.

⁴ Which we consider to mean cost to consumers

Excluding the price effects of DR artificially and inappropriately reduces the benefits of the scheme to consumers by around 98%. This massively under-values the existing scheme and the consumer benefit that it provides on a per dollar of investment basis.

Our understanding is that the Commission currently discounts 'wealth transfers' from generators to consumers the same way when assessing the benefits that appear in the IPRR framework. If this is the case, we dispute the practice on the same grounds.

We recommend the Commission re-visit its assessment of benefits and correctly characterise the benefits of the existing WDRM to enable a more accurate assessment of the potential benefit in expansion of the mechanism.

Discounting hard to quantify benefits

We appreciate the Commission agreeing there are more benefits falling from the WDRM than those included in the quantitative analysis, namely consumer choice and benefits flowing from increased competition with retailers. However, we do not consider it appropriate to discount these benefits on the basis that they are hard to quantify, and consider this approach out of step with treatment of these benefits in other processes.

Many economic values which are material are hard to quantify. The decision to discount these benefits in the analysis is not neutral, but an implicit valuation of these benefits as zero. As the Commission has acknowledged that these benefits are real and material, it is not appropriate to then implicitly estimate their quantum as zero. It would be more appropriate to use a range or positive estimate with high uncertainty bars and we strongly encourage the Commission to re-evaluate these benefits in this process.

Finally, we do not agree that all the benefits of increased demand response excluded by the Commission are so hard to quantify they shouldn't be attempted. We see no reason conservative estimates and ranges cannot be applied here.

We note that in our last submission we offered to work with the Commission to develop appropriate methodologies to estimate benefits not captured in previous assessments of the WDRM, including in this review. While this has not been taken up, we reiterate this offer and encourage the Commission to commence further work with the JEC and other stakeholders on this.

As in previous submissions we strongly recommend the Commissions assessments of the costs and benefits of WDRM expansion embrace the following principles:

- That they be forward looking:
 - Establishment costs of the mechanism are sunk. These cannot be changed and therefore are irrelevant to assessment of future consumer benefits.
 - Historical participation should be used as an input to projections of future participation, but with an explicit recognition this will inherently underestimate future benefits.
 - Current operational costs are pertinent to future operational costs to the extent these are expected to remain constant, but they should be adjusted for anticipated efficiencies and/or increases.

- **Comprehensive:**
The JEC questions the point of a cost benefit assessment that is not “formal or detailed”. It would be inappropriate to make changes to the WDRM (or reject them) on the basis of promoting the long-term interests of consumers, without understanding the realistic costs and benefits.

4. Two-way participation

The JEC consider an expanded WDRM presents significant potential value as a mechanism to deal with ‘minimum system load’ and strongly encourages the Commission to undertake a more robust evaluation of its potential in this regard.

The draft determination asserts “The WDRM is not suited to address MSL conditions” and “Two-sided demand response does not appear to be compatible with the WDRM”. While these statements appear to suggest incompatibility on the basis of function, the draft report correctly notes (p.39) that using the WDRM to encourage customers to increase load is conceptually similar to the existing design and may not require significant changes to implement.”

Correctly assessing potential for two-way demand response

The Commission’s reasoning appears to assume a lack of financial benefit for consumers participating in activities addressing MSL conditions and limited profitable opportunities for participating in two-way demand response. We do not consider this to be based on a robust or accurate analysis.

It is appropriate to assume there is what we would call a marginal net cost of participation related to the maximum negative price. However, the Commission assumes that only negative prices below -\$200/MWh (based on 20c/kWh marginal net cost of participation) are sufficient to warrant prices response. This is not correct and is founded on flawed analysis that:

- **Appears to include NUOS charges.**
This is a material error. NUOS charges are settled on the actual metered values, not the baseline, so the consumer does not pay NUOS on the demand response volume. NUOS – typically in the range of 4-9c/kWh for large users – therefore needs to be subtracted from the marginal net cost of participation in demand response.
- **Appears to use a mean retail cost estimate for commercial and industrial energy users.**
This does not reflect that in actuality there is a range of retail costs, and consumers at the lower end, with a lower marginal net cost of participation are more likely to be those participating. The cohort of energy users with a lower marginal net cost of participation are likely to participate in two-way demand response. An indicative retail energy charge for many participating users could be 5c/kWh below the 20c/kWh assumed in the Draft report. This would have a material impact on the end assessment the Commission makes.
- **Only considers the retail energy value and ignores other cost drivers for participation** such as:
 - incentives to respond to ancillary service markets or MSL provisions, which are only likely to increase over time,

- favourable marginal loss factors (applied as an uplift to demand response revenue).
 - potential revenue or savings related to emissions reduction. Negative price events occur during times of high renewable curtailment, shifting load during such periods will have an emissions benefit.
 - Other drivers which could reasonable be assumed to be in the order of 1c/kWh.
- **Fails to consider that some consumers will not require their demand response revenue to be higher than their cost of participation**
when participation still reduces their energy costs (eg. a consumer with a marginal net cost of participation of 15c/kWh may still participate at -\$100/MWh)

The Commission's analysis also omits a number of other important considerations, including:

- As negative price events occur during times of high renewable curtailment, shifting load during such periods will have an emissions benefit which the commission's analysis should capture.
- Negative pricing, and the incidents of surplus renewables it relates to, will increase throughout the transition to a renewables-based energy system. As we have noted elsewhere in this submission, the analysis should be forwards-looking.
- Two-way demand response would be well suited to participate in frequency lowering services, which would be an additional source of revenue.

In light the above observations and of the future needs of the system, we request the Commission revisit its consideration of the proposal for two-way participation in the WDRM by:

- Disregarding the previous analysis as outlined on pages 14-15 and 38-39, which is insufficient in excluding the material considerations we have highlighted.
- Changing the assumed marginal net cost of participation - and commensurate negative price bands for participation in two-way demand response - to better reflect real world conditions.
 - A straightforward approach would be to assume some participants require spot prices of -\$150/MWh, some -\$100/MWh, and some -\$50/MWh
 - Alternately, using the value of -\$100/MWh for all participation.
- Taking a forward-looking approach, over at least a decade, considering emerging and growing minimum system load and curtailment issues and the value of flexible load as acknowledged widely including by the Commission, AEMO, Governments and stakeholders.
- Considering potential revenue from frequency lowering ancillary services.
- Recommending expanding the WDRM to be able to allow symmetrical participation, by incentivising increased load during times of negative pricing and surplus renewables

5. Issues of process

5.1 Different treatment of WDRM, IPRR, and CER Benefits

The JEC proposed the WDRM as a critical tool for promoting benefits to all consumers. We are concerned with the apparent differential in the standard to which the WDRM has been held, in comparison to the IPRR.

While the WDRM was resolved to a detailed level before being approved, the IPRR has enjoyed endorsement from energy market institutions in the absence of many critical details of the proposed mechanism, including resolution of important issues.

Where the WDRM was required to demonstrate a net cost benefit, the IPRR was introduced with an express cross-subsidy (in itself unusual for any decision by the AEMC). Finally, the IPRR has not been required to demonstrate extensive consumer support or efficacy-based principles, where the WDRM has been held to this standard.

These apparent differences in standards and approach are of concern and, to date, have not been justified.

We appreciate the Commission correcting the assertion that the WDRM is temporary and acknowledging the negative impact their prior messaging is likely to have had on the take-up of the mechanism in its early years. However, we note that the draft report still seems to go to some lengths to characterise the WDRM as the second-tier mechanism for demand flexibility, behind the IPRR and CER Benefits - though as we have detailed throughout this submission, this has not been well evidenced or justified.

Page 2 of the draft report makes explicit the position that the IPRR and CER Benefits are primary in the line, “[t]he combination of these two reforms [CER Benefits and IPRR] are the key vehicle to facilitate demand-side participation in the NEM”. Again, no substantive justification for this being the case is provided. Later, on the same page, the line “[t]wo-sided market arrangements, such as those introduced through IPRR, are the key vehicle to facilitate broad demand-side participation in the NEM” appears. On page 3 the WDRM is described as playing a “niche role”.

We can see no meaningful substantiation for this and do not consider it constructive for the purposes of the task of reviewing the WDRM. Lines such as the following on page 12, “...as dispatch mode is due to commence in 2027, it is too early to cease operation of the WDRM”, while made in response – and denial – to a stakeholder’s proposal for the WDRM to be abandoned, still don’t dispel outright the suggestion that the WDRM can be replaced with the IPRR and CER Benefits.

We have detailed the complementarity of the WDRM and the IPRR and CER Benefits, and consider them to be so. We strongly recommend the Commission treat them equally, including by ensuring they are assessed on equal terms, and with equal rigour.

6. Collaborating on a principle-based assessment framework

Ensuring more effective deployment of demand flexibility is a critical priority for a NEM which operates more efficiently for all energy consumers. Since initiating the WDRM rule change, the JEC has sought to engage constructively with processes to implement and improve the deployment of flexible demand. This review presents a critical opportunity to build on the existing platform the WDRM provides, alongside the range of important reforms enabling more flexible demand.

We request an opportunity to meet with the AEMC, alongside other demand-response stakeholder to discuss the issues raised in this submission in more depth, and discuss how this review can contribute to better outcomes.

We consider a principles-based framework necessary to robustly assess the WDRM and proposals to extend and expand it to small consumers. We strongly recommend this review adopt such an approach in reconsidering responses to the Draft, including the range of issues we have raised in this submission. To that end, we highlight October 2019 submission to the WDRM Draft Rule. This submission contains an extensive set of principles which can be adopted or serve as the basis for an appropriately rigorous assessment of the WDRM. We would welcome an opportunity to work with the Commission and other stakeholders to develop such assessment framework using these principles as a starting point.

Please contact Michael Lynch at mlynch@jec.org.au regarding any further follow up.