Essential Services Commission
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Lodged via email: energyreform@esc.vic.gov.au

4 May 2026

Dear Commissioners

Subject: Submission to the Strengthening Protections for Energy Consumers in Victoria Consultation Paper

1. Introduction

The Australian Energy Council (**AEC**) welcomes the opportunity to provide this submission to the Essential Services Commission of Victoria (**ESCV**) in response to the Strengthening Protections for Energy Consumers in Victoria Consultation Paper ("**the Consultation**")

The AEC is the peak body for energy retailers and generators operating in competitive markets. Our members generate and sell energy to over 10 million homes and businesses and are committed to delivering a reliable, affordable and decarbonised energy system for consumers. The AEC supports net zero by 2050 and recognises the electricity sector's role in reducing Australia's emissions. Our members are major investors in renewables, firming and storage technologies that are critical to ensuring that customers continue to receive reliable and sustainable energy supply as we navigate the energy transition.

2. Overview of the Consultation

The AEC and its members recognise that the perception of electricity supply as an essential service differentiates it from many other services, and that as such it is likely to be subject to a range of industry-specific legislation and regulation, especially with respect to small consumers. Regulation is part of the business environment in which our members operate. Nonetheless, regulation is still costly and restrictive. Accordingly we consider the ESCV should take into account the following matters:

The Consultation covers six different areas of potential new or additional regulation. While it is easy for the ESCV and for stakeholders supportive of regulation to argue that an individual regulation does not materially increase the cost of regulatory compliance, the *overall* impact must be considered holistically, especially since retailers are still working through implementation of Energy Retailer Code of Practice (ERCoP) Stage 1 reforms. Regulatory compliance costs are a large component of retailer's cost to serve, and as such flow through to both default offers and market offers, so consumers ultimately pay the cost of greater regulation. We note that in principle the ESCV is open to considering opportunities to reduce regulatory burdens through simplified or streamlined approaches, but in practice, it has set a high threshold for reducing regulatory burdens, as it will apparently only consider *changes* to regulations, rather than removal of regulations that add no real value, and only a change that "maintains or strengthens consumer protections and supports a better functioning energy retail market" will be considered.

Increases in regulation also increase the likelihood of conflicts or other ambiguities arising from the interaction of different regulations. The Consultation (p18) identifies that in the case of customers who

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have experienced domestic or family violence (DFV customers) "requirements related to communication for life support equipment and meter upgrades may conflict with an affected customer's preferred method of communication".

It's vital that the ESCV establishes the scope, scale and cause of any problem that regulation is seeking to address. Several of the issues raised in the Consultation are presented as material, systematic issues without any underlying evidence of such. Others are – implicitly, at least – attributed to retailer practice without examining other possible causes.

Consistency with the National Energy Retail Rules (NERR) is generally supported in circumstances where some regulation is going to be imposed, but the AEC notes that several issues are being simultaneously consulted on by AEMC/AER. There are risks of divergence in simultaneous consultation, and we consider that the ESCV should not make a decision on such issues until the equivalent NERR consultation is resolved. Then, the ESCV can make an informed decision about whether its own decision will be consistent with the NERR and the consequent benefits/costs. As discussed further below, for some issues we consider that a material problem has not been established or new regulations are unlikely to deliver material benefits, and so our preference is no new regulation, but if the ESCV is minded to impose regulation, and there is an equivalent requirement in the NERR, then NERR alignment is likely the best starting point.

Regulations and regulatory goals should be proportionate and realistic. The largest retailers serve hundreds of thousands of customers in Victoria. Accordingly, customer service is governed by systems and processes engineered to maximise compliance while still being cost effective to develop and operate. Regulations must be designed with this in mind.

Consistency between retailers is not necessarily an appropriate goal. Retailers are individual organisations that compete against each other and differences in approach are a natural feature of a competitive landscape. Of course if minimum standards have been set, then all retailers should be striving to achieve these, but as long as this occurs, then al customers are getting the protections specified in the Code, even if some are experiencing those protections differently.

The ESCV should consider the implications of an uplift in regulatory obligations on retailer costs, including specifically bad and doubtful debt where obligations affect or extend the payment difficulty framework. The current approach to the VDO assumes such costs are consistent from year to year.

We provide some general comments below on each of the Consultation's themes, while detailed responses to the specific questions raised in the Consultation can be found at Appendix 1.

Table 1: General comments

Theme	General comments
Strengthening family violence protections	AEC and its members support the premise that retailers should provide appropriate assistance to those DFV customers. An uplift in the quality of assistance could be achieved through more flexibility in the existing retail framework rather than layering on more and more regulation.

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Supporting future First Nations customer reforms	At this point, we do not see that there is clear value in collecting information about the First Nations identity of customers. Additionally there are cultural safety risks associated with retailers being obliged to ask about identity.
Supporting consumers in the energy transition	We consider obligations relating to secondary meters should be aligned to the risks that customers with secondary meters face. These may not be identical to the risks customers with a single meter face.
Information for consumers on gas disconnection and abolishment	It's important to distinguish between information directly related to customers' rights and obligations with respect to their retail contract and those related to distributors' requirements, terms and pricing.
Improving consumer contact information for power outages	The AEC infers that proposals in this area are driven by the outcomes of the Network Outage Review, where there were widespread communication failures by DNSPs. As far as we are aware, no root cause analysis of this failure has been carried out. Accordingly, we urge caution in imposing material new requirements in retailers, which will increase costs but not necessarily deliver improved outcomes.
Clarifying protections that apply to customers with closed accounts	The AEC is unaware of a material protection gap for such customers in practice. Even if notionally, the current regulations are drafted in a way such that – say – elements of the payment difficulty framework are no longer applicable, such customers are protected by virtue of their accounts being closed, so their supply is not at risk from continued non-payment of outstanding amounts.
Requirement to publish changes of tariffs and charges in newspapers	The AEC agrees that this form of communication is no longer necessary.
Strengthening requirements for handling complaints	The AEC considers that the extent of the problem has not been established and that this is an area where introducing new compliance obligations may increase the regulatory burden by bringing any customer expression of dissatisfaction into the complaints process.
Aggregation of multi-site business customers	The AEC considers it appropriate that customers receive the level of protections consistent with their demand level. If aggregation leads to a customer moving into a different bracket from a regulatory perspective, this is a reasonable trade-off for the advantages of aggregation. If the customer decides otherwise , then they do not need to choose aggregation.
Clarifying obligations for retailers selling to customers in embedded networks	In general the AEC supports a consistent approach, noting that this then calls into question the purpose of the exempt sellers framework.

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Opportunities for reducing costs and regulatory burden when considering reforms	The AEC and its members are always open to considering such opportunities, although we note that most of the Consultation is framed in such a way that any reforms will be additive.

Process

Much of the consultation discusses issues at a relatively high level. We expect that the next formal consultation will be the draft decision, incorporating draft rules. It's our experience that draft decisions have a strong endowment effect on the policymakers issuing them, and that this creates a barrier to successfully prosecuting the case for improvements in the final decision. In that light, we would welcome the opportunity for interim discussions with the ESCV on any specific changes likely to be included in the draft decision, in order to address any unforeseen consequences or to clarify how onerous the specific reforms may be.

Implementation timeframes should also be given careful consideration. While this may in part be dependent on the level and complexity of new obligations, given the number of concurrent and upcoming reforms, the ESCV should allow a decent interval between finalisation of reforms and when they take effect. Accordingly, we consider that any new obligations should not take effect earlier than the end of 2027

Please do not hesitate to contact me at [redacted] or by telephone on [redacted] if you wish to discuss our submission further.

Yours sincerely,

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Appendix: detailed answers to specific questions raised in the Consultation

Questions for stakeholders	AEC response
Q1. Should we make changes to the code of practice to strengthen family violence protections? If so, what should change?	There are multiple barriers in current regulations to providing appropriate assistance to customers who have experienced domestic or family violence (DFV). Many of these are in the NERR as well as the ERCoP. These include: The requirement to send the customer an actual bill rather than a generic email advising that their bill is ready and they need to log onto their account or app to access it (as banks typically do) creates privacy risks where there is an incorrect email address on the account. Retailers could be allowed discretion to use this approach for DFV customers without requiring opt-in. Perhaps guidance that recognises the decision by the retailer to send a generic email or de-identified bill summary that satisfies the need to send an actual bill in the DFV scenario. This should be an option for DFV customers to opt into to balance privacy protections with the possible inconvenience. In cases where customers are unable to update account details or delivery preferences, accounts may remain active and accrue charges without the customer's awareness. This can occur despite retailers' best efforts to maintain contact, especially in situations involving family or domestic violence. Under Subclause 150(4) of ERCoP, retailers must take reasonable steps to identify and maintain a safe communication method. If a customer's preferred method (e.g., email) becomes invalid and other channels like phone or SMS are unavailable, retailers are left with limited options, potentially resulting in continued charges without customer engagement. These issues notwithstanding, we consider that the ESCV should prioritise DFV customers being able to nominate their preferred contact method and retailers then being able to use that method for any necessary communications. This flexibility would improve retailers' ability to effectively assist DFV customers. Current privacy laws restrict retailers from sharing essential information with support organisations, limiting coordinated care and delaying resolution for customers experiencing DFV. These constraints extend to account closures and transitions,

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	especially where perpetrators maintain access to joint accounts. When multiple individuals claim ownership of an account, regulations allow retailers to establish supply upon receiving limited identification, due to being an essential service. In cases involving family or domestic violence and occupancy disputes, victims may lack access to valid documentation that would otherwise support occupancy, while perpetrators may possess it. This can result in an extremely difficult experience for the customer. Retailers must protect customer confidentiality and cannot share information without explicit consent, as per Subclause 150(1) of the ERCoP. Government and grant agencies often require specific data for internal processes, but consent must be clarified at the point of domestic violence disclosure. New consent requirements may arise after disclosure, when customer engagement can be limited. This can prevent retailers from sharing necessary information with third parties, hindering support efforts and creating a loop of unresolved engagement and consent. When a customer identifies AFV and also discloses hardship, disclosures for both types of assistance must be provided to the customer based on regulatory requirements. Assistance through the Hardship program can be a very lengthy process to cover obligations which anecdotally can be overwhelming to someone who is also seeking assistance in relation to the disclosure of AFV. These calls with customers can exceed an hour to ensure all requirements are covered and feedback from customers is this can be a very overwhelming experience with everything else they are currently trying to manage. We also note that differences across jurisdictions in energy regulation lead to fragmented customer protections, recognising that the ESCV cannot solve this unilaterally. For instance: • Definitions of family violence varies across different states • High costs and complexity in maintaining multiple compliance systems, limiting the ability to efficiently roll out consistent DFV support protections nationally. This can be

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	especially problematic when customers move between states. The AEC does not support proposed requirements to seek specialist advice from DFV organisations. Many retailers will do so, but smaller retailers may find it costly to do so. While this approach is mandatory in WA, there are only two, government-owned franchise electricity retailers in the state (one metropolitan, one regional) who are thus better-placed to absorb such costs. The current payment difficulty framework (PDF) is designed to support customers with difficulties arising for a range of reasons and we do not support segmenting customers into different types in order to apply different frameworks to each of them. Applying different frameworks (including specific elements of the framework) to DFV customers also conflicts with the Consultation's stated goal of minimising the need for retailers to explicitly establish DFV status.
Q2. What family violence obligations should apply to exempt persons operating embedded networks? Are there particular complexities we should take into account when considering new obligations in this context?	The AEC considers that it is a reasonable starting point to assume that the same protections should apply to customers in embedded networks. Embedded network operators can make the case for where those protections are unduly onerous or not practical to apply to their customers.
Q3. Are changes required to support cultural safety for First Nations customers? If so, what are these changes? Q4. What measures could retailers take to support self-identification in a culturally safe way? Q5. What should we consider in relation to the handling of data and information about First Nations customers?	At the present time we don't see merit in requiring retailers to attempt to collect First Nations self-identification information from customers. Absent a specific issue to be addressed, cultural safety is best observed by *not* seeking this information. First Nations customers are entitled to receive all the same protections as other customers and AEC and its members are not aware of any evidence that they don't. Non-compliance will be due to a failure in a retailer's process rather than cultural bias.
Q6. What should we take into account when considering extending the protections of the code of practice to secondary meters?	Metering providers are required to maintain meters in accordance with applicable performance and compliance standards. Preventing timely repair or replacement where a meter is not operating correctly may place metering providers at risk of breaching these obligations. Accordingly,

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	any consent-based framework for secondary meters must include clear and practical exceptions that allow for meter repair or replacement where required for safety, compliance, and system integrity. Protections should also be fit for purpose. There is no rationale to have the same threshold for disconnection of a secondary meter as there is for a single or primary meter as there is not a loss of supply issue. Customers with secondary meters are by definition relatively engaged and informed customers and it is reasonable that if they do not keep to their side of a contract, that the retailer can take appropriate steps, including disconnection. However, where the fit for purpose principle implies that the same protections are applicable, we think it is reasonable, noting that given the retailer is the same in both cases, we expect many such protections are applicable by extension and there may be no need to introduce lengthy new duplicative provisions.
Q7. Should retailers be required to give customers information about gas disconnection or abolishment? If so, what information should they need to provide? Q8. Are there other changes we should consider to support customers who have disconnected from gas or closed their gas accounts?	*Electricity* retailers should not be required to give customers information about gas connection or abolishment. They may not even be aware of whether a customer has a gas connection. Gas retailers' obligations should be limited to being clear with customers about the consequences of any decision they take to disconnect or close their accounts. Our starting premise is that existing provisions would cover these obligations. It would therefore follow that the anecdotal examples of poor customer outcomes cited in the paper can be addressed under existing enforcement capabilities. To the extent that the ESCV seeks to impose obligations on gas retailers to provide information on distributor requirements and charges relating to gas disconnection, we strongly prefer alignment with equivalent NERR requirements. Specifically, obligations should exclude technical requirements (which may be complex) as per the AEMC's draft rule 69A on the subject. Also, there must be matching requirements on distributors to provide that information in a clear, timely and consistent manner to retailers, including any changes to the information.

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Q9. Should retailers be required to collect information from a secondary contact person (and potentially additional members of a household)?	No, we do not see the case for such a requirement, which would be a costly and onerous change to implement. Once a retailer has sought secondary (or more) contact information, we consider that it would trigger secondary collection obligations under the Privacy Act 1998. Under Australian Privacy Principle 5, recipients of a secondary contact's personal information must take reasonable steps to notify the secondary contact of prescribed matters, including the circumstances and purpose of collection, access and correction rights, and Privacy Policy information, either at the time of collection or as soon as practicable afterwards. These requirements would impose considerable regulatory obligations and operational challenges, particularly for smaller retailers. The process would likely differ from the superficially similar requirement that already exists in respect of life support customers.
Q10. Should retailers be required to improve the quality of the customer contact data they hold? If so, how?	This question appears to be predicated on unsubstantiated feedback from one distributor. Our members would be very concerned if their customer contact information was only 60 per cent accurate as implied by this feedback. We'd prefer the extent of the problem to be established before moving to potential solutions. Retailers are already incentivised to use tools to improve customer quality data for their own needs, but have limited scope to *ensure* the accuracy of customer data, especially where the customer does not engage. We would be happy to discuss further with the ESCV the scope for voluntary initiatives in this area, including what individual retailers already do.
Q11. In your view, is there sufficient clarity in the code of practice about which minimum standards of assistance apply to customers with closed accounts? Q12. What considerations should we take into account if we were to	The fundamental premise of the payment difficulty framework (PDF) and other standards of assistance is to prioritise ongoing supply to customers. Once a customer has closed an account with a retailer, that retailer no longer supplies the customer and so the customer has absolute protection against loss of supply due to failure to repay outstanding amounts. Their debt with that retailer cannot increase. In practice the retailer has limited recourse if a customer fails to maintain payments on any outstanding

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clarify protections that apply to customers with closed accounts?	debts, and so there is nothing to gain for a retailer in unwinding an existing payment plan . Nonetheless it is still an important principle that customers remain accountable for legitimate debts. In this light we do not see the case for additional "protections" for such customers. We note that such customers would still be covered by general Australina Consumer Law (ACL) requirements on business' management of customer debt, as set out in the *ACCC Debt collection guideline: for collectors and creditors* Should the ESCV be minded to introduce new requirements, it must be cognisant that much of the PDF cannot feasibly apply to customers with closed accounted, and so it should be specific about which requirements it considers should apply, and also allow for an appropriate end point so that retailers are not left with unending obligations to former customers.
Q13. What matters should we take into account when considering removing the requirement to publish variations to standing offer prices in newspapers (relying on online publication only)?	The AEC and its members welcome this modest proposal to reduce regulation. We consider that customers would not be meaningfully impacted by the removal of this requirement. If any stakeholder is seeking retention of this requirement the onus should be on them to demonstrate a material level of customer reliance on this form of communication.
Q14. Do you agree with our assessment of the provisions related to complaint handling and dispute resolution that should be made more consistent?	We do not agree with the assessment in the Consultation. We do not consider that there is a clearly demonstrated systemic problem that needs addressing, nor that the proposed changes would deliver material benefit to customers. Enforceability may in itself increase the regulatory burden if retailers respond in a risk averse way in particular with reference to the definition of a complaint. We would be interested to understand how material the level of detriment due to lack of enforceability actually is, or whether this is primarily a theoretical concern. Clarity and consistency in respect of record-keeping could be useful, providing it does not lead to an overall increase in obligations.
Q15. Do you have any views on the aggregation of multi-site business customers for the purpose of	The level of protections in the code of practice has been calibrated to the size of customer. A customer who opts for aggregation of multi-site consumption has the capabilities to

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disapplying protections in our code of practice?	be treated as a larger customer (consistent with their aggregated demand level) and benefits from economies of scale arising from aggregation. Retailers have observed that many potential aggregation opportunities are actually residential sites. We infer that these represent landlords with multiple properties, whether for short-term or long-term rental. As such they are effectively businesses rather than household customers. Accordingly, we consider that reforms should allow for all customers to choose aggregation. A suggested amendment to the Code is set out below. Should the ESCV consider there are material risks or barriers to allowing resident property aggregation, the amendment could refer to "small business customers" rather than "small customers": *Aggregation of consumption – small customers* Parts 2-6 (inclusive) of this Code do not apply in relation to a small customer where: 1. the small customer is party to a market retail contract in respect of more than one premises; 2. the small customer is or would be a small customer in relation to at least one of those premises; and 3. the aggregate of the actual or estimated annual consumption level of the premises under the market retail contract is higher than: 1. in the case of electricity – the upper consumption threshold provided for in an Order made under section 35(5) of the Electricity Industry Act. 2. in the case of gas – the upper consumption threshold provided for in an Order made under section 42(5) of the Gas Industry Act.
Q16. What opportunities are there to provide the same protections for embedded network customers as for other customers?	As noted above in the context of DFV customers, the AEC considers that it is a reasonable starting point to assume that the same protections should apply to customers in embedded networks, unless they are inherently inapplicable. Embedded network operators can make the case for where those protections are unduly onerous or not practical to apply to their customers.

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	Application of this principle, however, calls into question the purpose of the exemptions framework, if there is not much to be exempted from.
Q17. Do you see any opportunities for reducing costs and regulatory burden when we consider potential reforms to the code of practice?	The AEC and its members are always open to considering such opportunities, although we note that most of the Consultation is framed in such a way that any reforms will be additive. One simple opportunity would be to align with the NERR in not requiring a "best offer" message to be included on a customer's final bill from the retailer. Clearly, in such cases the customer is not going to take up that offer.

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