



31 January 2025

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

Via online lodgement: www.aemc.gov.au

RRC0058 – Delivering more protections for energy consumers: changes to retail energy contracts

Alinta Energy welcomes the opportunity to provide comment on the Australian Energy Market Commission's consultation paper on the National Energy Retail Amendments rule change proposals relating to changes to retail energy contracts.

The rule change proposals were motivated by findings by the Australian Competition and Consumer Commission's December 2023 *Inquiry into the National Electricity Market* report. While the proposed changes may be beneficial to customers who may not, for a variety of reasons, engage in the retail electricity market, the costs and benefits of the proposed changes and relationship to similar reforms underway require further consideration.

The relationship between the rule changes under consideration to deliver more protection for energy consumers and other regulatory reviews, including the Australian Energy Regulator's review of the payment difficulty framework and the consumer reforms under the Essential Services Commission need to ensure duplication and unnecessary overlap of regulation is avoided. The proposed rules describe the problem they are designed to address, but do not identify the materiality of the issue and some of proposed solutions may have unintended consequences.

For example, customers are informed that benefits associated with their market retail contract will expire in advance. These benefits generally align with the term of the market contract in any event. The proposed rule will not change the outcome for customers who for a range of reasons, chose not to engage with their retailer or offers from other retailers, unless a blanket term provides for a transition to another offer. However, this proposal at the expiry of their benefit (and therefore contract period), these customers will move to the Default Market Offer (DMO).

The proposed rule changes are aimed at problems that are not quantified and the solutions embedded within them are likely to:

- Increase costs paid by end use consumers (for example, incorporating fees and charges into variable energy charges);
- Reduce consumer choice and discourage retailer innovation (fixing the period where prices can change); or
- Impose additional compliance costs where the problem to be solved is very minor and is being managed by retailers with their customers (removing unreasonable unconditional discounts).

We believe further analysis of the costs and benefits of the proposed rules is required to avoid duplication and overlap with related regulatory reforms, reducing customer choice and energy retail market competition and adding to the existing burden of compliance and regulation, which ultimately increases the cost of energy to end use customers.

We respond to specific questions raised in the Commission's consultation paper below.

Alinta Energy would welcome further discussion of any issues raised in this response with the Commission, please contact David Calder (David.Calder@alintaenergy.com.au) in the first instance.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Shaun Ruddy', is centered on the page. The signature is fluid and cursive.

Shaun Ruddy
Manager, National Retail Regulation

Consultation questions

Question 1: What are the interactions between the four rule change request that we should consider?

The proposed rules are aimed at improving consumer protections, but the materiality of each protection they seek to address and the consequences for consumer choice and increased regulatory burden on retailers requires further analysis.

Question 2: Assessment framework

Do you agree with the proposed assessment criteria? Are there additional criteria that the Commission should consider or criteria included here that are not relevant?

Alinta Energy supports the assessment criteria proposed by the Commission on page 5 of the consultation paper.

Question 3: Ensuring energy plan benefits last the length of the contract:

1. *How material do you consider the proposed issue to be?*
 - *Do you have any information you can provide us on how many consumers are on contracts with expired or expiring benefit periods?*
 - *How many of these consumers are vulnerable or receiving concessions?*
 - *Are there differences in the extent or nature of the problem between retail electricity and gas contracts?*
2. *Will the proposed solution address the issue raised in the rule change request?*
 - *Does the proposed solution address issues of consent by including a standard term for end of contract arrangements?*
 - *Is there an alternative solution that would better address the underlying issues?*
 - *What transitional provisions would help retailers implement this rule at least cost?*
 - *Are there any other considerations we should assess in the rule change?*
3. *Would this proposed rule change impact the variety of tariff structures available in the retail market?*
4. *Is there any information we should consider based on the experience of the similar rule in Victoria?*

Question 3(1): Customers are provided with information prior to the expiry of their benefit period which outlines the impact of the expiry of the benefit and the options available to them. For customers who are not engaged, the proposed rule will not alter the outcome of these customers being moved to a product with the Default Market Offer as its basis.

Question 3(2): Customers on an evergreen contract with a conditional discount may not grant explicit informed consent to a new market contract. To manage this, the rule change proposes to include a standard term that automatically applied consent to a new contract for “inactive” customers. It is not clear how this will be applied in practice and would seem to undermine the principle of EIC. We would recommend a cautious approach to any reform that effectively removes the decision making away from the customer.

Question 3(3): Alinta Energy does not consider the problem identified to be material and to the extent a limited number of customers are on contracts where the benefit period ends before the contract period, the proposed solution will encourage homogenisation of products offered by retailers to be more generic, thereby reducing customer choice and competition.

Question 3(4): Experience in Victoria suggests that market offers has become more narrowly focused on price and reduced the diversity of product offerings since the changes requiring retailers to align contract length with the benefit period.

Question 4: Removing unreasonable conditional discounts

1. *What is the materiality of the problem raised in the rule change request?*
 - *Do you have any information you can provide about the impact of large conditional fees and discounts on vulnerable customers?*

2. *Will the proposed solution address the issue raised in the rule change request?*
 - *Is there any information we should consider based on the application of the current rules relating to conditional discounting?*
 - *Are there alternative options we should consider to best achieve the long-term interests of energy consumers.?*
3. *What would be the cost of the proposed solution, if implemented, to both consumers and retailers?*
4. *Are there any issues with implementation we need to consider?*
 - *What transitional provisions could address those issues?*

Question 4(1): As the AEMC notes on page 11 of the consultation paper, the Australian Competition and Consumer Commission's observation from reporting under the *Inquiry in the National Electricity Market*, 90 per cent of customers meet the requirements to receive their conditional discounts. Vulnerable customers entering retailer hardship programs have protections through their retailer reviewing the appropriateness of their current market offer.

The number of customers on legacy contracts with conditional discounts continues to decline as these customers choose other offers from their current or a competing retailer. We believe the number of customers on legacy contracts with conditional discounts will continue to decline through natural attrition as "new energy" products enter the market.

Question 4(2): Retailers are best placed to manage the transition of their customers away from legacy contracts with conditional discounts. For vulnerable customers, there are obligations on retailers to assess the appropriateness of their market contract and recommend alternative offers more suitable to the customer circumstances.

Question 4(3): There will be implementation costs and further reporting to the Australian Energy Regulator to establish the value of a conditional discount. Consumers may find their overall energy costs increasing once they move away from their current offer.

Question 4(4): Alinta Energy suggests to help manage the costs and administration of transition, retailers be granted 12 months to engage with customers who remain on legacy offers with discounts (that they gave EIC when they signed these market offers) from the date the rule is made. This will provide further evidence and insight into the materiality of the issue and flexibility for retailers to manage these customers in the most cost-effective way.

Question 5: Preventing price increases for a fixed period

1. *What is the materiality of the problem raised in the rule change request?*
 - *Do you have any data on how often retail energy prices change per year?*
 - *Do electricity and gas consumers experience the same issues?*
2. *Which of the proposed solutions would best address the issue raised in the rule change request? Are there other options we should consider?*
3. *What are the costs and benefits of each approach?*
4. *What are your views on the appropriate fixed period for prices (if any)?*
5. *Are there any implementation issues we need to consider?*

Question 5(1): Alinta Energy believes that more analysis is required to determine the materiality of the for this reform. Existing regulations require retailers to provide advance notice of any price changes which gives consumers the opportunity to seek out other offers from their current or alternative retailers. This advanced notice requires the inclusion of detailed information of the impact to the customer of any variation. We recommend that given existing protections and the absence of evidence of consumer impact under current regulations, no changes to price variations under current regulation be made.

Alinta Energy recommends that instead of choosing amongst the three options presented in the consultation paper, that analysis of the scale and materiality of any problem be undertaken in the first instance. Retailers must (with appropriate advanced notice) be able to vary pricing to reflect their own underlying costs of supplying services to their customers, any restriction placed on retailers being able to do this (timing of variation) introduces further risk to the retail market,

Question 5(3): Limiting price changes for fixed period (e.g. option 1 on page 14 of the consultation paper) without any demonstrated benefits will reduce consumer choice, likely result in conservative pricing options for customers that reflect greater uncertainty being factored into retailer pricing policies. It is also unclear how this proposal would interact with changes to the DMO, network tariff reassignments and annual network tariff changes. The treatment of changes to Government concessions would also need to be considered, including reimbursing retailers for administering and applying these concessions.

Question 5(4): Competition among retailers should be driven by consumer preferences; there is no evidence presented in the proposed rule that the options will improve outcomes for customers. As discussed above, Alinta Energy suggests that further analysis of the scope and scale of any problem should take place before any of three options are considered. Mandated fixed pricing will reduce consumer choice and competition among retailers.

Question 6: Removing fees and charges

1. *What is the materiality of the problem in this rule change request?*
2. *Will the proposed solution address the issues raised in the rule change request?*
 - *Are there any alternative solutions we should consider?*
 - *Is a rule change the best approach to solving this problem? If not, what approach would be better?*
3. *What fees and charges should be prohibited in the NERR, if any?*
 - *What are the benefits of removing these fees and charges?*
4. *Will a change to the NERR (in lieu of jurisdictional derogations) help provide consistency for retailers?*
5. *Besides existing jurisdictional derogations, are there any other implementation issues we should consider (e.g., timing, costs)?*

Question 6(1)

Once more, the materiality of the impact of fees and charges is not quantified and the proposed solution would remove a source of differentiation among retailers, fail to signal costs associated with customer preferences and inefficiently allocate these costs to all customers through tariffs, which will mute or remove the signal provided by these fees and charges. It would require customers who do not incur these costs having to pay for the decisions of other customers.

The perceived issue is not the existence of fees and charges, but an apparent (alleged but not demonstrated) lack of visibility associated with how they are communicated to customers. Smearing the cost of these fees and charges as proposed in the rule change would subsidise some customers at the expense of others and not change behaviour. The small proportion that fees and charges comprise relative to the total cost of energy for a customer is minor, such that it is highly unlikely that competitive pressure would be effective and would only result in cross-subsidies between customers who would otherwise have incurred the fee or charge and those who would not.

Fees such as special reads, credit card service fees and Australia Post fees (the latter of which continues to increase materially) are beyond the control of the retailer and are typically disclosed up front in a transparent manner, are available on Energy Made Easy and retailer's own websites.

Further analysis of the extent and materiality of any problem is required before a rule change is made.

Question 6(2): As discussed in our response to Q6(1), we do not believe the proposed solution will address any problem, whose materiality and scale has not been quantified in the rule change request. Retailers communicate fees and charges to customers in Basic Plan Information Documents provided to the AER, on their website and refer to them in terms and conditions provided to customers when forming a market retail contract.

Rather than making a rule change, an objective analysis of the extent of any problem identified, once again, would be a better approach and avoid unintended consequences and increased costs for all energy consumers.

Question 6(3): Fees and charges identified in the rule change proposal are applied by retailers to signal the costs of specific customer behaviours. They are also a source of differentiation between retailers,

and this is where competition would best serve the interests of customers. Over the counter payment fees reflect the costs imposed on retailers by organisations such as Australia Post. Smearing the cost of these fees into energy prices would reduce incentives and signals for customers to adopt more efficient online payment options and would result in all customers paying for the decisions of a smaller cohort of energy consumers.

We do not see any benefit from removing these fees and charges and retailers are unable to influence these costs that are often applied by third parties such as financial institutions, Australia Post and distribution network businesses.

Question 6(4): There is no guarantee that a change to the NERR would not be diluted by future jurisdictional derogations through legislation. Harmonisation of regulation across jurisdictions is always preferred, but in relation to fees and charges, transparency and clear communication of these to consumers is recommended.

Question 6(5): If a rule is made there would be impacts to retailer systems and processes to include the costs of fees and charges into retail prices, potential further reporting to the AER to have such costs incorporated into the DMO and changes to retailer terms and conditions. Any changes to the rules should not apply retrospectively in keeping with good regulatory practice.