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

Submitted via email

3 July 2025

Dear Commissioners,

Energy Consumer Reforms Regulatory Impact Statement

The Australian Energy Council ('AEC') welcomes the opportunity to make a submission in response to the Essential Services Commission's ('ESC') *Energy Consumer Reforms* Regulatory Impact Statement ('RIS')

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 is committed to a consistent, industry-wide approach to supporting all customers, including a focus on customers in vulnerable circumstances. We have consistently outlined our broad support for the policy ambition driving the proposed reforms and encouraged the ESC to work with industry to ensure positive outcomes for consumers are delivered at the least cost.

The AEC notes that of the eight proposals considered in this submission, three encompass principles-based regulation. In line with our intention to lean into consideration of how principles-based regulation can function effectively, our treatment of each of these proposals has focused on how to make them practically workable.

In relation to these principles-based measures, the AEC also notes that while the Commission appears to be testing how to apply these new types of reforms, the number of prescriptive proposals outweighs the number of principles-based ones. The AEC strongly encourages the Commission to consider ways in which the move to a new framework is complemented by a corresponding move to less prescription overall.

The AEC provides detailed comments on the specific proposals in the attached.

Yours sincerely,

Jo De Silva	*Braeden Keen*
Jo De Silva	Braeden Keen
General Manager Retail Policy	Policy Adviser

Suite 3, Level 13, 575 Bourke Street, Melbourne 3000
GPO Box 1823 Melbourne Victoria 3001
P +61 3 9205 3100
E info@energycouncil.com.au
W energycouncil.com.au
ABN 92 608 495 307

Attachment: ESC proposal and AEC views

ESC Proposal	**AEC Views**
Automatic best offer for customers experiencing payment difficulty	• The AEC supports the goal of ensuring that customers facing financial difficulties are on the appropriate energy plan that meets their individual needs. Of all the proposed reforms, the automatic best offer poses the most risks to customers if implemented poorly and would likewise be of most cost to retailers. Significant issues for ESC consideration include: - For customers on tailored assistance who can pay for ongoing usage, automatic switching without the need for EIC risks poor customer outcomes. This may lead to the loss of a plan with additional benefits attached (Netflix, reward points, etc.) that is within a customer's means. Particularly for customers who might be facing temporary difficulty, having to arrange a reverse switch would be an additional burden. - The requirement to automatically switch customers who have carried a debt of \$1,000 or more for at least three months may be operationally complex and impractical for retailers to monitor and action reliably. - Whether customers should have the ability to 'opt out' of automatic switching. The present drafting of the reform suggests that customers will have to wait for a letter of intent to switch before they are able to opt out of the process, which would repeat each time they become eligible for the automated best offer switch. - The timeframe for implementation is too short. While we understand the desire for vulnerable customers to benefit from these changes as soon as possible, this must be balanced against the risk of poor customer outcomes brought on by a rushed implementation. For reference, the AEMC draft determination on their assisting hardship customers reform allows an 18-month implementation time. - The cost of implementation, which would ultimately be spread across the broader customer base, could reduce the overall benefit of the reform to consumers. These costs are anticipated to be significant and ongoing for retailers. • The AEC would support a narrowed automatic best offer focused on unengaged hardship customers who cannot meet the ongoing costs of electricity. Although an 18-month timeframe would be preferred, a narrowed automatic-switch option would be easier and less costly to implement effectively. Should the ESC limit eligibility to hardship customers only, retailers may be able to implement this quicker through process changes rather than system builds in the interim.
Improving access to cheaper offers	• The AEC supports customers having access to a range of payment methods. However, we note that some energy offers are only practical when paired with specific payment methods. This is particularly relevant for certain trial plans or innovative products, which may be adversely impacted by the proposed reform (Netflix, VPPs, etc). In implementing this reform, the ESC should consider the operational realities and commercial viability of offers that are designed around particular payment arrangements, ensuring flexibility remains for product innovation. • The AEC supports the Commission's position that fees and discounts should be cost-reflective.
Improving the ability to switch to the best offer	• The AEC supports initiatives to improve customers' ability to switch to the best offer and regularly encourages customers to contact their retailer to explore cheaper options. However, there are several key issues we urge the ESC to consider: - The complexity and cost of implementing plan comparison tools on retailers' websites is significant. This is especially true for the comparison of specific or more complex products, such as multisite plans. Greater clarity is needed on the ESC's expectations in this area.

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E info@energycouncil.com.au
W energycouncil.com.au

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	- The broad principles currently outlined may set a bar that is difficult for many retailers to meet, particularly smaller retailers with limited resources. In regulating this space, the ESC must remain cognisant of the varied capabilities and constraints across the retail sector. - The current drafting suggests that this reform applies to all retailers, rather than just those that offer residential offers. Such a requirement should avoid capturing retailers or retail offers that are specific to business customers.
Protections for customers paying higher prices	• The AEC acknowledges the ESC's intent to ensure customers on older contracts pay a reasonable price for their energy. However, we note that this reform was not considered in the initial round of consultation. Therefore, we would encourage the ESC to allow more time for industry to assess its impacts on the energy industry. Should the ESC intend to proceed, we offer the following considerations: - Option D.2 would be preferred for the reasonable price of electricity. We consider that, for gas, a retailer's gas standing offer is already a fair and reasonable price to meet the requirements of this rule. - Introduce a carve-out for particular plans that may be longer than four years (Battery/Solar bundles) and those that have benefits that may outweigh the cost above the VDO. - Greater clarification is needed on the timing of the proposed annual review. - As this reform would require substantial changes to explicit informed consent (EIC) processes, a longer implementation timeframe will be necessary to ensure retailers can adapt their systems and customer communications appropriately. This should align with the timeline for the automatic switching for customers experiencing payment difficulty reform.
Extending protections for customers on legacy contracts	• The AEC supports this reform; however, we believe careful consideration is needed regarding the implementation timeframe. Given the interrelationship between this reform and the '*Protections for customers paying higher prices'* initiative, we encourage the ESC to provide a longer implementation time frame. We also note that the AEMC's draft determination on this matter proposes a 12-month implementation timeframe, which we consider to be a reasonable benchmark.
Improving the application of concessions on bills	• The AEC is supportive of this reform and reiterates that this is a policy area where the interests of retailers and customers are aligned. Retailers have a strong interest in ensuring that customers can apply for concessions and are already proactive in seeking concession information during customer interactions. Considering this, we would find option E.1 – Principles-based regulation more appropriate to better align with the draft determination proposed by the AEMC.[1] • Should the Commission follow through with Option E.2 – principles-based regulation with prescriptive elements, we would ask the ESC to consider certain cases where there is a need for clarity. For instance: - When a customer is automatically switched to a better offer. - When a customer switches through a website. - In cases where a concession cannot continue due to the account holder being deceased • In each of these instances, it may not be practical or appropriate for retailers to request concession information and doing so could create unnecessary complexity or confusion for both customers and retailers. Likewise, the Commission should be aware that licensed entities, as part of their agreement with the Department of Fairness, Families and Housing, are already required to inform customers of a loss of concession eligibility. Duplicating such requirements should be avoided where possible.

[1] Improving the application of concessions to bills, AEMC [July, 2025]

Improving awareness of independent dispute resolution services	• The AEC supports consumers having access to the right information at the right time. While we consider the selected option to be reasonable, we remain uncertain about whether it will result in a more meaningful awareness of EWOV.[2] We would like to highlight the following points for the ESC's consideration: - The Better Bills Guideline currently does not apply to multisite or aggregated customers. Clarification is needed on whether they are similarly excluded under this proposal. - As the Better Bills Guideline is presently under review, we emphasise the importance of maintaining consistency, particularly if there are changes to the requirements regarding the inclusion of telephone numbers.
Increasing best offer and debt-disconnection thresholds	• The AEC supports the increase of the best offer threshold from $22 to $50. As noted in our previous submission to the ERCOP review, the present threshold is not sufficiently meaningful to customers, and in some cases, may even result in worse outcomes for them. Indeed, this increase is particularly important in the context of the automatic best offer switch. • Similarly, we see are not opposed to the proposed increase to the disconnection threshold. However, we encourage the ESC to carefully balance the risk of disconnection against the potential for consumers to accrue higher levels of debt, making resolution more challenging over time.

Overall comments on implementation timeline:

We understand that the ESC is committed to ensuring that the benefits of these reforms flow through to customers as soon as possible. While we support the timely implementation of these changes, this must be balanced against the risk of a rushed process that could undermine the effectiveness of the reforms.

Particularly with reforms that require changes to EIC, it is necessary to ensure that retailers have adequate time to undertake thorough systems testing and to develop customer communications that are clear, compliant, and accessible. This is essential to avoid confusion or negative customer experiences and to ensure that the reforms genuinely enhance consumer protections.

Depending on the confirmed scope and final detail of the proposed reforms, the two-stage commencement of roughly 5-6 months for the first tranche and 11-12 months for the second would be difficult to achieve for most retailers. Given that the AEMC is pursuing reforms in similar areas as part of their *Assisting Hardship Customers* and *Improving consumer confidence in retail energy plans* rule changes, we recommend that the ESC align with these processes and work for a 12–18-month implementation timeframe.

Explicit Informed Consent

Explicit informed consent (EIC) can play a role in ensuring customers understand and agree to changes in their energy plans. Customers achieve the best outcomes when they can engage directly with their retailer to receive support tailored to their needs. This also benefits retailers by providing an opportunity to better understand and respond to customer needs and preferences. The AEC therefore encourages the Commission to consider how the proposed reforms can be balanced to avoid unintentionally discouraging effective engagement between retailers and their customers.

[2] Research indicates that Victoria is second only to South Australia in awareness of their respective Ombudsman schemes. See: Energy Consumer Sentiment Survey, Energy Consumers Australia [June, 2024]

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