

Essential Services Commission
Level 8/570 Bourke St
Melbourne VIC 3000

Submitted via www.engage.vic.gov.au

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Dear Commissioners,

Energy Consumer Reforms

The Australian Energy Council ('AEC') welcomes the opportunity to make a submission in response to the Essential Services Commission's ('ESC') *Energy Consumer Reforms* Discussion Paper ('Discussion Paper'). This document is part one of our submission to the ESC on these reforms.

The AEC is the peak industry body for electricity and downstream natural gas businesses operating in the competitive wholesale and retail energy markets. AEC members generate and sell energy to over 10 million homes and businesses and are major investors in renewable energy generation. The AEC supports reaching net-zero by 2050 as well as a 55 per cent emissions reduction target by 2035 and is committed to delivering the energy transition for the benefit of consumers.

The AEC and its members are strong supporters of protections that provide appropriate support for all customers and the need to ensure regulation is fit for purpose in the evolving energy market. We support the intent of the ESC to promote strong outcomes for consumers and robust consumer safeguards through the Consumer Energy Reforms.

The AEC is broadly supportive of the policy ambition behind the five initiatives considered in the Discussion Paper. We note the complexity of the automated best offer proposal and potential costs for consumers.

The AEC provides specific feedback to the questions from the Discussion Paper below.

1. Automatic best offer for customers experiencing payment difficulty

The AEC supports the goal of ensuring that customers facing financial difficulties are on appropriate energy plans. We note that the existing Payment Difficulty Framework requires retailers to do this for customers on Tailored Assistance 2. If the ESC has evidence that this is not happening consistently, then there is a compliance issue for the ESC to address. Expanding the requirement to Tailored Assistance 1 as a 'light-touch' reform instead of automated switching is one option the ESC may wish to explore further with stakeholders.

The concept of automated switching carries much risk for retailers if the guidance/regulatory design is not done well. We urge the ESC to undertake detailed consultations with industry and other stakeholders to fully consider the broader implications. We consider that there is time to undertake the necessary consultations and that for such an important reform, it is important that the reform proceeds at a cautious pace. For example, we note that the ESC has identified the "deemed best offer" under existing regulations as the "best offer" for the purpose of this reform. However, the lowset cost offer may not be the offer that best meets the customer's needs. A low-income customer on an offer that includes Woolworths points may value the access to reductions in their grocery bill more than the lowest price offer. It is important to continue to

provide consumers with choice and to recognise its value to customers, which is also a reason for considering what can be done within the existing Payment Difficulty Framework.

In relation to all three options canvassed by the ESC, the AEC would like to highlight the importance of the principle of explicit informed consent (EIC), which ensures that customers understand and consent to changes in their energy plans. This point of contact between the retailer and customer is a core element of the competitive market and an important safeguard for consumers.

2. Improving the ability to switch to the best offer

The AEC supports improving the ability to switch to the best offer and regularly advocates for customers to contact their retailer for cheaper deals. However, we are concerned that regulatory change in this area will not lead to a significant behavioural shift from customers. Retailers are already incentivised to make the process of switching to the best offer as streamlined, short and safe as possible to be competitive in the energy market. They should therefore have the flexibility to improve and create the mechanisms that give customers the option to switch to the better offer.

The AEC further does not believe that a ban on offering deals only to new customers would be conducive and agrees with the ESC that it will hurt competition. In relation to the cited UK ban on acquisition tariffs (BAT), several stakeholders, including Ofgem, outline that it has helped to create barriers to competition in the UK energy market.¹ It should likewise be noted that the BAT is currently a temporary intervention.²

3. Improving the application of concession to bills

The AEC supports improving the uptake of energy concessions, recognising the positive impact such measures have on reducing energy bills for vulnerable customers. Indeed, we note that the incentives of retailers and customers in this policy area are directly aligned. For vulnerable customers, energy concessions directly contribute to lower bills and help avoid accumulation of debt. While for retailers, ensuring that eligible customers receive their concessions reduces the risk of bad debt and minimises associated operational costs. Retailers, therefore, have a strong interest in encouraging customers to apply for concessions and are already proactive in seeking concession information during customer interactions.

Any path towards increased awareness and uptake must balance the right amount of information and contact a retailer has with their customers against overburdening them with information and confirmation requests. As such, we do not believe that ongoing checks for existing customers would be of benefit, particularly if it were to affect phone call scripting. While there may be scope for proactive checking requirements from sign-up, it should be noted that retailers already work to facilitate this and have every incentive to do so.

A more comprehensive solution would work to reduce the information asymmetries between retailers and Services Australia. Retailers generally capture a significant portion of their customer base when it comes to concessions, but do not know who is eligible. In contrast, Services Australia knows the customers who are eligible, but not who their retailer is. Though out of scope, improving the flow of information between the two entities would be a far more comprehensive solution than that laid out in the Discussion Paper.

4. Extending the protections for customers on legacy contracts.

¹ *Nous response to the Future of the Ban on Acquisition only Tariffs (BAT) after 2025*, Nous [November, 2024] pg.2-3; *Uswitch response to Ofgem's consultation on the Future of the Ban on Acquisition-only Tariffs (BAT) beyond March 2025*, Uswitch [November, 2024]; *Future of the Ban on Acquisition-only Tariffs post-March 2024*, Ofgem [October 2023] pg. 2-3.

² *Decision: Future of the Ban on Acquisition-only Tariffs (BAT) beyond March 2025*, Ofgem [November, 2024]: "The BAT is a temporary policy measure, set out in SLC 22B for both electricity and gas supply licences"

The AEC is open to exploring extending protections for customers on legacy contracts and requests the ESC to work with retailers about these customers. However, as the Discussion Paper outlines, there is still a declining trend in the number of these customers which may be hastened by some of the other reforms proposed here by the ESC. Likewise, while we acknowledge the risk that customers may be exposed to high costs due to large conditional discounts, some may benefit from meeting those conditions and could be worse off on other offers.

5. Improving the awareness of independent dispute resolution services

The AEC is supportive of consumers having the right information at the right time. Many AEC members already include Ombudsman details on their bills in line with the NECF requirements, including in Victoria. The AEC considers that it would be beneficial to await the outcomes of the AER review of the costs and benefits of implementing the Better Bills Guideline before requiring EWOV details to be included on bills as it remains unclear if there are improved outcomes for NECF customers who already have these details on their bills. We are concerned that provision of additional details could lead customers to the false impression that EWOV is their first and best point of contact when they have an issue, rather than the retailer and that this would provide for a poor customer experience. We note that the Energy Consumers Australia June 2024 Energy Consumer Sentiment Survey reports that Victoria is second only to South Australia in awareness of their respective Ombudsman schemes.³

The AEC does not consider there is a case for further regulatory intervention on digital bill communications.

Any questions about this submission should be addressed to Jo De Silva, General Manager Retail Policy by email to jo.desilva@energycouncil.com.au or by telephone on 03 9205 3100.

Yours sincerely,

Jo De Silva

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³ [Energy Consumer Sentiment Survey](#), Energy Consumers Australia [June, 2024]