14 January 2025

Australian Energy Market Commission
Level 15,
60 Castlereagh Street
Sydney NSW 2000

Submission: Assisting hardship customers (RRC0060)

This is Compliance Quarter's submission to the Australian Energy Market Commission's consultation paper considering additional assistance for customers who are in hardship.

Background to Compliance Quarter

Compliance Quarter works with various energy retailers operating in those states that have adopted the National Energy Customer Framework. We work closely with our energy retail clients to help them implement and improve compliance management programs. We conduct reviews of their systems, processes, and documents and help train their front-line customer-facing staff.

As a result of our experience, we have a very good understanding of the practical challenges of implementing responses to changes to the regulatory framework and also of the likely effectiveness or otherwise of proposed changes. This submission does not necessarily reflect the views of our clients and is made on our own behalf.

Analysis of Proposed Credit Mechanism

As the Commission notes, retailers are not able to move customers onto a deemed best offer without obtaining the customer's explicit informed consent under the National Energy Retail Law. The proponent of the rule change recognises that explicit informed consent is an important consumer safeguard in ensuring consumers understand the contracts they enter with their retailer.

The proponent proposes that the existing explicit informed consent provision should be retained and that a credit mechanism would serve consumer interests under which retailers would be obliged to credit customers' accounts such that they were in effect receiving the same price that they would otherwise if they were on the relevant retailer's best offer.

The proposed credit mechanism represents a significant change to how retailers would support hardship customers.

The proposed benefits include providing immediate financial relief to hardship customers without requiring changes to explicit informed consent provisions. The credit mechanism would potentially reduce the administrative burden on customers who might otherwise need to actively engage with their retailer to receive a better offer. It may also help address the issue of customer inertia that often prevents vulnerable customers from accessing better rates.

However, we identify several significant implementation challenges. The technical implementation requirements present significant challenges. Retailers would need to substantially modify their billing systems to automatically calculate and apply credits based on deemed better offer comparisons. This would require complex system changes to track and compare multiple offer rates against actual usage patterns, while also maintaining the original tariff structure for compliance and reporting purposes.

The proposal would require retailers to develop new capabilities for real-time offer comparison and automatic credit calculation. This includes building systems to handle complex scenarios such as solar feed-in tariffs, demand tariffs, and time-of-use pricing. Furthermore, retailers would need to develop mechanisms to handle scenarios where the best offer changes during a billing period, or where a customer's eligibility for certain offers changes.

The proposal may also create perverse incentives for retailers to modify their offer structures or restrict eligibility criteria for their best market offers to minimise exposure to mandatory credits. This could lead to more complex offer structures that are harder for customers to understand and compare.

The practical challenges of implementing the credit mechanism are substantial and multifaceted. From an operational perspective, retailers would need to completely redesign their billing processes to accommodate these credits. This includes developing new systems to track multiple variables: when a customer enters and exits hardship status, what the best offer was at various points in time, and how usage patterns affect the credit calculation. The complexity increases significantly when considering customers who move between hardship and non-hardship status multiple times within a billing period.

The timing of credit calculations presents another significant challenge. Retailers would need to determine whether credits are calculated based on the best offer at the start of a billing period, continuously throughout the period, or at the time of billing. Each approach presents different technical challenges and could lead to different outcomes for customers. This becomes particularly complex when dealing with customers on flexible pricing plans or when market offers change frequently.

Retailers would also face practical difficulties in maintaining accurate audit trails for compliance purposes. They would need to store historical information about best offers, demonstrate the accuracy of credit calculations. This becomes especially challenging when dealing with offers that have complex eligibility criteria.

Customer service teams would require extensive training to explain these credits to customers, particularly when customers question why they're receiving a credit instead of simply being placed on a better rate. This complexity could lead to increased call volumes and longer call handling times, further adding to operational costs.

The interaction with existing payment plans and hardship arrangements would also need careful consideration. For example, retailers would need to determine how these credits affect agreed payment plan amounts and whether payment plans need to be recalculated when credit amounts change due to shifts in market offers.

The burden of these changes would fall disproportionately on smaller retailers who may have less sophisticated billing systems and fewer resources to implement complex system changes. This could potentially affect market competition and lead to consolidation in the retail market.

A Social Tariff

In June 2024, we lodged a submission with the Australian Energy Regulator as part of its review of the payment difficulty protections under the National Energy Customer Framework [see here]. We repeat aspects of that submission below.

One of the challenges that retailers face is balancing their risk of ongoing liability for energy consumed and for network services and so on with their social obligation to consumers who are not identified as being in hardship but by virtue of non-payment either are or will be in hardship as a result of disconnection.

It is our view that there should be an option that goes beyond the obligation of the local area retailer to offer all customers a standing offer. That, for example, may take the form of a tariff that is provided by local area retailers that is specifically designed to ensure that consumers can cover basic energy needs. That tariff would be lower than any other generally available offer.

It is our view that the most efficient way to provide such a tariff would be for the NSPs to provide a discounted network tariff that can be retrospectively applied for periods of hardship by the relevant consumer's local area retailer. The relevant customer could have access immediately to the relevant tariff and the local area retailer would then be 'made whole' by a reduced network bill.

Conclusion

While we acknowledge the intent of the proposed credit mechanism, we believe a more fundamental reform through a social tariff framework would better serve the long-term interests of consumers while maintaining market efficiency. The credit mechanism, while potentially providing short-term relief, does not address the underlying structural issues in the market that contribute to hardship.

Should you have any questions on our submission, please do not hesitate to get in touch.

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