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21 January 2025

Anna Collyer
Chair
Australian Energy Market Commission
GPO Box 2603
SYDNEY, NSW, 2001

Dear Ms Collyer

## Re: Delivering more protections for energy consumers: assisting hardship customers – Consultation paper

The Australian Energy Regulator (AER) welcomes the opportunity to respond to the Australian Energy Market Commission's (AEMC) consultation paper on 'Delivering more protections for energy consumers: assisting hardship customers'.

We are pleased to see the AEMC progressing this recommendation, noting it builds on the AER's Game changer report and recommendation for an automated better offer.[1] The AER acknowledges the importance of the proposed crediting mechanism in providing greater protections for customers experiencing hardship.

### Customers may not be on the best offer

The AER agrees that customers who are in hardship programs should not face any barriers to being on their retailer's best offer. Data from the recent ACCC Inquiry into the National Electricity Market indicated that 19% of customers were on their retailer's best offer.[2] This is particularly concerning for customers who may also be in payment difficulty and accessing hardship support, with recent AER retail performance data showing customers in a hardship program make up 1.77% of all residential customers, with the average debt on entry to a hardship program being $1,614 (a 44% increase from quarter 1 2023-24).[3] Further, customers who are not engaging with their retailer to switch offers, are disproportionately penalised. For example, 43% of customers are on offers that are 2 or more years old and 33% of customers are on flat rate offers that are 1–2 years old, paying prices above the default market offer.[4] Learnings from consultation and evidence through our Review of

[1] AER, Game changer report: A package of reforms to improve outcomes for consumers in energy hardship, November 2023.
[2] ACCC, Inquiry into the National Electricity Market report, December 2024.
[3] AER, Schedule 4 – Quarter 1 2024-25 retail performance data, December 2024.
[4] ACCC, Inquiry into the National Electricity Market report, December 2024.

payment difficulty protections in the NECF[5] indicated that consumers experiencing payment difficulty or hardship, experience many barriers to engaging with their retailer. These barriers include low consumer trust in energy retailers, prior negative experiences, and a reluctance to ask for help due to fear of embarrassment or that they may not be believed.[6]

The complexity of the energy market can also disincentivise customers from engaging with their retailer to understand and change their energy plan, particularly if they are also dealing with payment difficulties and other factors which have led to their involvement in hardship programs. The recent ACCC Inquiry into the National Electricity Market report found that almost a quarter of customers were prompted to switch to an offer that had the same name as the offer they were currently on,[7] leading to further confusion for customers trying to work out whether they are on a better offer.

Learnings from research and consultation through the AER's Review of payment difficulty protections in the NECF[8] and Customer engagement toolkit[9], suggest that a crediting approach may improve the relationship between retailers and customers. In our Customer engagement toolkit, we advocate for proactive retailer practices to help strengthen the customer relationship and facilitate an environment in which they feel safe to engage. For example, a customer who proactively receives a credit from their retailer during a time of payment difficulty, may be more likely to consider that their retailer has their best interests in mind and be more willing to engage with their retailer in the future.

*Proposed solution*

The AER welcomes the rule change proposal to introduce a crediting mechanism which would provide customers in hardship programs with a credit on their bill, if a deemed better offer is available. The AER agrees that the proposed rule change is likely to achieve the consumer outcomes noted in the consultation paper and acknowledge the proposal's important function in helping customers manage their energy debt, whilst ensuring they retain appropriate agency over their energy plans. Through the AER's Game changer consumer exploration workshops,[10] we heard feedback from consumers and stakeholders that switching offers without providing the opportunity to opt in or opt out, may not align with consumer preferences, and could risk damaging consumer trust.[11] A crediting mechanism, however, addresses the potential impact on consumer trust that would likely come from automated switching.

*Calculating the credit amount*

The AEMC may wish to consider how the rule change might be applied in the event of a miscalculation and any impact this may have on customers in hardship programs. Any miscalculation of a credit amount should benefit eligible customers, such that there should be no risk of the customer being worse off than they would have been. For example, where a retailer miscalculates a better offer in favour of a customer, the customer should not be required to repay that money to the retailer. Conversely, if a retailer miscalculates the better offer in a way that disadvantages the customer, the retailer should be required to remediate

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[5] AER, Review of payment difficulty protections in the National Energy Customer Framework, May 2024.

[6] C Fitch, D Holloway and C D'Arcy, 'Disclosure environments: Encouraging consumers to disclose a mental health problem', Money and Mental Health Policy Institute and Money Advice Trust, 2022, p 7.

[7] ACCC, Inquiry into the National Electricity Market report, December 2024.

[8] AER, Review of payment difficulty protections in the National Energy Customer Framework, May 2024.

[9] AER, Customer engagement toolkit: Better practices for identifying and supporting consumers experiencing vulnerability: Draft for consultation, March 2024.

[10] Uniting, Game changer consumer exploration workshops, August 2023.

[11] Uniting, Game Changer Consumer Exploration Workshops, August 2023.

the customer. This approach would ensure that the crediting mechanism consistently protects consumers and achieves its intended outcome rather than risk adding to a customer's payment difficulties.

The AER acknowledges that the purpose of the reform is to ensure customers who are unable to engage in switching for any reason are not disadvantaged when they are experiencing payment difficulty. For example, the AER's Better Bills Guideline requires retailers to notify a customer of a better offer when the benefit of the better offer reaches $22, which is then considered to be sufficiently meaningful to notify a customer.[12] The AEMC may wish to consider a similar safety net.

There may be circumstances where a customer might receive a lesser discount than they would have had they explored other offers outside their current retailer. Notwithstanding this, we consider that this would still seem to be a net benefit for consumers compared to the status quo.

### Costs and benefits of the proposed solution

We agree with the AEMC's assessment that costs to retailers are likely to be moderate, as the approach aims to build and leverage off existing systems and obligations. We heard through consultation in our Review of payment difficulty protections in the NECF,[13] that some retailers extend accessibility to their hardship program to customers who are experiencing payment difficulty, but who do not necessarily experience a hardship event. We see it as positive that these customers receive this support. We would be disappointed to see any tightening of retailer processes for extending hardship program eligibility to customers, to reduce the cost impact of the crediting mechanism.

### Implementation considerations

The AER acknowledges that changes to the Customer Hardship Policy Guideline may be required to optimise the implementation of the proposal, including further clarity on how the credit should be applied (subject in part to whether the rules provide sufficient clarity and protections on these issues). Updates to the current standardised statements set out in the Customer Hardship Policy Guideline should also be considered, to ensure customers are provided with clear information about the credit in retailer hardship policies. If any changes to the Customer Hardship Policy Guideline are required, we would propose to commence this review following the completion of this rule change proposal and the Review of payment difficulty protections in the NECF, to ensure the outcomes of both processes are appropriately considered and reflected. We will also give further consideration to how any resulting requirements for retailers to update their hardship policies could be managed to minimise the burden on the sector and the AER.

The AER does not, however, expect the implementation of the proposal to require changes to the Better Bills Guideline. While further consideration would need to be given to this issue once the specific nature of the change is clarified, at this stage we expect that implementation could most likely be supported within the current requirements of the Better Bills Guideline. For example, a credit could be clearly communicated on a customer's bill in the current 'Understand your bill' section.

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[12] AER, Better Bills Guideline (Version 2), January 2023.
[13] AER, Review of payment difficulty protections in the National Energy Customer Framework, May 2024.

The AER appreciates the opportunity to provide feedback on the consultation paper and looks forward to continued engagement on this rule change as further details are considered.

If you have any questions about this submission, please contact the AER's Consumer Policy team at ConsumerPolicy@aer.gov.au

Yours sincerely

Mark Feather
General Manager, Policy
Consumers, Policy and Markets

Sent by email on: 21.01.2025