



**Brotherhood of St. Laurence**  
Working for an Australia free of poverty

# Submission to Energy Retail Code of Practice review

## Brotherhood of St. Laurence

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## 1 Introduction

Victoria's Energy Retail Code of Practice (ERCOP) provides key protections for households and the Brotherhood of St. Laurence (BSL) are pleased to see the rules strengthened.

Many Victorian households experience energy stress, with serious impacts on their lives, from debt, to cutting down on other essentials (like food or medicine) to pay energy bills, to rationing energy use to the detriment of their health or wellbeing. Over the past decade, working with our partners, BSL has supported over 20,000 households to access government energy payments, concessions, or switch to a better energy market offer. Many households who are struggling to afford the energy they need to live a dignified life pay very high energy tariffs, often well above the Victorian Default Offer. Addressing the deficiencies in the retail energy market design and regulations that allow this to occur is essential.

The proposed changes to the ERCOP will help to rebalance the market in the interests of people. These changes recognise that many people do not – and should not have to – ‘engage in the market’ to pay a fair price for energy they cannot live without. The market is difficult to navigate for many people, but the cost of not doing so can be very high, and the effects on their lives serious. Therefore, it is appropriate that the rules are changed to protect people who cannot or do not engage, and to make engaging easier.

## Broader change

While we are very supportive of the proposed changes, it is worth considering whether more fundamental reform of the energy market is needed. In the past few decades, more and more protections have been added to the privatised retail market, but this raises the question: is it right to

have an energy system that households need to be protected from, rather than one that works in their interests?

A retail energy market intrinsically creates price discrimination as retailers seek to extract maximum profit from different groups of households. In other words, the market ensures households pay different prices depending on how/whether they switch offers, which produces inequities, including for people facing barriers such as limited online capacity, time, numeracy, English proficiency, and others.

As a result, those who have the time, capability and inclination to switch are cross-subsidised by those without these resources, including many low-income and time-poor households.

Many of the proposed ERCOP protections will serve to redistribute some households' prices according to new rules. For example, people receiving the highest level of support from retailers, among others, will now be switched to lower prices if they are available from their retailer.

These new rules are welcome and an improvement on the status quo, but they will not capture everyone facing energy stress, and others will continue paying high prices. Placing new restrictions on retailers' tactics to induce price discrimination risks being reactive rather than systemically preventing harm. There will continue to be incentives for retailers to seek new strategies to maximise profit, and these will not align with an equitable distribution of prices.

## 2 Comments on specific measures

### Automatic switching

**BSL strongly supports the proposal to switch customers experiencing payment difficulty to their retailer's best offer.**

It has been a great inequity in the retail energy market that some households who are struggling to make ends meet have been charged needlessly high rates. The difference between the best and worst offer can be thousands of dollars per year, which is very significant to many households, and should not be added to retailers' profits. Existing requirements to offer customers a tariff check in certain parts of the payment difficulty framework have evidently not been enough; an opt-out mechanism will be much more powerful.

We support the proposal to automatically switch customers receiving tailored assistance to the best offer. We also suggest automatic switching is expanded to customers in standard assistance. Households on standard assistance are typically also in energy stress, and would benefit greatly from being switched to a cheaper offer.

**Recommendation 1: Automatic switching should be expanded to customers in standard assistance.**



## Arrears over \$1000 for three months

While we support the proposal to switch customers who have had arrears over \$1000 for 3 months as a way of capturing people outside assistance programs, the level it is set at seems at odds with the principle of disconnection as a last resort.

The proposed new disconnection threshold is \$500 of debt – half the \$1000 auto-switching threshold. If disconnection is a last resort, the rules should not allow retailers to disconnect a customer before lowering their rates.

Setting the threshold at \$1000 may in fact create a perverse incentive for retailers to disconnect customers (or at least threaten to) before they reach \$1000 of debt because this would avoid retailers having to lower customer rates.

Making the auto-switching threshold lower than the disconnection threshold would be one way to mitigate these problems.

**Recommendation 2: The arrears threshold should be set below the disconnection threshold, and the disconnection threshold should be higher than \$500.**

## Explicit informed consent

BSL supports the proposal to not require explicit informed consent to switch a household to a better offer. We believe the overall benefit to customers who are disengaged of allowing this switch outweighs any disadvantages associated with a small number of possible cases where the switch is not the customer's preferred option. In addition, the opt-out provision where customers can revert to their original offer is a welcome and well-designed safeguard. Retailers routinely raise prices without obtaining consent – and this is allowed – so the argument that retailers should require consent to lower rates, which benefits households, is weak.

Retailers will raise examples of customers being switched away from 'innovative' offers, but most people have nothing to lose except high prices.

## Other measures

Measure	BSL's views
Improving access to cheaper offers	<b>Support.</b> We agree with the Commission's argument that, as an essential service, access to cheaper energy offers should not depend on a household's ability to sign up via a particular method, receive electronic bills or via direct debit.
Improving the ability to switch to the best offer	
Improving the application of concessions on bills	<b>Support.</b> This is a commonsense measure to improve access to concessions. Retailers have argued that the change is not necessary because they have an incentive to register customers for concessions. It is true that retailers have an incentive, but if this was sufficient, there would be no households missing out on their concessions.

<b>Extending protections for customers on legacy contracts</b>	<b>Support.</b> While this is a relatively small part of the market, it is unfair that some households are still subject to conditional discounts that were outlawed years ago. Requiring these discounts to be made unconditional is a good solution as long as there are protections to ensure retailers cannot increase the underlying rate to counteract the change.
<b>Protections for customers paying higher prices</b>	<b>Support, although BSL prefers the option for a prescriptive definition of a reasonable price.</b> Lowering bills for customers on old, expensive offers is a sound measure that will ease energy stress. However, the proposal would be stronger with a prescriptive definition of a reasonable offer (e.g. a certain percentage below the Victorian Default Offer) rather than leaving it to retailers to determine.
<b>Improving awareness of independent dispute resolution services</b>	<b>Support.</b> This is a simple measure to increase awareness of the Ombudsman.
<b>Increasing the minimum disconnection amount</b>	<b>Support raising the disconnection amount,</b> although note our discussion above about the interaction of the disconnection and automatic switching thresholds.