

# CHOICE

 **Justice and  
Equity Centre**



# Retail guidelines review consultation paper

19 December 2025

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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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## **CHOICE**

CHOICE is the leading consumer advocacy group in Australia. CHOICE is independent, not-for-profit and member-funded. Our mission is simple: we work for fair, just and safe markets that meet the needs of Australian consumers. We do that through our independent testing, advocacy and journalism.

## **Energetic Communities**

Energetic Communities Association is a Queensland-wide community organisation that advocates social and regulatory change to achieve a fast and fair transition through research, engagement and advocacy in sustainable energy, energy equity, energy efficiency, climate change adaptation and mitigation, and healthier and affordable homes for vulnerable households, communities and not for profits.

## **Sydney Community Forum**

Sydney Community Forum is a regional community development organisation that has worked towards social justice, inclusion, and sustainability outcomes for disadvantaged and marginalised communities in Sydney since 1974. Since 2017, in collaboration with the Sydney Alliance, we have worked closely with migrant community leaders through the Voices for Power project to highlight the climate justice and energy equity related issues, concerns and priorities of migrant communities in Western and South-Western-Sydney.

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# Recommendations

## **Recommendation 1**

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*That the AER consider alternative means of achieving consistency between the retail guidelines other than consolidation. In any case, the AER should consider reviewing the hardship policy guideline separately, consistent with taking a harm-based approach to this review.*

## **Recommendation 2**

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*That the AER pursue opportunities for listening sessions with diverse groups of consumers facing barriers/experiencing poor retail energy outcomes, to inform the framing of intended consumer outcomes for the retail guidelines. This should build on similar engagement used for the review of payment difficulty protections.*

## **Recommendation 3**

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*That the AER review the resulting retail guideline(s) 2 years – and no longer than 3 years - after implementation of the updated guidelines*

## **Recommendation 4**

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*That the AER explicitly identify the expected outcomes for consumers the guidelines are intended to deliver. As part of this process, it should consider potential gaps in the protections offered by these guidelines and undertake measures – including further rule changes – required to address them.*

## **Recommendation 5**

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*That the AER embeds the following principles in its approach to the review:*

- *An essential service requires strong consumer protections where consumer outcomes are not compromised by consideration of regulatory burden or complexity.*
- *The review should focus on actual outcomes for consumers from the perspective of consumers - rather than processes which are contingent on consumer action and may not result in the intended outcome;*
- *Retailers are responsible for reducing actual complexity, rather than merely attempting to convey or explain it;*
- *Energy information, billing and regulation should take a universal design approach that works for those with the most significant or particular needs.*

# 1. Introduction

The Justice and Equity Centre (JEC), CHOICE, Energetic Communities and Sydney Community Forum welcome the opportunity to respond to the Australian Energy Regulator's (AER) consultation paper on the Retail Guidelines Review.

The retail guidelines being reviewed play an important role setting expectations for retailers, helping to protect consumers and improving the way the retail energy market works for consumers. In this context, we support the AER undertaking a robust review of these guidelines to ensure they deliver effectively on their intended purposes.

We support the AER taking the opportunity presented by this review to consider the guidelines in the context of the outcomes they should deliver for consumers, and the principles retailers should demonstrate in delivering them. However, it is critical such an approach does not result in any dilution or weakening of the responsibilities placed on retailers.

In this context we are concerned with the apparent starting premise that consolidating and simplifying the guidelines – into a single guideline - will improve retailer understanding of the guidelines and result in better experiences for energy consumers.<sup>1</sup> Given the consistent evidence that poor retail practice – referenced throughout this submission – is impacting consumers, the focus must be on improving the consumer outcomes delivered by the guidelines, regardless of the apparent complexity that may be involved for retailers.

In thinking more broadly about the outcomes the guidelines should require of retailers, the wide scope of the review offers a valuable opportunity to think beyond the narrow, more functional bounds of the existing guidelines to clearly define the issues for consumers and the outcomes the AER envisages retailers delivering for them.

This review must be a collaborative process, as consumer advocates and the communities they serve/represent can provide valuable input on the necessary consumer outcomes and gaps where these outcomes are not being met.

In this context we are concerned with the intended process of the review and the limited scope for further stakeholder engagement between this – quite broad, high-level – consultation paper and the finalisation of a detailed guideline document. If the timeframes and process cannot be changed, we encourage the AER to enable extensive consumer and community feedback on the draft guidelines and ensure scope for material changes to be made in response to feedback (should that be warranted).

In this submission we highlight key focus areas where either an altered approach would be warranted, or where particular focus on enabling more detailed consumer feedback is necessary.

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<sup>1</sup> AER, 2025, [Retail guidelines review - consultation paper](#), p 2.

## **2. A harm-based approach to the review**

Energy is an essential service. This means that consumers must use it and make decisions about it constantly, regardless of what they know about their service or whether they can afford it. As a result, consumers are exposed to significant risks of harm on a daily basis. Contemporary understanding of this fact – demonstrated in the towards energy equity work of the AER – recognises that regulation of the retail energy market must actively minimise the risks consumers face in order to ensure vulnerability is not exacerbated.

The guidelines – particularly the hardship guidelines – are a critical tool in shaping the retail energy market and minimising the potential harm consumers risk as a result of accessing an essential service. We encourage the AER to approach this review from this perspective and prioritise mitigating potential risk and harm to consumers, over potential cost or simplicity benefits to retailers.

We support consideration of regulation focussed on outcomes for consumers. But implementation – including through the retail guidelines – should not replace robust minimum requirements and strong prescriptive retail obligations, particularly in relation to issues of significant potential consumer harm.

Minimum requirements help to ensure a baseline of acceptable conduct, with clearly enforceable actions to be undertaken by the retailer. Introducing a more principled and outcomes-focussed approach – if done well – can provide a clearer vision of intended outcomes and allow greater flexibility to go beyond minimum requirements in delivering them. In this review the AER must consider changes carefully to ensure the resulting guidance for retailers clarifies their understanding of their obligations to consumers, while clearly articulating the consumer outcomes retail practices should be contributing to.

### **2.1 Consistency can be achieved without consolidation**

We do not consider it necessary to consolidate the retail guidelines in order to review them holistically and ensure consistency and effectiveness across them.

We understand the intent behind reviewing the guidelines together and considering consolidating them. However, we do not see a compelling case for doing so. It is unclear how combining the retail guidelines into one document would materially clarify or improve regulatory obligations, especially considering much of the guidelines focus on standardised information. There is no evidence to suggest a material efficiency gain from using one longer document compared to four distinct guidelines.

There is however a real impact of a consolidated process where it requires consumer stakeholders to assess and respond to a wide range of material. Given the significance of the guidelines and their importance for consumer outcomes, the process of guideline review should enable the maximum diversity of meaningful consumer stakeholder input. We are concerned a consolidated process – and one which will proceed straight to draft – does not appropriately enable this.

If the AER is committed to consolidating guidelines, we contend the Customer Hardship Policy Guideline should still be separate and considered separately. Whereas the other three guidelines relate generally to communication and information with a retailer's customers, the Customer Hardship Policy Guideline focuses on outcomes for a particularly vulnerable subset of customers. The risk of potential harm involved in hardship guidelines – and the impact of that harm – is materially different to that involved in the other guidelines. Further, there is a heightened need for more substantive consultation with consumer and community stakeholders in relation to the hardship guidelines.

Rather than “streamlining” the regulatory obligations that retailers have in supporting customers experiencing hardship, it would be more effective to update the contents of the guideline to enable better outcomes for these customers. Section 4 of this submission sets out more detailed recommendations for changes to the Customer Hardship Policy Guideline.

### ***Recommendation 1***

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*That the AER consider alternative means of achieving consistency between the retail guidelines other than consolidation. In any case, the AER should consider reviewing the hardship policy guideline separately, consistent with taking a harm-based approach to this review.*

## **2.2 The scope of the review necessitates meaningful consultation**

The important role the retail guidelines play in protecting consumers necessitates a process which engages meaningfully with a diverse group of consumer and community stakeholders. While retailers are the main stakeholder using the retail guidelines, delivering outcomes for consumers is the central purpose of the guidelines. Therefore the needs and experiences of consumers must be central to shaping those outcomes and how they are framed in the guidelines. We note our concern with the broad scope and compressed timeline of this review as a significant barrier to enabling such engagement.

We encourage the AER to:

- publish a directions paper before proceeding with publishing the draft combined guidelines and/or,
- consider the hardship guidelines separately with a delayed or prolonged process to accommodate targeted engagement.

While we understand the possible time and resource constraints of the AER in undertaking this review, we consider the combined consultation is too complex to proceed directly to a draft. This is particularly relevant considering the timing of this consultation – during a busy period close to the summer break – when consumer stakeholders are severely constrained.

A directions paper will enable the AER and stakeholders to better contemplate the specific content of the guidelines and how a shift to more principles/outcome-focused guidelines can be accomplished successfully. This would also give scope to properly consider the implications of ongoing and recent reviews. This is especially important for stakeholders who have a targeted interest or expertise in a specific guideline, whose input must be facilitated to get meaningful feedback.

## 2.2.1 Learnings from the review of payment difficulty protections

The AER has done much great work recently to engage with diverse stakeholders and gain insights on how the energy retail market can provide better outcomes for culturally and linguistically diverse (CALD) communities. This was particularly evident in the Voices for Power listening session held as part of the review of payment difficulty protections.<sup>2</sup> We encourage the AER to draw on this work in shaping outcomes intended from the retail guidelines. For example, the issues raised by community members around the need for retailers to communicate in community languages using a variety of communication channels are also relevant to this review.<sup>3</sup>

Since an explicit purpose of that session was to “establish a foundation for future engagement between the AER and Voices for Power on policy issues impacting culturally and linguistically diverse consumers in the changing energy system”,<sup>4</sup> we also encourage the AER to conduct a similar session for this review. Sydney Community Forum and Energy Consumers Australia’s report on understanding the diversity of consumers and their experiences of the energy system provides further depth on the barriers that migrant communities face in engaging with the energy sector, as well as recommendations to improve retailers’ communications.<sup>5</sup>

In the interests of informing a ‘universal design’ approach to review of the retail guidelines, we would encourage the AER to investigate whether a similar model could be used to garner insights from other groups of people who may face particular barriers in accessing and/or using retailer communications, or who may experience disadvantage in the outcomes they receive from retailers. These groups include but are not limited to people experiencing disability, older people, or people experiencing entrenched financial difficulty or disadvantage. We would be pleased to connect the AER review team with community organisations representing diverse edge users to explore the possibility of further targeted engagement.

### ***Recommendation 2***

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*That the AER pursue opportunities for listening sessions with diverse groups of consumers facing barriers/experiencing poor retail energy outcomes, to inform the framing of intended consumer outcomes for the retail guidelines. This should build on similar engagement used for the review of payment difficulty protections.*

## 2.2.2 Opportunities for further review can mitigate risks

We agree the ideal outcome of the review is robust and fit-for-purpose retail guidelines which are relevant and provide consistency for a number of years. However, given the large scope of issues under consideration in this review, the intent to embrace a more principles/outcomes-focussed

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<sup>2</sup> AER, 2024, [Consultation summary – Voices for Power listening session](#)

<sup>3</sup> AER, 2024, [Consultation summary – Voices for Power listening session](#), p 5.

<sup>4</sup> AER, 2024, [Consultation summary – Voices for Power listening session](#), p 1.

<sup>5</sup> Energy Consumers Australia, 2024, [Insights Report: Understanding the diversity of consumers and their experiences of the energy system](#)

approach and the compressed timeline of the review, we are concerned with the AER's objective to "minimise the potential need for a further review of the guidelines in the next 3-5 years".<sup>6</sup>

Based on the considerations and risks we have outlined, we recommend the AER reviews the resulting guideline(s) within 2 years of implementing the results of this review, and no later than 3 years. We consider this option adequately balances regulatory burden with the pace of change of consumer outcomes in the energy market.

Regardless, we recommend the AER set clear consumer outcome criteria it can monitor in advance of any review, in order to assess the adequacy of the guidelines and their success in delivering the intended outcomes for consumers.

### ***Recommendation 3***

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*That the AER review the resulting retail guideline(s) 2 years – and no longer than 3 years - after implementation of the updated guidelines*

## **2.3 Clarifying the purpose of the retail guidelines**

The retail guidelines should set out specific obligations retailers must meet in supplying energy to households. They should also help to define the expected outcomes for consumers. This may also include listing practices or outcomes which are explicitly not permitted or otherwise contrary to these intended outcomes.

Importantly, the retail guidelines are not consumer-facing documents. They should not be regarded as consumer facing and need not be designed to be comprehensible to consumers. This is particularly important where being comprehensible to consumers impedes or otherwise compromises the guidelines fulfilling their central functions.

We are concerned with the AER's narrative that 'simplifying the guidelines' is an objective of this review. We see no compelling evidence the retail guidelines are 'confusing' for retailers to navigate. Further, we do not consider it likely that any complexity in the guidelines contributes to well documented poor retail practices or poor consumer outcomes.<sup>7</sup> While it is reasonable to consider opportunities to clarify the intent and direction of the guidelines, simplicity or reduced regulatory 'burden' must not result in any compromise to the robustness of the guidelines. Fundamentally, costs incurred by retailers in complying with guidelines are necessary costs of the provision of an essential service.

The retail guidelines should prioritise the interests of consumers. When weighing regulatory costs, the AER should also consider:

- The benefits of well-functioning, robust guidelines in lowering bills for consumers, improving response to payment difficulty and building trust in the energy system,
- the cost to consumers of ineffective guidelines in excess bill costs, time and stress attempting to understand confusing bills, inefficient and ineffective contact with retailers, and/or

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<sup>6</sup> AER, 2025, [Retail guidelines review - consultation paper](#), p 7.

<sup>7</sup> For example, those practices detailed in CHOICE's designated complaint.

accessing ombudsman services for assistance in interpreting their bills.

- That the costs of poor retail practice are already demonstrated, material and result in quantifiable harm to consumers – whereas any ‘excess’ costs to retailers in understanding and complying with guidelines are difficult to establish as distinct from the ‘necessary’ costs of compliance with reasonable expectations and requirements.

We also encourage the AER to review the guidelines holistically according to their overall purpose for consumers – that is, the outcomes consumers want and expect them to deliver - to identify and respond to potential gaps in the protections they offer. The process to define the expected outcomes and obligations under each guideline should help to map further consumer protection measures or guidance that maybe required. Where it is necessary, we strongly support the AER recommending rule changes to augment the retail guidelines and ensure they are capable of delivering expected consumer outcomes.

#### ***Recommendation 4***

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*That the AER explicitly identify the expected outcomes for consumers the guidelines are intended to deliver. As part of this process, it should consider potential gaps in the protections offered by these guidelines and undertake measures – including further rule changes – required to address them.*

### **3. Principles for the guidelines review**

#### **3.1 An essential service requires strong consumer protections**

Regulation and protections should be commensurate to the potential harm impact involved in the provision of the service, the loss of provision of the service, or where the expected parameters of the service are not met.

Energy is an essential service, and this requires regulations of the market delivering that service to be focussed on reducing or mitigating the potential harm to consumers involved in their access of that service. It is not appropriate for regulation to leave consumers responsible for mitigating potential harm or managing the risk of that harm.

Many people do not regularly check and update their energy offer and are not aware they must currently do so in order to have a chance of paying a ‘fair’ price. For most consumers checking their energy offer is an unwelcome, frustrating and confusing exercise that can seem impossible and unrewarding. For some, it can induce fear that they will be disconnected, have a less reliable supply or pay higher costs.<sup>8</sup> The accumulated burden on people increases every year. More and more aspects of their lives require high levels of understanding and ‘engagement’. In this context, despite its criticality, energy can be left as a lower priority, not because people are happy with their arrangements, but because there is simply a limit to people’s ‘bandwidth’ and other issues

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<sup>8</sup> Consumer Policy Research Centre, 2021, [Consumer experiences following energy market reforms in Victoria](#), p 8.

take priority. In many cases the constant daily nature of ‘engagement’ with energy can also contribute to a conscious focus elsewhere.

The guidelines shaping retail practices, processes and responsibilities must take this reality into account and seek to mitigate harm through minimising the ‘need’ for engagement and the scope for those practices and processes to lead to poor consumer outcomes, or which leave consumers more vulnerable.

### **3.2 Focus on outcomes for consumers rather than process**

Positive outcomes for consumers cannot be contingent on individual action, especially given many people face barriers in getting good outcomes from the market. This should be reflected in how the intended ‘outcomes’ for consumers are framed.

Switching plans is a key example where a ‘process’ (switching) is inappropriately used as an outcome – with the implied assumption that more switching leaves people better off - rather than focussing on the actual consumer outcome (being on the best possible offer). More switching can – and arguably does – result in consumers being no better off.

The majority of consumers want to have a simple relationship with their energy retail plan,<sup>9</sup> so setting improved switching as the intended outcome only perpetuates the inaccurate assumption that regular switching is a desired outcome. We recommend the AER consider the outcomes further to ensure they are focused on the desired outcome from the consumer perspective, and do not embody inaccurate or unhelpful normative assumptions.

We are concerned that the Better Bills evaluation frames accessing Energy Made Easy (EME) as a positive outcome in itself, suggesting “by comparing plans and retailers on EME they engaged with some of the available information about the market, becoming more informed and empowered to make choices in that market”.<sup>10</sup> This would appear to characterise engagement with EME itself as a positive outcome, despite the common frustrations people experience in comparing offers and good evidence that engagement with EME does not consistently (or even mostly) result in good consumer outcomes.

Energy Consumers Australia found that of households who considered switching offers in 2024, only 42% actually did so.<sup>11</sup> Even people who do “engage” and try to compare plans are often unable to switch to a suitable offer due to issues such as confusing naming practices, overwhelming information, or hidden eligibility barriers. Even if the person using EME successfully switches their plan, it is not guaranteed that they have accessed a better offer or are actually ‘better off’.

Again, the actual relevant outcome for consumers is that they are ‘on’ the plan that best meet their needs, not that they can theoretically access it. If the current guidelines only relate to the ‘access’, then we recommend the AER consider the ‘gaps’ involved in converting access to

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<sup>9</sup> Energy Consumers Australia, 2025, [The Consumer Energy Report Card December 2025](#), p 6.

<sup>10</sup> Behavioural Economics Team of the Australian Government, 2025, [Better Bills Impact Report](#), p 8.

<sup>11</sup> Energy Consumers Australia, 2024, [Energy Consumer Sentiment Survey June 2024](#), p 12.

outcome and investigate options to augment the guidelines accordingly through rule changes and other action.

Simply ensuring that more information is available to consumers has consistently been demonstrated not to lead to actual good consumer outcomes. Continuing to focus on improved information as an outcome perpetuates historic mistakes. The desired outcome is that consumers gain understand their energy bill and their energy offer. This is not necessarily achieved by providing detailed information and could, indeed be achieved through reducing the level of understanding required to make good decisions and/or matching offers to consumers understanding and preferences.

We encourage the AER to consider the intended outcomes it sets from the consumer perspective and ensure they are focussed on the actual outcomes consumers require the guidelines to contribute to.

### **3.3 Universal design accommodating consumer expectations**

Energy information, processes and regulations should take a 'universal design' approach. This focusses on designing for those with most significant needs. When energy information, bills and retail regulation are designed to work for those most vulnerable or with most significant needs, they work for all consumers, while minimising negative impacts on those who are most vulnerable.

For instance - energy bills should be designed to minimise complexity and be understood by all potential recipients, in particular those low English language literacy and numeracy, and people with vision impairment. This approach minimises the potential impact billing structure and presentation can have on poor or inequitable consumer outcomes.

As detailed throughout this submission, it is unacceptable to permit potentially significant harm to consumers on the basis of them being assumed to be 'uninformed' or 'disengaged' relative to a perceived 'norm'. This review should instead examine consumer experience – particularly poor outcomes – and consider how to minimise the scope for some consumers to be left worse off because of the 'way things are done'. We highlight experiences from consumers to illustrate some of the relevant complex and intersecting barriers some people experience:

- Health issues: "Due to my medical condition I get too overwhelmed at looking for a better deal so just stick with the same plan."<sup>12</sup>
- Life circumstances: "It was just the one time with the energy when we missed that one that we got notified. We got home after nearly four months with family illness. I definitely wasn't thinking about it, I wasn't checking bills and things."<sup>13</sup>
- Cultural context: "There are people who are scared of any official-looking letter."<sup>14</sup>

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<sup>12</sup> CHOICE, 2025, [The power of confusion: designated complaint](#), p 3.

<sup>13</sup> Public Interest Advocacy Centre, 2024, [Powerless: overview report](#), p 12.

<sup>14</sup> AER, 2024, [Consultation summary – Voices for Power listening session](#), p 5.

- Digital literacy: “Some of my older clients who aren't tech savvy, [get] totally get stressed out by the whole [energy] process. I've got clients who don't have mobile phones... if they do have a mobile phone, they send three-word texts and that's about it. Doing anything online is very challenging for them.”<sup>15</sup>

The AER should be focussed on such experiences and outcomes when developing design principles for the guidelines. Retailer communications cannot overcome the structural barriers people experience, but they can be designed to meet the needs of those most disadvantaged and so mitigate the contribution of retailer practice to poor consumer outcomes.

### **3.4 Retailers are responsible for reducing complexity**

Consumers cannot be held individually responsible for outcomes, by being required to inform themselves and ‘engage’ in the market to ensure they receive the energy services they need at a fair price. To do so is to ensure energy – as an essential service – continues to exacerbate consumer vulnerability. The assumption that the guidelines should manage increasing complexity of information, rather than seeking to reduce complexity faced by consumers, is a barrier to promoting better outcomes for all consumers, particularly those most vulnerable.

Retailers have currently little incentive to simplify information requirements for consumers or ensure simplicity leaves consumers better off. Arguably the opposite incentive exists. Research – and a designated complaint to the ACCC - by CHOICE shows many consumers – including the largely engaged and relatively well resourced consumers who are members of CHOICE - feel misled by their retailer, with key issues being misleading plan naming practices and better offer messages.<sup>16</sup> Some of this could be addressed by prescriptions such as the AEMC’s recent recommendation to require energy service providers to charge all customers on the same plan the same price, or a prohibition on advertising better offers that the customer is not eligible for.<sup>17</sup>

However, these measures should be complemented by retail guidelines focussed on an expected outcome that consumers understand retail products and are able to access an offer that best works for them. Such guidelines could also embed principles that retailers should structure offers and information to be as simple as possible for its purpose – that is that retailers provide:

- all information necessary,
- as little information as required,
- provide information as simply and as accessibly as possible.

#### **3.4.1 Complexity from new technologies is not a core issue**

Taking a ‘harm-based’ approach to this review, we do not consider accommodating complexity resulting from new technology products to be a high priority focus for this process.

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<sup>15</sup> Nicholls & Dahlgren, 2021, [Consumer experiences following energy market reforms in Victoria](#), p 39.

<sup>16</sup> CHOICE, 2025, [The power of confusion: designated complaint](#)

<sup>17</sup> Australian Energy Market Commission, 2025, [Draft report: pricing review](#), p vi.

We are concerned that a focus on managing the complexity introduced by new technologies distracts from the core objective to ensure energy – as an essential service – is provided equitably and affordably, with all consumers able to expect fair outcomes.

To clarify, enabling choice to access more innovative products and technologies is important – particularly as the energy transition proceeds - but enabling and accommodating this should not in any way compromise a robust focus on the core purpose of protecting affordable, equitable and fair access to an essential service.

The consumers who most need to be able to access a fair price for energy are also those who face financial/circumstantial barriers to accessing new energy services. Increasing the ‘flexibility’ of the guidelines to account for new energy services should not come at the expense of the protections provided to all consumers. We consider new energy services are better dealt with through specific additions to the guidelines (where necessary) that cover specific expectations for the provision of these services.

### ***Recommendation 5***

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*That the AER embeds the following principles in its approach to the review:*

- *An essential service requires strong consumer protections where consumer outcomes are not compromised by consideration of regulatory burden or complexity.*
- *The review should focus on actual outcomes for consumers from the perspective of consumers - rather than processes which are contingent on consumer action and may not result in the intended outcome;*
- *Retailers are responsible for reducing actual complexity, rather than merely attempting to convey or explain it;*
- *Energy information, billing and regulation should take a universal design approach that works for those with the most significant or particular needs.*

## **4. Hardship guideline reform**

Since its publication in 2019, the *Hardship Policy Guideline* has not kept pace with significant advancements in understanding energy hardship.

Insights from the AER’s *Towards Energy Equity* work and other research highlight systemic factors contributing to consumer detriment:

- the ways language and responses individualise the problem and stigmatise people, and
- the limitations of modest, often ineffective hardship programs which are unreasonably ‘gatekept’ by retailers.

While substantive reforms are currently expected in the longer term – such as through the BECE process and other rule changes - the *Guideline* must be updated now to reflect these evolved understandings and improve outcomes immediately. As we have noted, this review must clearly

articulate the purpose of the *Guideline* and the intended outcomes for consumers, rather than focusing solely on the steps retailers must follow. Where the guidelines prescribe ‘steps’ they should be clearly articulated as minimum actions or, where appropriate, as actions or behaviour which must *not* occur.

While we outline recommendations for improving the standardised statements below, we anticipate being able to provide more detailed input in later stages of this review.

This review is also an opportunity to review the *Hardship Policy Guideline* as a whole and assess measures to ensure it remains fit for purpose. We contend this should be done in addition to a narrow focus on updating the standardised statements. As part of a wider review, the AER should ensure the hardship guideline:

- Sets clear expectations that retailer assistance is easy to find and accessible across all platforms. For example, assistance information (and access details) are prominently displayed on the home page of retailer website, are expressed ‘inclusively’ and supported by simple navigation, accessible formats and in multiple languages.
- Ensures retailers use language that avoids stigma while clearly identifying assistance.
- Promotes continuity and consistency in assistance expectations across and within retailers.
- Ensures basic information and support to access concessions/rebates, crisis payments, financial counsellors and energy management tips are available to all customers, not restricted to those formally in hardship programs.
- Embeds early trigger outreach practices – attached to simple objective triggers like debt and repeated late payment - to ensure retailers proactively offer assistance.
- Requires retailers to provide self-service options for adjusting payment plans, smoothing payments and accessing better tariffs.
- Embeds a ‘good faith’ principle in retail practices. For instance, ensuring that retailers accept any payment ‘in good faith’ in order to keep a consumer on a payment plan and accessing support.
- Strengthens disconnection governance, including ending the use of disconnection threats as a legitimate ‘engagement’ or communication tool.

## 4.1 Improving the standardised statements

In most cases, it appears retailers simply adopt the standardised statements as their hardship policy.<sup>18</sup> As a result, these statements take on a greater significance, effectively serving as the default policies dictating experiences and outcomes for people experiencing payment difficulty. The AER should proceed on the basis these statements function as the ‘maximum’ or required standard, rather than the ‘minimum’.

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<sup>18</sup> See submission to this review by energy researchers at USYD, WSU, UniMelb for details.

Additionally, given the most effective means of addressing hardship is early response, we encourage the AER to consider means of further expanding the scope of hardship policy guidelines to encompass measures retailers should take to mitigate hardship and respond to it before it is established. We refer to the references provided at the end of this submission in relation to responses to payment difficulty.

While they are not an ideal tool, updating the standardised statements presents an opportunity to ensure earlier, more practical, and stigma-free assistance that keeps households connected to the energy they need.

Below we respond directly to the hardship policy guidelines, making comments under the relevant headings.

## **Introduction**

The current definition of payment difficulty is overly narrow and potentially stigmatising. The focus should be on ensuring universal access to assistance as a something everyone is entitled to when they need it, and making that assistance easy to find, practically accessible and effective.

## **What we will do to help you**

This section should align with the findings from the *Review of payment difficulty protections in the NECF – Findings report*. As a priority, the onus on consumers disclosing their circumstances to retailers should be removed, either generally or in specific cases where it is unnecessary or inappropriate. For example, a retailer should already know whether their customer has received a relief grant or other emergency assistance, and this should trigger further assistance without any additional disclosure.

There should be more explicit focus on the retailer proactively responding to indicators of payment difficulty early. People experiencing payment difficulty should not be required to reveal their personal circumstances or provide evidence in order to get assistance. Requesting evidence is not allowed in response to victim survivors of family violence due to their vulnerability. This is a principle which is relevant to the provision of hardship assistance more broadly.

This review is an opportunity to embed objective, early triggers for assistance and to assure consumers receive the assistance they need.

## **Payment options**

The *Hardship Policy Guideline* is an opportunity to require retailers to offer genuinely affordable payment plans to all consumers, and that as a general principle, payment options should serve the interests of consumers and otherwise not be detrimental to their health and wellbeing. Consumers should be clearly informed that they can negotiate and easily adjust the plan if their circumstances change. Retailers should have easy systems by which payments can be adjusted and should accept any payments made in good faith to ensure consumers continue to be supported. These measures will help improve hardship outcomes for households - achieve financial stability/bill sustainability and avoid disconnection, including the fear of disconnection.

Consistent with the AER's findings that many payment plans are cancelled for non-payment and many were unaffordable, JEC's research, [Powerless: Debt and disconnection](#), highlights that

unaffordable and unmanageable payment plans are a significant issue for households. The research shows that adhering to unaffordable plans can leave people without enough money for other essentials such as health care and food. It also reveals that people often agree to payment plans that aren't affordable because they feel threatened – often in response to disconnection threats – or otherwise are not aware, or don't feel capable of negotiating with their retailer. This reflects an inherent power imbalance which hardship policy guidelines should explicitly seek to overcome.

### **What you must do**

We generally do not consider this section appropriate or consistent with contemporary understanding of the limitations people experiencing stress, disadvantage, and potential trauma have in 'engaging' with their retailer. The responsibility must rest with retailers to ensure the assistance they provide remains appropriate and fit for purpose over time. Retailer policies and systems should not add to the burden but should be designed to minimise the requirement for 'engagement' by those accessing assistance and embed 'good faith' responses to consumer action.

### **Other supports to help you pay your energy bill**

It is critical that accessible information about government-funded programs - such as concessions/rebates, relief/crisis schemes and financial counselling services – is made generally available to all consumers, not restricted to those in hardship programs. Wherever possible, retailers should actively assist people to access these programs by providing warm referrals, rather than simply supplying information. These measures should be regarded as fundamental measures to mitigate and address hardship before it is established as well as responding to it after the fact.

### **Our programs and services**

The *Review of payment difficulty protections in the NECF – Findings report* as well as research such as JEC's *Powerless* research, has found that assistance beyond payment plans is minimal and accessed by only a small number of people, even though it has been shown to be very effective.

The AER's expectations regarding the assistance required for people experiencing payment difficulty to achieve defined outcomes, should be clearly stipulated and not left to retailer discretion. Measures such as payment matching, debt write-offs and more bespoke assistance – such as support for appliance replacements or other upgrades – should be specifically listed with retailers required to provide upfront information as to when and how they will be employed.

### **We want to check you have the right energy plan**

Durably lowering energy costs is essential to achieving affordability both to avoid hardship, and to address it once it is established. This section is an opportunity to reflect the new rule requiring retailers to provide hardship customers with a credit on their bill if there is a deemed better offer available for that customer. The desired consumer outcomes intended from this measure, as well as the principles for how support will be provided, should be clearly articulated and reflected by retailers.

## **We can help you save energy**

Tips to healthily save energy should be available to everyone as a fundamental measure to improve energy literacy and affordability. The vague language in the standardised statements provides significant scope for retailers to provide minimal assistance, such as offering generic advice or simply directing customers to a website. Poor energy advice can be actively counter-productive and contribute to unnecessary stress and impacts on health.

Given the needs and vulnerability of people in hardship programs, retailers should have clearer guidance and be held to higher expectations regarding the energy use advice and assistance they provide. Assistance should be tailored to individual circumstances and include support to access energy-saving products, rather than focusing solely on behaviour change. Importantly, household health must be a central consideration, and some households may need advice to shift or even increase energy use to safeguard health and wellbeing.

## **We will work with you**

This section should set out the AER's expectations to ensure assistance delivers meaningful outcomes for consumers, including a clear commitment that disconnection and threats of disconnection will not be used as an engagement or communication tool.

We note that since the implementation of the standardised statements, consumer advocates worked with retailers to develop a set of best-practice resources for the provision of payment difficulty support.<sup>19</sup> The AER should consider scope to incorporate aspects of these into the hardship guidelines and standardised statements.

## **5. Issues for feedback**

### **Question 1. How can we make sure the combined guidelines are easy for stakeholders to use, including retailer staff who will be responsible for implementing the requirements?**

While the guidelines should be clear, we do not consider retailer ease of use a priority objective. It is more appropriate to focus on how clearly the Guidelines communicate expected outcomes for consumers and retailers' obligations and guiding principles in enabling these outcomes.

Cost to retailers for understanding and implementing the guidelines is simply a cost of providing an essential service. See sections 2.1 and 2.2 of this submission for more detail.

### **5.1 Improving retail communications**

#### **Question 2. How could we adapt the design principles to different communications and where is more specific formatting guidance required?**

Experience from the Better Bills Guideline development shows the importance of prioritising information and design principles. However, the recent evaluation highlighted that effectiveness of the Guideline varied based on how retailers interpreted it.<sup>20</sup> While we support the inclusion of

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<sup>19</sup> Australian Energy Council, [Best practice for energy retailer assistance](#), accessed 16 December 2025.

<sup>20</sup> Behavioural Economics Team of the Australian Government, 2025, [Better Bills Impact Report](#), p 42.

design principles, especially ones focusing on inclusive design, we consider there is a strong need for standardisation of key communications. These include the better offer message, benefit change notices, standardised hardship statements and plan summaries.

There is scope to regard key aspects of the bill according to their central purpose for the consumer – that is, that they are the consumers information – and provide them consistently in a way that meets the consumers needs. Accordingly, we recommend standardising the central aspects of the bill, both in language, format and positioning, to optimise comparability and consumer familiarity.

There is also scope to link other information regarded as ‘critical’ to the presentation of information on the \$ bill owing. This would ensure that any communication – such as that provided through texts, emails or apps – which provides the \$ bill owing, would also have to include this information. This may include:

- That a better offer is available,
- That the bill is an estimate,
- That assistance to pay is available.

### **Question 3. How could we make communications more accessible for customers?**

We encourage the AER to proactively seek perspectives of people with lived experience – and their stakeholders and representatives - including but not limited to people with a CALD background, people with disability, people with low digital literacy/access and people with experience of payment difficulty throughout this review. The purpose should be to inform design and regulatory decisions and develop a ‘universal design approach’.

This should also extend to testing different options with such users, rather than assuming a solution will meet their needs. Improving accessibility for groups of consumers facing specific vulnerabilities or disadvantage will improve outcomes for all consumers.

People must be able to specify how they would like to receive their energy bills, including a range of accessible options. Ways to make communications more accessible include:

- Requiring the provision of interpreter services and other ways to provide in-language support;<sup>21</sup>
- An option to receive a range of accessible bill types such as physical bills, large print and screen reader compatible formats.

Providing any accessibility accommodations (including paper bills) free of charge.

### **Question 4. How could benefit change notices be improved to make it easier for customers to understand and take action when their benefit is changing?**

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<sup>21</sup> AER, 2024, [Consultation summary – Voices for Power listening session](#), p 5.

It's not clear how recent rule changes will impact practice in relation to 'benefits'. We would prefer to implement measures where 'benefits' are simply regarded as key contract terms consented to by the consumer, which last the duration of the contract. The end of contract terms would simply default consumers to a regulated, DMO offer. Ensuring this would truly represent a focus on 'consumer outcomes'.

In absence of such measures, benefit change notices should include a better offer (identified as per Part 4 of the better bills guideline) rather than relying only on direction to use Energy Made Easy. This would significantly reduce the barriers for a consumer to take action when their benefit is changing.

We also recommend requiring benefit change notices to be provided through multiple channels. Many people need to hear/read information more than once to take action, or may miss some communications.

## **5.2 Managing increasing complexity**

### **Question 5. How will secondary settlement points change energy plans and energy plan information?**

We do not have comments on this question at this time.

### **Question 6. How could our guidelines make complex energy plan information more relevant and easier to understand?**

We support a risk/harm' based approach to determining the focus of the guidelines and the prioritisation of information. As we have detailed throughout this submission, that should result in a focus on designing to address the key functions of the guidelines to deliver and protect outcomes for essential energy provision.

We caution against an attempt to incorporate all possible information for all possible services into the guidelines. An alternative is to focus on key information, augmented by a clear statement of outcome and the principles which should determine how retailers identify and present information to achieve that outcome.

The focus should not only be on presenting complex information, but – to the greatest degree possible – removing the need for complexity. Accordingly, we support more prescription in the guidelines to present critical information in an accessible and understandable format. Key information and messages contained in bills should be standardised so that consumers are guaranteed to be able to see the information most important to them, even if they switch retailers.

It may also be worthwhile to identify practices which should be avoided, that is to prescribe what should not happen, rather than what should. For instance, the guidelines could explicitly prevent information which is not presented in its simplest accurate form, aligned with the likely consumer expectation or interpretation.

While the BETA research for the Better Bills Guideline provides some insights into how consumers prefer to interact with their bills, we encourage the AER to do further testing of any billing changes with consumers. The complexity and volume of information means that changes

made to bill structures can have unintended consequences. For example, the Better Bills evaluation found that the tiering approach of the Guideline meant that interpreter services appeared on later pages of the bill compared to pre-implementation bills.<sup>22</sup>

### **Question 7. How could we improve transparency and reduce customer confusion in relation to energy plan names?**

The overarching direction should be that plan naming and structure aligns with consumer understanding and expectation. Consumers understand plans as distinct products with consistent structures and pricing that should vary consistently for all consumers. This should be asserted, and if not, it should be made clear to consumers this is not the case.

The AER should also consider providing more prescription on energy plan names to reduce the potential for consumers to be misled. These prescriptions should include:

- **One pricing structure per plan name:** We support the AEMC’s recent recommendation to require energy service providers to charge all customers on the same plan the same price.<sup>23</sup> This should also extend to similarly named plans offered by the same retailer, to ensure that consumers can materially differentiate between different offers.
- **Restrictions on referring to ‘savings’ or ‘value’ in plan names:** Names are typically not reflections of genuine value to consumers, nor is it clear what the savings are in comparison to.
- **Restrictions on referring to ‘free’ energy in plan names:** With the rise in ‘free power period’ market offers, there is a strong risk of consumers being misled as these offers typically rely on cross-subsidisation in the period outside the ‘free’ usage window.

## **5.3 Making it easier to access a better offer**

### **Question 8. How could we ensure better offer messages are clear, relevant and trusted?**

Better offer messages have the potential to smooth access to better offers, but current retailer practices mean these messages can end up being misleading and potentially meaningless or counter-productive. Consumers commonly report issues in accessing different offers, including their deemed better offer. This includes being told offers are no longer available, not available to them, being signed up for a different offer than requested, and being told they are already on the better offer indicated (though at a different price).<sup>24</sup>

We recommend adopting a principle that retailers are responsible for ensuring consumers are not left on inferior offers, and that particularly those experiencing payment difficulty do not experience worse outcomes as a result. In practice, this means:

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<sup>22</sup> Behavioural Economics Team of the Australian Government, 2025, [Better Bills Impact Report](#), p 16.

<sup>23</sup> Australian Energy Market Commission, 2025, [Draft report: pricing review](#), p vi.

<sup>24</sup> For example see CHOICE, 2025, [The power of confusion: designated complaint](#), pp 21-22.

- Retailers are only able to advertise a ‘better offer’ that is genuinely available to the person receiving the message;
- The better offer message sets out multiple pathways to access the better offer, all of which should be reasonably available to the average consumer;
- A restriction on offering differently priced plans with the same name (see question 7 above).

**Question 9. Where should customers receive better offer messages and how could we ensure the messages are clear and appropriate for different kinds of communications?**

Better offer messages should be provided in multiple different forms of communication, aligned with the provision of the \$ bill amount owing – that is, provided wherever the \$ bill amount is communicated. The message should clearly identify the plan name, potential savings, how to initiate a switch – ideally with a dedicated contact for this purpose, and that the message is required by the AER. The information on how to switch should provide multiple methods (for example, phone call and website) to ensure those with different accessibility needs can easily respond to the message.

Taking up a better offer is difficult for people, particularly those in vulnerable circumstances, even when they are provided with the requisite information. We support a mechanism for consumers in vulnerable situations to be automatically put on to best offers, provided their usage and payment history is taken into account, they offer consent to be automatically switched and are provided with an opt-out capability.

**Question 10. What should we consider in defining the term ‘deemed better offer’, including in relation to how better offers are identified and how much a customer would need to save?**

The deemed better offer must be calculated based on actual historical usage data equivalent to that used for the actual bill, to clearly identify a material saving compared to the consumer’s current plan.

While we understand the reasoning that a material benefit is likely to be required to drive a decision to take up a better offer, we do not agree with a set threshold for the requirement to provide the information. It is up to consumers to choose whether to take up the offer, with relative value being one (but not the only) consideration. We would support reducing the threshold to the level of any actual cost that would be involved in switching – that is, the point at which any benefit is neutralised.

Better offers checks should not include any non-energy benefits or conditional discounts on bills.

## **5.4 Improving price transparency**

**Question 11. How could we improve transparency of fees and charges in plan information and on Energy Made Easy without making plan information too complex for customers?**

An appropriate focus on outcomes would ensure the structure of plans is simplified to reduce instances of additional plan fees/charges or benefits only to instances where they are material and associated with actual costs incurred or saved by the retailer.

Fees which will necessarily (or are likely to) be incurred should be included in the upfront cost comparison.

By contrast, discounts which are contingent should not be included as part of the upfront comparison but presented as terms which may be met.

Where possible, the complexity of plan information must be reduced. Retailers should be required to provide clear plain English descriptions of plans, who may be able to benefit from them, and how that benefit is derived /risks to realising that benefit. This also means that eligibility criteria must be highlighted upfront, so that consumers do not have to spend time researching plans that are not available to/appropriate for them. While transparency of fees is very important, the inclusion of overall price estimates focussed on the consumer's actual usage is paramount to their ability to compare.

As different consumers have different levels of interest in the details of their energy plan, the tiered approach introduced in the Better Bills Guideline helps to serve those different interests. That is, the key summary information should be made most accessible, but detailed information should follow. All information must be provided in a transparent and accessible manner. The structure of EME should mirror this approach.

It is critical that plan information provided on EME is accurate and represents the information relevant to all actual plans available from that retailer, for the person searching. All plans on EME should be real, broadly available energy plans which are available on the terms and at the prices they are advertised. All plans on EME should be clearly identifiable – by number or code – to ensure that consumers can confirm they end up on the plan (and terms) they identified on EME.

**Question 12. What information would be useful for customers in embedded networks to understand their energy plan and how it compares with others in the market?**

We support consumers in embedded networks having the same level of expectations and protections as others. Accordingly, the retail guidelines should apply to all consumers, including those in embedded networks. Where the aspect of the guideline is not directly relevant to consumers in embedded networks – for instance, provision of information related to market alternatives – parallel guidelines should seek to ensure outcomes which are as close to equivalent as possible. For instance, providing information on comparable market offers outside the embedded network and what would be required for the consumer to go on-market.

As embedded network customers typically do not have the ability to easily switch offers, it is unclear what value could be gained from simply comparing their plan to market offers without further information. In any case, we consider embedded networks customers would benefit more from standardised information on the protections available to them (e.g. ombuds schemes, price protections), noting these currently differ by jurisdiction. Any bill should include a reference price in the form of the regulated price cap or other benchmark.

## 5.5 Improving payment assistance information

### Question 13. What specific changes could we make to the standardised statements in hardship policies to make them more consumer friendly?

The standardised statements present an opportunity to achieve early, practical, and stigma-free assistance that keeps households connected, reduces energy costs over time and achieves the overarching goal of ensuring every Australian can access the energy essential for health, wellbeing, and social inclusion. For our specific recommendations see Section 4.

We also refer to previous submission in relation to reform of payment difficulty frameworks and our initial responses to the introduction of the hardship policy guidelines and standardised statements provided below. We intend to provide further detailed input in relation to the standardised statements in response to the draft.

### Question 14. What concession and rebate information should be included on energy bills?

We advocate for continued efforts to implement automated application of rebates and concessions. However in the interim we support the proactive provision of information on concessions and rebates at a range of points in the ‘consumer journey’.

A sizeable cohort of consumers are likely missing out on rebates/concessions they are eligible for.<sup>25</sup> Bills should therefore remind consumers that rebates/concessions are available and how to access them, with retailers putting in place practices to provide reminders and ‘re-check’ eligibility at key points for the consumer. This means including information on the different rebates/concessions available, who is likely to be eligible and how to find out more information.

The language used should not be stigmatising and should be developed in consultation with consumer and community organisations to provide guidance on how best to communicate with consumers about rebates/concessions.

## 6. Further resources

We welcome the opportunity to discuss these matters further with the AER and other interested stakeholders. Please contact Kira van Os ([kvanos@jec.org.au](mailto:kvanos@jec.org.au)) regarding any further inquiries.

As an enduring consumer advocate, the JEC has regularly contributed to retail guideline review and inception processes. The below list of resources provides further background into our long-held and evolving positions on regulations of energy retail.

### Hardship policy guideline

- [JEC submission to Draft Customer Hardship Policy Guideline](#)
- [JEC submission to Hardship Guideline Issues Paper](#)

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<sup>25</sup> AER, 2025, [Annual retail markets report 2024–25](#), pp 104-105.

- [JEC submission to standardised statements for use in customer hardship policies issues paper](#)

#### **Better bills guideline**

- [JEC submission to Draft Better Bills Guideline](#)
- [Joint submission to the Developing the Better Bills Guideline paper](#)

#### **Better offers**

- [Joint submission to the Improving the Ability to Switch to a Better Offer Rule Change Consultation Paper](#)
- [Joint submission to the Improving the Ability to Switch to a Better Offer Rule Change Draft Determination](#)