29 July 2026

Mr Andrew Lewis
Australian Energy Market Commission
Level 15, 60 Castlereagh Street
SYDNEY NSW 2000

Project Reference: RRC0074

Dear Mr Lewis,

Consultation paper – Strengthening standards for payment difficulty assistance

The Australian Energy Council (AEC) is the peak body for energy retailers and generators operating in competitive markets. Our members generate and sell energy to over 10 million homes and businesses and are committed to delivering a reliable, affordable and decarbonised energy system for consumers. The AEC supports net zero by 2050 and recognises the electricity sector's role in reducing Australia's emissions. Our members are major investors in renewables, firming and storage technologies that are critical to ensuring that customers continue to receive reliable and sustainable energy supply as we navigate the energy transition.

The AEC welcomes the opportunity to respond to the Commission's consultation paper, *Strengthening standards for payment difficulty assistance*, published on 18 June 2026.

The AEC supports the objective underlying the AER's rule change request. Customers experiencing payment difficulty should be able to access assistance quickly, respectfully and without unnecessary friction. No retailer benefits from a payment arrangement that fails. The sector has invested significantly in hardship programs, specialist teams, self-service tools and partnerships with financial counsellors. Most AEC retailer members' support programs already exceed current regulatory minimums, and most retailers do not require documentary evidence as a precondition to assistance.

Our concern is with the breadth and drafting of the proposed rule, not its intent. As drafted, new rule 72(3) and amended rule 72(1) would create broad, absolute obligations that go beyond the problems identified by the AER. They would shift risk to retailers in ways likely to increase costs for all consumers, while reducing retailers' ability to provide the flexible and tailored assistance the AER is seeking.

The AEC also encourages the Commission to consider the case for change and the proportionality of the proposed response. We consider that the practices of concern are better addressed by the AER through targeted compliance and enforcement of existing obligations. For many customers, whose retailers already provide assistance without requesting proof, the proposed rule change would deliver limited incremental benefit.

The retail sector cannot resolve economy-wide cost-of-living pressures. Where a customer has no capacity to pay, stronger government support, including concessions, rebates and relief schemes, will do more for consumers than further obligations on retailers. The Commission should weigh quantified implementation costs against measured, rather than asserted, benefits. Prescriptive requirements increase retail costs, which are recovered from all customers and can aggravate the situation they seek to remedy.

If the Commission proceeds, it should make a more preferable rule under section 244 of the NERL, as set out below.

Summary of AEC's recommendations

The AEC recommends that the Commission make a more preferable rule that would:

1. **Prohibit evidence for basic assistance.** Prohibit retailers from requiring documentary evidence before providing basic payment difficulty assistance, such as payment plans, payment extensions and hardship program entry.
2. **Allow reasonable verification for other assistance.** Retailers should continue to be able to request reasonable information or verification for high-value, discretionary or third-party-funded assistance, including debt waivers, payment matching, appliance replacement, solar and battery installation programs, and government concession and relief schemes that already require evidence. Verification is also necessary when confirming the authority and scope of financial advisors representing customers.
3. **Clarify definitions and scope.** Define "documentary evidence" and "precondition". Make clear the ban does not prevent customers from volunteering information, retailers from asking questions to tailor assistance, verification of a third party's authority and scope to act, or documents being required under a government scheme.
4. **Require consideration of relevant and material information when payment plan review is triggered.** Rather than requiring retailers to consider "any information", specify that retailers only need to consider relevant and material information provided by customers or their authorised representatives through the channels the retailer makes available for that purpose.
5. **Set clear review triggers.** Replace the proposed 'continuous' obligation to review and update payment plans in response to "any available information" with clear triggers, such as a customer request, when the retailer is alerted to a significant change in circumstances of a customer, or at defined review intervals. Whether the plan is updated should remain at the retailer's discretion where the review shows the plan remains appropriate.
6. **Include a safe harbour.** Clarify that a retailer that establishes or varies a plan consistent with the customer's stated capacity to pay, and provides information about concessions and energy efficiency support, should not be in breach merely because the plan does not cover ongoing usage or reduce arrears.
7. **Flexibility versus strict alignment with Victoria.** Alignment with frameworks such as the Victorian Code should only be adopted where it clearly benefits consumers. While harmonisation can reduce operating and compliance costs, a Victorian-style obligation should not be adopted without further analysis.
8. **Government support.** Where a customer cannot afford to pay, government support should fill the gap. Retailer-funded forbearance is not a substitute for stronger concessions, rebates and relief schemes. This rule change should reinforce the need for governments to strengthen that support, rather than expand retailer-funded obligations.
9. **Apply a rigorous assessment framework.** Apply a quantified cost-benefit analysis and consider sequencing with the ECMC's reform and the AER's Retail guidelines review. Carefully consider the potential unintended consequences of alignment with the Victorian Payment Difficulty Framework. Provide an implementation period of at least 12 months, and ideally 18–24 months, given the volume of concurrent reforms.

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The remainder of this submission provides the AEC's detailed responses to the questions raised in the Commission's consultation paper.

Question 1. Banning documentary evidence to access payment difficulty assistance

The AEC acknowledges that requests for sensitive documentation can deter customers from disclosing financial hardship, delay engagement and compound stigma. Earlier engagement by customers can mean smaller arrears, more sustainable plans and fewer disconnections. However, because most retailers today do not require documentary evidence for basic financial hardship assistance, the incremental consumer benefits from the proposed rule are likely to be limited. Several retailers take customers at their word on affordability where a customer does not wish to disclose financial information. For many retailers, a well-designed rule would simply codify existing practice.

A ban applying to all forms of assistance could have significant unintended consequences and could be unworkable. The Commission itself identifies the requirement to verify proof of home ownership where a retailer offers to install energy-efficient appliances under a hardship program.[1] The same issue arises for government concession, rebate and relief schemes, which retailers administer on behalf of governments, and which impose their own documentary requirements.

A ban drafted without carve-outs would prevent retailers collecting documents necessary to deliver assistance or to verify the identity and authority of third parties claiming to act for a customer. It could also expose retailers to compliance risk during routine, good-faith conversations in which a customer volunteers information or documents.

We consider that the family violence rule analogy (rule 76I) cited by the AER is imperfect. Family violence protections concern safety, privacy and dignity. When customers experience family violence, documentary requirements can cause harm. Payment difficulty assistance spans a spectrum from basic payment assistance to high-value or discretionary assistance, and it may involve third-party or government funds. The AEC has not identified similar safety, privacy or dignity concerns with evidence requirements for the latter type of assistance.

The AEC considers the following amendments to the proposed Rule would improve the outcomes sought by the AER:

Clarification of definitions. If a rule is made, the Commission should define "documentary evidence" and "precondition", and make clear that the ban does not prevent customers volunteering information, retailers asking questions to tailor assistance, or verification of a third-party authority to act.

Tiered approach. The AEC considers that documentary evidence should still be permitted for some forms of assistance. We therefore propose a tiered approach:

- **Basic assistance – no evidence.** Access to payment plans, payment extensions, tailored engagement and hardship program entry should not be conditioned on documentary proof. A customer's statement that they are having trouble paying should be sufficient to trigger assistance.
- **High-value, discretionary and third-party-funded assistance – retain the ability to request reasonable information.** Debt waivers and payment matching are costly forms of assistance that should be used in a targeted way. Appliance replacement requires proof of home

[1] AEMC, Consultation paper, p. 7.

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ownership, as the Commission acknowledges.[2] Several government schemes (e.g., energy upgrade programs, solar and battery installation programs, and the Victorian Utility Relief Grant Scheme) also require the retailer to collect documentary proof. For these categories, retailers must retain the ability to request reasonable information. Without it, program integrity can be compromised, and costs could rise for all consumers. Verification for this tier protects the pool of support available for those most in need.

Flexibility versus strict alignment with the Victorian-style positive obligation. Regarding alignment with existing frameworks, such as the Victorian Code, careful consideration is needed as to whether alignment benefits consumers. The Victorian Code does not ban documentary evidence, but places a positive obligation on retailers to assist all customers in debt. While the AEC considers harmonisation across jurisdictions important to reduce operating and compliance costs, a Victorian-style positive obligation should not be adopted without further analysis. AEC members have had mixed experiences with providing assistance to all customers who fall into debt. For example, debt freezes do not improve consumer outcomes and can further entrench debt by "kicking it down the road" and leaving customers worse off.[3] Over 50 per cent of customers on plans could not cover ongoing usage even with a freeze. The $55 debt trigger can also dilute support for customers most in need. Consumer outcomes under the NECF and in Victoria are not significantly different, despite the Victorian framework being much more prescriptive. [4]

Question 2. Customer and third-party information in determining capacity to pay

The AEC acknowledges that, while retailers must consider similar information when assessing customers' capacity to pay and setting up a payment plan, retailers' approaches and processes may vary. If a customer's stated capacity to pay is below their ongoing usage, the plan cannot reduce arrears. In 2024–25, more than 50 per cent of electricity hardship customers on payment plans were paying less than their ongoing usage.[5] Plans "set too low" often reflect what the customer says they can afford. Refusing those plans would usually produce a worse result. Retailers have no interest in unaffordable plans. A plan the customer cannot pay does not get paid. However, customer and third-party information must be balanced against other factors, not made determinative.

The AEC considers the following amendments to the proposed Rule would improve the outcomes sought by the AER:

Relevant and material information. The "any available information" wording in proposed rule 72(1)(c) is not workable. The obligation should instead relate to information that is relevant and material to the payment plan. The information should also be submitted through channels the retailer makes available to the customer or their representative for that specific purpose, such as phone, web, app or chat. Retailers are best placed to determine what works for their customers, and the rules should not mandate specific digital channels. Doing so would freeze current technology into the NERR.

No continuous obligation to review and update the payment plan. There should not be a continuous obligation to review and update payment plans. Read literally, the proposed rule could require a payment plan to be reviewed daily or weekly whenever a consumer sends a message or chat. Reviews should occur when the customer requests one, when the retailer is advised of a material change in

[2] AEMC, Consultation paper, p. 7.

[3] AEMC, Consultation paper, p. 10.

[4] Australian Energy Council, Submission to the AER Review, 28 June 2024, p. 2.

[5] AEMC, Consultation paper, p. 10.

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circumstances, or at reasonable pre-defined intervals. A review should also not require an update in every case. Whether the plan is updated should remain at the retailer's discretion, informed by the review outcome.

Third parties welcome with authority checks. Retailers welcome and rely on input from financial counsellors and community advocates. Their assessments using a proper budgeting tool are usually more detailed and reliable than retailers' informal conversations with customers. Retailers ability to confirm that the representative is authorised to act for the customer and clarifying the scope of that authority are important for the customer's safety and privacy.

Information provided by third parties must be balanced against retailers' assessment of capacity to pay. Rule 72(1) already requires retailers to consider capacity to pay, arrears and expected consumption over 12 months. The Victorian experience shows that a customer-nominated payment amount, whether provided directly or through a representative, tends to become the accepted amount even when it is well below consumption. This can cause significant ongoing debt accrual. Furthermore, some financial counsellors demand set amounts that contradict the retailer's own capacity-to-pay discussion with the customer. Retailers need room to discuss whether a proposed amount serves the customer's medium- and long-term interests. Third-party representations should be considered by retailers but should not be binding. Regulatory settings that ignore this reality, such as the Victorian debt freeze, do not improve outcomes.

Safe harbour. The rule should provide that a retailer is not in breach merely because a plan increases debt, where the retailer has set or varied the plan consistently with the customer's stated capacity to pay and has provided information about concessions and energy efficiency support. Without this protection, retailers must choose between strict compliance and the flexible, tailored response the customer actually needs.

Government support. Where a customer has no capacity to pay, the gap should be addressed through government support, not retailer-funded forbearance. Concessions and rebates in NECF jurisdictions are modest compared with Victoria, and this rule change is an opportunity to reinforce the case for governments to strengthen that support rather than extend retailer-funded obligations.

Question 3. Assessment framework

We consider that the four proposed assessment criteria are the right starting point. The AEC recommends the following refinements:

Implementation considerations. The implementation criterion should be applied through a quantified cost-benefit assessment covering systems, training, service delivery, compliance and reporting costs, compared with measured rather than asserted benefits. The AER's claimed saving of about $10 million a year from avoided disconnections across the whole market[6] appears modest compared with possible implementation and ongoing costs across all NECF retailers. Retailers' experience is that even small initiatives incur substantial costs. Therefore, the costs and benefits of any proposed change should be tested carefully. The aggregate regulatory burden across all concurrent reforms should also be assessed, a point the Productivity Commission has flagged. Implementation timing should be considered across the concurrent reviews and rule changes together, not in isolation. Changes landing separately multiply system builds and customer communications. The AEC seeks an implementation

[6] AER, Rule change request, 19 December 2025, p. 5.

period of at least 12–18 months to enable retailers to sequence this rule change with other rule changes, the review of the Victorian Code, the AER guidelines and the ECMC review.

Principles of market efficiency. The Commission's assessment criterion should expressly consider whether a change preserves customers' incentives to engage with its retailer. A prescriptive approach may discourage consumer engagement and undermine the outcomes sought. The framework should remain outcomes-based rather than prescriptive so retailers can innovate and tailor support. The more prescription and compliance cost, the harder it becomes for retailers to justify investment in 'above-and-beyond' support.

Principles of good regulatory practice. Alignment with the Victorian Payment Difficulty Framework (PDF) is not automatically beneficial. Retailer experience of the PDF is mixed. Prescriptive requirements and a debt freeze do not necessarily improve outcomes, and a $55 debt trigger can dilute support for those most in need. NECF and Victorian outcomes are not significantly different despite Victoria's much heavier prescription. The ESC is also reviewing the Code, so alignment would be to a moving target.

Finally, the Commission should weigh the expected benefits realistically. For the large majority of customers the rule will change little relative to current practice. The practices of concern are those of a small number of retailers, better addressed by AER through enforcement of existing obligations. The energy sector is one part of the economy and cannot solve poverty or hardship. Expectations of what a rule change can deliver should be framed accordingly.

Conclusion

The AEC submits that the Commission should test whether the outcomes sought by the rule change proposal could be addressed at lower cost through AER compliance and enforcement activity, or through the AER's Retail guidelines review.

The AEC further submits that the proposed rule, as drafted, would not satisfy the NERO or the consumer protections test. Its open-ended obligations would impose costs on all consumers that are likely to exceed the incremental benefit over current practice. A more preferable rule based on the AEC's recommendations would deliver the customer benefits the AER is seeking while remaining practical, enforceable and consistent with the long-term interests of all consumers.

Please do not hesitate to contact me at jo.desilva@energycouncil.com.au or by telephone on 03 9205 3100 if you wish to discuss our submission further.

Yours sincerely,

Jo De Silva

Jo De Silva

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