



Submission on the National Energy Retail Amendment (Improving the ability to switch to a better offer) Rule: Draft Determination

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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;
- The Salvation Army;
- Tenants Union NSW; and
- The Sydney Alliance.

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The Justice and Equity Centre office is located on the land of the Gadigal of the Eora Nation.

Contents

- 1. Introduction2
- 2. Representation of transaction costs and comparison costs3
- 3. Continued engagement3

1. Introduction

The Justice and Equity Centre (JEC), ACT Council of Social Service (ACTCOSS), Combined Pensioners and Superannuants Association (CPSA), the Ethnic Communities Council of NSW, Financial Counsellors' Association of NSW (FCAN), People with Disability Australia and St Vincent de Paul Society NSW, welcome the opportunity to respond to the AEMC's Draft Determination on *Improving the ability to switch to a better offer*.

Our organisations support the intent of the AEMC's preferred rule change to require retailers to display the better offer message on bill cover communications in addition to on the actual bill. There may be further scope to improve this rule by requiring the message to accompany any display of the bill amount, whether on the bill, cover material, applications, texts or other communications. We agree that this rule change will likely result in more awareness of better offers for some consumers.

We are however disappointed to note that our concerns, detailed in our Joint Submission to the Issues Paper¹ for this rule change proposal, have largely been realised. The intent and ambition for reform championed by consumer and community organisations during the AER's Gamechanger process have been significantly diluted through subsequent processes. The resulting Draft Rule Change is largely another exercise in "awareness-raising", rather than one addressing the root causes of the problem. That is - this rule change focusses on raising awareness about the existence of a better offer rather than ensuring consumers are never left on poorer offers.

We support any efforts to improve outcomes for consumers and support requiring retailers to display the better offer message on all relevant billing communications. But we have little confidence this will have a significant impact for consumers. There are more robust and durable reforms more likely promote the long-term interest of consumers. These include improving the application of explicit informed consent and investigating introducing a robust retailer duty of care – as detailed in our submission to the Issues Paper.

We do appreciate the AEMC acknowledging in the consultation paper that the preferred rule change does not address many of the key issues raised by stakeholders in response to the Issues Paper. The AEMC must not stop at this recognition. We strongly encourage the AEMC to continue to engage with other relevant processes, ensuring the issues and input raised in this process and the work done, can still contribute to progress elsewhere. This includes contributing to the AEMC's own Pricing Review, the Commonwealth's Better Energy Customer Experience process, the Commonwealth Departmental review of the DMO and the AER's forthcoming Review of Guidelines. There is a critical role for the AEMC to progress this work and ensure the limitations of this particular process do not stymie much needed reforms. The AEMC should provide input to other energy market bodies and government decision-makers based on this process, and advocate for reforms by those who may be better placed to progress them via legislation or regulation outside of the AEMC's powers in this process.

¹ Justice and Equity Centre et al. 2025, [Joint Submission on Improving the ability to switch to a better offer](#).

2. Representation of transaction costs and comparison costs

Our organisations strongly disagree with the AEMC's characterisation of the switching process as 'fairly easy' and caution against falsely separating comparison costs and transaction costs in the switching process. For most consumers there is no separation of the process – i.e. consumers consider the entire experience of switching and do not typically delineate between the time and energy it takes to compare plans and the time and energy it takes to contact their retailer to enact the switch. The process of researching, choosing and completing a switch is a single costly experience for consumers, with multiple points of failure.

Many consumers do not find the final stage of switching (contacting the retailer to change to their new chosen plan) easy. There is considerable, consistent evidence² that demonstrates that even once a consumer has chosen a new plan, actually accessing that plan can be fraught. This is exacerbated for disadvantaged consumers who are more likely to experience digital exclusion, mental health constraints or require interpreter services – to name a few examples.

There are also considerable transaction costs for consumers with smart-meters attempting to find a retailer that will put them on their preferred choice, which may happen to be a flat-tariff. We are aware of cases of highly-engaged consumers³ (working in the energy sector) who have 1) chosen a plan, 2) contacted the retailer 3) been told they are ineligible for that plan 4) found another plan 5) contacted the retailer and so on until either concluding the process was impossible, or finally finding an appropriate offer they were eligible for. If highly-engaged consumers find the process difficult or impossible, the 'average' consumer – let alone those facing disadvantage – have little hope of successfully doing so.

While it may have little impact on the better offer rule change process at this stage, it is important for the AEMC to build a more accurate internal understanding of the consumer experience of the retail market. This must include correction of any assumptions (and representations of) switching as 'easy'. This is particularly critical in light of the AEMC's role in the Pricing Review and other relevant processes cited above.

3. Continued engagement

Our organisations welcome the opportunity to discuss these matters further with the AEMC and other interested stakeholders.

² See: CHOICE, 2025, [The Power of Confusion: CHOICE designated 'super' complaint on energy plans](#); PIAC and All Sustainable Futures, 2022, [Save4Good: Insights into Retailer Practices](#)

³ The JEC is able to present the AEMC with a case study if useful.