

Australian Energy Market Commission
GPO Box 2603
Sydney NSW 2000
Submitted online: <https://www.aemc.gov.au/contact-us/lodge-submission>

30 January 2025

Dear Mr Letho,

Delivering more protections for energy consumers: changes to retail energy contracts

The Australian Energy Council ('AEC') welcomes the opportunity to make a submission in response to the Australian Energy Market Commission's (AEMC) *Delivering more protections for energy consumers: changes to retail energy contracts* Consultation Paper ('Consultation Paper')

The Australian Energy Council is the peak industry body for electricity and downstream natural gas businesses operating in the competitive wholesale and retail energy markets. AEC members generate and sell energy to over 10 million homes and businesses and are major investors in renewable energy generation. The AEC supports reaching net-zero by 2050 as well as a 55 per cent emissions reduction target by 2035 and is committed to delivering the energy transition for the benefit of consumers.

The AEC and its members strongly support protections that provide appropriate support for customers and the need to ensure regulation is fit for purpose in a rapidly evolving energy market. We note that our members, as key providers of an essential service, make supporting customers through the cost-of-living crisis an enduring priority. In a 2023 article, we have outlined how energy retailers go over and above their regulatory obligations to support customers in need.¹ Indeed, retailers have worked with the government to serve as the vehicle for providing cost-of-living relief through energy rebates.

Broadly, the December 2024 ACCC report outlines that current retail market dynamics are delivering for consumers. Competition has improved, prices have fallen, and most customers are on offers with prices below the default offers.² While there is room for improvement, retailers are working hard to sustain the market's positive trajectory. The AEC notes that retail costs represent a relatively small part of the total electricity bill (about 10 per cent), with network (39 per cent) and wholesale (38 per cent) costs being the overwhelming contributors to bill costs. It is important to keep this in mind when considering how to reduce costs.

Careful consideration, therefore, must be given to the introduction of regulation which may perversely induce risk and create costs for consumers. Indeed, multiple reviews and processes that relate to consumer safeguards are currently ongoing, including the AER's Payment Difficulty Review and the ESC's Retail Code of Practice Review. The AEMC, therefore, needs to ensure that any new regulations are not duplicative and complement existing regulatory frameworks.

Nonetheless, we are supportive of the policy ambition behind the four initiatives considered in the Consultation Paper and provide specific feedback to them below.

¹ See [Going over and above](#), Australian Energy Council [November, 2023]

² [Inquiry into the National Electricity Market December 2024 Report](#), Australian Competition and Consumer Commission [December, 2024] pg.2, 59-62

Ensuring energy plan benefits last the length of the contract.

The AEC supports the proposed rule change to harmonise with the Victorian rules, noting that we consider this issue exists on the margins, with only a minority of retail energy offers containing benefit periods that are shorter than the length of the contract.

Removing unreasonable conditional discounts

The AEC believes there is merit in considering measures to protect customers on legacy contracts with conditional fees and discounts from facing excessive costs. However, it is important to note that the number of customers on such arrangements is relatively small and continues to decline, a trend likely to accelerate due to other reforms proposed by the AEMC. Moreover, the AEC remains cautious of any approach that retrospectively applies rules for existing customer contracts.

Of the two approaches proposed, the AEC prefers the option for retailers to move customers onto a plan made available after commencement of the AEMC's final determination where the new conditional price is equal to or better than their existing conditional prices. Transitioning customers in such a way would be a far more workable solution than the second proposed option, allowing for retailers to proactively engage with their customers to attain their explicit informed consent. Retailers, however, would need adequate time to contact and transition affected customers. We suggest a transitional period of 12 months would be an appropriate minimum timeframe.

Preventing price increases for a fixed period under market retail contracts

The Consultation Paper and rule change proposal appear to outline two related concerns. The first revolves around bait advertising, whereby customers who are engaged in the market sign up for a new plan which has its price increased not long after switching. As uncertainty exists around the prevalence of what we believe is outlier behaviour, we suggest that customers might be better supported if the ACCC investigates instances of bait advertising as opposed to a rule change.

The second concern is around the clarity of retail pricing strategies to customers more broadly, with the Consultation Paper outlining that there is no easy way for consumers to know when and by how much their energy price will increase. The AEC is supportive of consumers having the right information at the right time, and notes retailers' efforts to ensure that customers are aware of changes to their bill. We suggest that instead of the options proposed, a simpler solution to give customers more pricing certainty may be found in a review of Victorian obligations around informing customers of price changes.

Nonetheless, on the options put forward by the AEMC, the AEC believes that additional data collection as proposed in option 1 would only impose further administrative burden on retailers. Given the costs of these changes are inevitably passed onto consumers, additional data reporting requirements need to have clear and demonstrable merits that outweigh the costs of implementation. Currently the value to consumers in this case is unclear.

While in principle the AEC supports efforts towards harmonisation as proposed in option 2, it is currently unclear if arrangements in Victoria deliver the right balance between customer certainty and retailer costs. Finally, while the 100 day-fixed period option is a far more practical approach, we would recommend a shorter period of 60 days.

Removing fees and charges

The AEC acknowledges the intent behind the reform to remove fees and charges that are not often transparent to customers. We suggest, however, that there may be scope for a more targeted solution, whereby the removal of fees is specifically targeted towards vulnerable customers similar to existing regulations in NSW. This approach would better ensure that the needs of vulnerable customers are addressed and avoid spreading unnecessary costs to the broader customer base. Indeed, wholesale removal of all these

fees and charges would diminish retailers' ability to selectively manage their risk, leading to these costs being spread across their entire customer base. Such a change would have flow-on effects and may need to be reflected in the Default Market Offer (DMO).

Many of these fees and charges are in place to allow for the recovery of costs associated with specific customer behaviours. Their removal would have the practical effect of concealing these price signals. Specifically, the AEC notes that the Australia Post fees are set to rise substantially in July of this year.³ Eliminating the ability of retailers to pass through these fees would obscure these price signals and disincentive the uptake of more cost-effective digital billing options. Indeed, there are customer benefits in incentivising a switch from a paper bill to an e-bill such as improving the ability to support customer switching.

There is a similar issue with special meter read fees where such fees are directly passed through from a network related service provider. It should likewise be noted that the Federal Government has proposed a ban on surcharging, with the Reserve Bank of Australia (RBA) putting forward an issues paper.⁴ It therefore would be more practical for card fees to be managed at a Federal level rather than through the AEMC.

Any questions about this submission should be addressed to Braeden Keen by email to braeden.keen@energycouncil.com.au

Yours sincerely,

Braeden Keen
Policy Advisor

³ See: [BPR letter pricing update - Australia Post](#)

⁴ [Review of Merchant Card Payments Costs and Surcharging](#), Reserve Bank of Australia, [October, 2024]