ENERGY CONSUMERS AUSTRALIA

Submission on the Strengthening Protections for Energy Consumers in Victoria consultation paper

Submission to the Essential Services Commission (ESC) of Victoria.

DATE: 24/04/2026

Energy Consumers Australia is the national voice for household and small business energy consumers. We advocate for a fair, affordable, and reliable energy system—one that meets everyone's needs and leaves no one behind on the journey to net zero.

1 - Introduction

Energy Consumers Australia (ECA) appreciates the opportunity to provide feedback on the second stage of the Essential Services Commission's (ESC) review of the Energy Retail Code of Practice (ERCoP). We strongly support the Commission's focus on compelling retailers to do more to address actual and potential harms—particularly for consumers in vulnerable circumstances—and on clarifying currently unclear obligations to support better service outcomes for Victorian consumers.

While we welcome the ESC's focus on the issues identified in the consultation paper (and recognise this builds on important reforms in Stage 1), we consider that there is a missed opportunity to consider the rules-based framework holistically to ensure it is working to deliver good outcomes for consumers.

The issues examined in this consultation—ranging from family violence protections and hardship support to complaint handling, disconnection, and emerging market complexity—share a common challenge: the current rules-based framework too often fails to ensure good consumer outcomes in practice. ECA considers that an overarching consumer duty provides the necessary unifying response, setting clear expectations that retailers must proactively deliver fair and safe outcomes across all these areas. We introduce the consumer duty below in Section 2, before responding directly to the questions raised in the consultation paper in Section 3.

Our key recommendations are as follows:

- Introduce an overarching, outcomes-based consumer duty.
- Strengthen family violence protections by mandating safe practices.
- Prohibit disconnection for customers affected by family violence.
- Co-design culturally safe approaches with Aboriginal and Torres Strait Islander peoples.
- Extend protections to embedded network and secondary meter customers.
- Improve gas exit processes by requiring clear, standardised information from retailers.
- Increase accountability through clearer complaint-handling requirements and enhanced reporting on outcomes.

ECA encourages the ESC to continue working closely with other regulators and governments to promote alignment and consistency where possible. Consumers should not face fragmented protections or varying standards depending on jurisdiction, market structure, or regulatory boundaries. A coherent, outcomes-focused approach—incorporating a strong consumer duty—will support better consumer experiences, clearer obligations for industry, and a more resilient and equitable energy system as Victoria progresses through the energy transition.

If you have any questions about this submission,
please contact Kimberley Crofts – [redacted]

Yours sincerely,

Kimberley Crofts
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2 – An overarching consumer duty for energy

The current prescriptive, rules-based framework governing energy markets is failing consumers.

Regulators spend significant time and resources developing detailed rule changes to address retail market issues, amending and adding to an already extensive body of regulation. While the volume of rules reflects the importance of consumer protections, regulators and policymakers cannot keep pace with the rate of change and emerging harms to consumers through prescriptive rules alone. An outcomes-based duty on energy providers to deliver positive outcomes for consumers (a consumer duty) would reduce this burden and ensure an enduring baseline level of protection for energy consumers and clear expectations for energy retailers.

ECA therefore supports the creation of an overarching consumer duty as a central component of an effective consumer protection framework for energy consumers. An outcomes-based duty would shift attention to provider conduct, impose positive obligations on providers, require proactive steps for avoiding harm to consumers, and therefore promote more beneficial outcomes for energy consumers.

While some prescriptive rules will still be necessary to complement a consumer duty, the introduction of a duty would fundamentally shift responsibility for ensuring good consumer outcomes to energy providers—rather than requiring consumers to continue to bear primary responsibility for navigating an increasingly complex energy market and regulatory framework. Introduction of outcomes-based duties enables a focus on a genuine customer-centred design via reciprocal obligations rather than a one-way obligation from customer to retailer.

Similar duties have been introduced in a range of other sectors, including for essential services, in response to manifest failings by providers in managing conduct risk. For example, financial advisers are subject under the *Corporations Act 2001* (Cth) to a duty to act in the best interests of their clients in providing personal financial advice.[1] In the UK, the energy regulator for Great Britain, Ofgem, has put in place an overarching licence condition for retailers called the Customer Objective, requiring that retailers 'behave and carry out any actions in a Fair, honest, transparent, appropriate and professional manner'.[2]

We also note that the Victorian Department of Energy, Environment and Climate Action (DEECA) is considering introducing a consumer duty for consumer energy resource (CER) providers to address poor consumer outcomes within that market and ensure consistent expectations on retailers and outcomes for consumers.[3] Such a consideration shows that a consumer duty for the energy retail market is needed regardless of the sector of the energy market a consumer is engaging in.

ECA considers that a best-practice consumer duty could potentially adopt elements of these examples to ensure that duty-holders act to deliver good outcomes for consumers. In research commissioned by ECA, Professor Jeannie Paterson, of Melbourne Law School, makes several recommendations for potential models for how a consumer duty could be applied to a range of issues in Australian energy markets.[4] We encourage the ESC to refer to this research when considering the recommendations of this review.

[1] For more examples please see: Jeannie Marie Paterson and Evgenia Bourova, Melbourne Law School, *Outcomes-based regulation: Proposing an overarching 'consumer duty' within the regulation of essential services: Preliminary Report*, December 2024, available at <https://energyconsumersaustralia.com.au/our-work/research/report-duty-care-essential-energy-services-preliminary>.
[2] Gas and Electricity Markets Authority (UK), *Electricity Act 1989, Standard conditions of electricity supply licence* (Page 9), available at <electricity_supply_standard_license_conditions.pdf>; OfGEM, *Consumer Outcomes, Call for Input*, available at <https://www.ofgem.gov.uk/call-for-input/energy-consumer-outcomes>.
[3] DEECA, *Consumer energy resources (CER) consumer protections review: Directions Paper*, 2024, page 31-32. Available at: <https://engage.vic.gov.au/project/CER-consumer-protections-review/page/consultation-paper>.
[4] ECA, *Exploring a consumer duty for Australia's energy market, 2025.* Available at: <https://energyconsumersaustralia.com.au/our-work/research/exploring-consumer-duty-australias-energy-market>.

3 - Responses to the consultation questions

Our responses the questions from the consultation paper follow.

Q1. Should we make changes to the code of practice to strengthen family violence protections? If so, what should change?

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?

ECA strongly supports making changes to the *Energy Retail Code of Practice* to strengthen family violence protections, recognising the important work and commitments already made by retailers. We respond here to the key areas on which the Commission is seeking feedback:

A. FAMILY VIOLENCE POLICIES

Focus: Compliance, consultation.

- **Implement a consumer duty.** ECA strongly advocates for a "consumer duty"[5] that shifts the onus of responsibility onto providers to achieve positive outcomes. A consumer duty would ensure that there are consistent expectations for retailers to act to deliver good outcomes to consumers regardless of retailer, location or individual circumstance.
- **Strengthen protections through accountability and enforcement**. ECA has previously observed[6] that even robust frameworks can fail in practice due to poor implementation and weak accountability. Mandatory compliance with retailer policies would enable the commission to take enforcement action where practice falls short and ensure consistent standards across the sector.
- **Embed lived experience in policy design.** Policy and training must be co-designed with people and organisations with lived experience and expertise in family violence and economic abuse. This approach aligns with leading practice in Western Australia[7] and would help prevent a situation where systems inadvertently create further harm. Implementation should avoid further burdening already resource-stretched family violence organisations.

B. TRAINING

Focus: Codesign, content.

- **Regularly update workforce capability.** Effective engagement requires ongoing commitment to training and quality assurance.[3] We support annual training consistent with recommendations in the *Designed to Disrupt* report.[8]
- **Trauma-Informed capability:** Staff training must encompass the cognitive and behavioural impacts of trauma. ECA-commissioned research from Uniting indicates that a lack of empathy and specialised knowledge in call centres remains a major barrier to meaningful support.[9]

[5]ECA, Exploring a consumer duty for Australia's energy market | Energy Consumers Australia; Jeannie Marie Paterson and Evgenia Bourova, Melbourne Law School, *Outcomes-based regulation: Proposing an overarching 'consumer duty' within the regulation of essential services: Preliminary Report*, December 2024, available at <https://energyconsumersaustralia.com.au/our-work/research/report-duty-care-essential-energy-services-preliminary>.

[6] ECA, Submission to the AER's Issues Paper - Review of payment difficulty protections in the National Energy Customer Framework, 2024, available at < https://energyconsumersaustralia.com.au/our-work/submissions/submission-aer-review-payment-difficulty-protections-national-energy-customer-framework>.

[7] Economic Regulation Authority, *Code of Conduct for the Supply of Electricity to Small Use Customers,* Clause 91(2) (d), 2022 (Western Australia); *Compendium of Gas Customer Licence Obligations*, clause 63(6), 2024

[8] ESC, *Designed to Disrupt, Safety by Design for Essential Services,* May 2025. Available at <D2D-Safety-by-design-for-essential-services-web-19052025.pdf>.

[9] Uniting, *Consumer experience report accessing payment support from energy retailers*, Qualitative research report, 2024. Available at < Instructions>.

- **Whole-of-business approach.** Training should extend beyond frontline staff to any employee who engages, designs, or is responsible for how engagement occurs.[10] Harm can occur at multiple points along the customer journey, and effective engagement must therefore be a whole-of-business responsibility.

C. DISCONNECTION

In research commissioned by ECA, Uniting found extensive examples of disconnection being used as a threat to extract payment.[11] Disconnection can prevent an affected customer from accessing emergency assistance or leaving a violent situation safely.[12] Moreover, without electricity, victim-survivors lose the ability to charge mobile phones or access the internet, which are critical for communication and safety planning.[13] Disconnection can place victim-survivors in life-threatening situations, particularly when access to communications, emergency services, and safe exit planning is compromised.

For these reasons, ECA believes customers should never be disconnected if they are experiencing family violence.

While we support the ESC's proposal to prevent a customer being disconnected for a set period after a retailer is made aware they are affected by family violence, we recommend the ESC should go further and ban disconnections for anyone currently experiencing family violence. That is, ECA proposes a ban on disconnection that would apply at any time while the person may be an affected person (i.e. may be at risk of family violence).

Disconnection represents a system failure, not consumer failure. Due to the devastating impacts of disconnection on already vulnerable households, it is critical that any policy or rule related to disconnection developed alongside experts in family violence.

In addition, ECA also support recommendations in ESC's *Designed to Disrupt* report that retailers should: use 'safety flags' specifically designed to prevent the wrongful disconnection of accounts identified as affected by family violence; be required to conduct manual reviews by expertly trained staff of any disconnection request for an at-risk customer, consider aligning to models from water providers to remove the threat of disconnection and instead downgrade service.[14]

D. REPORTING

ECA supports anonymised reporting on outcomes for affected customers to support better service design, noting potential privacy and safety risks and along with difficulties in overcoming under-reporting of retailer breaches.[15]

Some suggestions for metrics include the following, as already reported by the AER:[16]

- Number of family violence customers identified as affected customers
- Number of affected customers added in the last quarter
- Number and % of affected customers in payment plans
- Number and % of affected customers in hardship programs.

[10] ECA, *Submission to the AER's Issues Paper - Review of payment difficulty protections in the National Energy Customer Framework*, June 2024. Available at <submission-doc-aer-issues-paper-review-payment-difficulty-protections-national-energy-customer-framework.pdf>.
[11] Uniting, *Consumer experience report accessing payment support from energy retailers,* June 2024, page 9. Available at: https://energyconsumersaustralia.com.au/sites/default/files/2025-04/pg2411_unitingtasvic_accessingpaymentsupport_finalreport.pdf.
[12] AER, *Family Violence Rules, Guidance for Energy Retailers,* 2025, Page 16.
[13] Note 12, Page 16.
[14] Note 8
[15] Note 8, Page 14.
[16] AER, *Retail energy market performance update for October–December 2025, Quarter 2 2025–26, Schedule 6.* Available at <https://www.aer.gov.au/documents/schedule-6-quarter-2-2025-26-retail-performance-data>

ECA also recommends that the ESC consider the introduction of additional reporting requirements for retailers and distributors, including:

1) Number of affected customers provided with:
    a. Debt waivers, reductions, or pauses.
    b. (Joint) account separation.
    c. Alternative communication arrangements.
    d. Referrals to specialist support services.
2) Number of cases where a customer said it was victim of coerced debt, unauthorised account creation or other forms of economic abuse.
3) Number of proposed disconnections paused, cancelled or prevented because family violence was identified.
4) Number of affected customers disconnected for non-payment.

OTHER CONSIDERATIONS

- **Communication.** We support the ESC's proposal to align to Rule 76H of the NERR which states that 'A retailer must use the affected customer's preferred method of communication'. Doing otherwise would potentially put victim-survivors at risk.[17]
- **Account security.** ECA agrees in principle with the introduction of protocols allowing retailers to act in situations of extreme safety concern; however, as with other extraordinary uses of customer data, there must be transparency for customers about how information will be shared, along with pre-determined agreements regarding which individuals or organisations may receive this information. Any expanded powers to share information in emergency situations must be transparent and consent-based. Automatic contact with police or services without consent may be traumatising, particularly for First Nations customers.
- **Evidence:** ECA strongly agrees that documentary evidence should not be requested from affected customers to receive family violence protections. A "low burden of proof" is essential. Retailers should prioritise empathetic conversations over the requirement for documentary evidence. Research conducted by Monash University in 2024 found customers had experienced onerous requests for evidence to prove family violence and excessive questioning to process debt waivers.[18] Requiring retailers to report on numbers of debt waivers processed would clarify the impact (positive or negative) of introducing more empathetic processes regarding evidence (see D. REPORTING above).
- **Debt management.** For victim-survivors, external referrals pose severe safety risks and ECA therefore strongly supports banning the selling or referring of affected customer debt to third parties.
- **Embedded Networks:** ECA supports extending equal protections to all customers regardless of their supply arrangements including extending these obligations to exempt sellers.

[17] AER, National Energy Rules, *76H Preferred method of communication*. Available at <https://energy-rules.aemc.gov.au/nerr/723/711128>.
[18] Nicholls, L., & Dahlgren, K. (2021). *Consumer Experiences Following Energy Market Reforms in Victoria: Qualitative Research with Community Support Workers*, Monash. Available at <https://www.monash.edu/__data/assets/pdf_file/0007/2830993/Q4-ConsumerExperiencesEnergyMarketReforms-22062021-1.pdf>.

Q3. Are changes required to support cultural safety for First Nations consumers? If so, what are these changes?

Q4. What measures could be taken to support self-identification in a culturally safe way?

Q5. What considerations should there be for the handling of data and information relating to First Nations consumers?

We welcome the ESC's attention on improving outcomes for First Nations energy consumers. As the ESC notes, First Nations consumers are overrepresented in indicators of energy stress and additional consumer protections for First Nations consumers may be necessary to improve outcomes for them in the energy market. ESC notes that a lack of data on billing, prices paid, disconnection rates of First Nations consumers, metrics relating to payment difficulty, and those on family violence makes it difficult to propose reforms and to create targeted strategies to improve outcomes for First Nations energy consumers.

The ESC's proposal to require retailers to ask people if they self-identify as First Nations may provide the ESC with more data on First Nations consumers to build support for future reforms but may produce adverse outcomes if the purpose of data collection is not clear and proportionate. This will be further exacerbated if there is no assurance it will be done in a culturally safe manner.

We therefore strongly advocate for direct engagement with First Nations peoples to co-design measures to improve cultural safety of retailers and to develop appropriate guidance on data handling. This is in line with the First Nations Clean Energy Network's (FNCEN) submission to the first stage of the ESC consultation,[19] along with the ESC's ambition put forward in the Getting to Fair consultation for a First Nations Self-Determination Framework.

Q6. What should we take into account when considering extending the protections of the code of practice to secondary meters?

ECA supports extending protections to consumers with secondary meters. As the energy transition accelerates, the integration of Consumer Energy Resources (CER) such as rooftop solar, batteries, and electric vehicles offers significant potential benefits. However, participating in flexible trading introduces unprecedented complexity into the relationships between consumers, retailers, and their energy data.

Secondary settlement points (SSPs) represent a structural shift that will change energy plans from singular products into multi-layered arrangements.

The ESC notes that under the AEMC rules, if a secondary meter malfunctions and cannot be repaired, a retailer may transfer a small customer to a different tariff. The ESC must establish robust safeguards around this. Consumers should not be penalised or defaulted onto a highly expensive standing offer or complex TOU tariff without their explicit informed consent. We recommend the ESC consider a "better-off guarantee" or a requirement to revert the customer to a simple, flat-rate tariff in these failure scenarios to prevent consumer harm.

The introduction of SSPs may complicate how existing protections apply. Hardship frameworks and payment plans are typically based on aggregate bills and assumed usage patterns, which will become highly variable under plans with multiple settlement points. Furthermore, customers relying on life support equipment must have absolute clarity that their critical household supply remains protected, regardless of how other usage (like EV charging or battery exports) is settled or priced. We strongly support the ESC's proposal that retailers must not be allowed to

[19] First Nations Clean Energy Network, *Submission to the Essential Services Commission on Energy Retail Code of Practice review*, June 2025. Available at: <://www.esc.vic.gov.au/sites/default/files/documents/First%20Nations%20Clean%20Energy%20Network.pdf>.

disconnect a secondary settlement point separately from the primary connection point. Disconnection must remain a last resort for the premises as a whole.

Given the evolving nature of flexible trading, prescriptive rules may become outdated or fail to prevent new harms. We encourage the ESC to view these secondary meter protections as a helpful case for an outcomes-based regulatory approach (or consumer duty). Retailers should bear an obligation to ensure that SSP products are suitable for the customer's circumstances, rather than relying on the consumer to navigate the interactions of secondary metering on their own.

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?

We strongly support the ESC's focus on improving processes and information relating to gas disconnection and abolishment. Consumers face friction when attempting to get off gas. Pain points include confusion over the technical jargon (e.g., disconnection vs. abolishment), lack of clarity regarding upfront costs, and the experience of continuing to incur daily supply charges after they contact their retailer that they have ceased consuming gas.[20]

ECA supports rules that require energy retailers to give exit information to consumers. We also support aligning the ESC's requirements with the AEMC's draft rule 69A to ensure national consistency.

Retailers must explain the difference between a temporary disconnection, a permanent abolishment, and a retail contract termination, including by providing:

- Clear information on whether supply charges continue to accrue after a request is made while waiting for the physical disconnection or abolishment to occur.
- A transparent breakdown of any upfront fees for the service, and how the timing and sequencing of the work affects the final bill.
- Consumers must be clearly informed that there is no obligation to pursue a permanent, higher-cost abolishment unless it is specifically required for safety reasons.

To genuinely support consumers who are exiting the gas network, the ESC must address the issue of ongoing billing for dormant or closed accounts. The ERCoP should establish clear guardrails to prevent consumers from paying for a service they no longer use simply due to administrative or distributor delays.

While ECA recognises that a coordinated, system-level framework for strategic decommissioning falls outside the scope of the ERCoP, the ESC must ensure its retail rules do not inadvertently force individual consumers to bear the high cost of piecemeal abolishments. Retail contract termination must be protected as a valid, cost-free exit pathway in the interim.

We recommend the ESC consider the following changes:

- Once a customer formally notifies their retailer that they have ceased using gas and wish to close their account, and/or requests for disconnection or abolishment, their liability for daily supply charges should cease within a defined timeframe. If the distributor faces delays in physically

[20] ECA, *Submission to the AEMC's Draft Determination on Customer-initiated gas abolishment and disconnection*, 2026. Available at https://energyconsumersaustralia.com.au/our-work/submissions/submission-aemc-draft-determination-customer-initiated-gas-abolishment-disconnection

disconnecting or abolishing the meter, the cost of that delay must not be passed onto the consumer via ongoing daily supply charges.

- The ESC has correctly identified that there are difficulties related to billing for abolishment requests when premises are occupied by a tenant. The ESC must clarify these processes to protect renters. For example, a renter who moves into an electrified home that still has an active gas meter should not be forced to open a gas account and pay daily supply charges simply because the landlord has not abolished the connection.
- Currently, consumers who have already closed their gas retail accounts and later wish to permanently abolish their connection may be forced to re-establish a gas retail account solely to request the service.[21] The ESC should consider alternative, low-friction mechanisms that allow consumers to request abolishment services via an existing electricity retail account or a direct distributor-managed process.

Q9. Should retailers be required to collect information from a secondary contact person (and potentially additional members of a household)?

Q10. Should retailers be required to improve the quality of the customer contact data they hold? If so, how?

ECA supports the ESC's proposal to require retailers to collect information from a secondary contact person, but stress that the design of this process must be done in recognition of family violence safeguards. As per the AER Family Violence Rules, ECA recommends that the ESC consult with family violence professionals and victim survivors in the design of this change.

Our recommendations here should be read alongside our response regarding stronger communication requirements in our submission to the ESC on improving life support processes.

- **Consent-first approach.** In line with the ESC consultation paper and the *Designed to Disrupt* report,[22] ECA emphasise that retailers must expressly ask for a customer's consent to nominate a secondary person. A consent-first approach respects that victim-survivors are best place to nominate who they see as a safe secondary contact and ensures that the collection and management of contact details do not become tools for abuse.
- **Clarify what the secondary contact is for.** When collecting secondary contact details, advise customers that these details will be passed to distributors and used only for notifications of outages or emergencies.
- **Add multi-factor authentication.** To ensure the request is authentic and not coerced, consider requiring retailers to implement 'friction' through multi-factor authentication.
- **Check the safety of flagged accounts.** Retailers must ensure that adding a secondary contact to a flagged account (e.g. for family violence) does not trigger an automated notification to other persons on the account such as a perpetrator which could alert them to the victim-survivor's actions.
- **Identify and regularly check communication preferences.** Retailers to take reasonable steps to identify an affected customer's communication preferences, which may change over time.[23] This requirement extends to any secondary contact person, who may also change.

[21] Note 29
[22] Note 8
[23] AER, *Family Violence Rules*, 2025. Available at: <https://www.aer.gov.au/documents/family-violence-rules>.

- **Allow for secondary contacts outside the household.** Because the secondary contact may be a counsellor or support worker, it would be prudent not to require that the secondary contact person be "in each household," as they may be external to the premises.
- **Do not delay in adding secondary contacts.** As noted in other ECA submissions (e.g., the review of life support protections), due the likelihood of more frequent natural disasters in Victoria, there is value in retailers beginning to review existing contacts and add secondary contacts and updating records as soon as possible.

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 clarify protections that apply to customers with closed accounts?

As ECA understands it, there are certain situations where a customer may close an account but still have a debt to pay, but that there is a lack of clarity around which obligations apply to consumers under these circumstances. The ESC notes that both retailers and consumers may require greater clarity, and that there are some retailers who already provide customers with closed accounts a different form of support (including payment plans and post-dated concessions).

Three options are listed in the consultation paper: the introduction of a consistent definition of customers experiencing payment difficulty to clarify that protections apply to customers with closed accounts; a new provision in the code for minimum standards of assistance applicable to close account customers, and specification of the forms of tailored assistance available to customers with open accounts and those for closed account customers. ECA notes that these three options are non-exclusive and that a combination of approaches may be desirable to achieve the ESC's aim of providing additional clarity to both retailers and their customers.

In a joint submission to the AER's 2024 review of payment protections in the NECF, the Justice and Equity Centre and partners including the Council on the Ageing Australia (COTA) recommended a consistent definition of payment difficulty, noting that a consistent definition would go some way to improving the identification, minimisation, and approaches to reducing payment difficulties. Their proposed definition is:

> *'Energy payment difficulty refers to any circumstance where a consumer cannot afford to pay for the energy services they need to sustain their health and wellbeing without impact on their ability to afford other essentials'.*[24]

In line with this, ECA recommend the ESC adopt such a definition of payment difficulty and that the definition includes text making it clear that protections apply to customers with closed accounts who still hold energy debt. As the NSW Energy and Water Ombudsman says, because retailer practices may have contributed to the customer accumulating debt, retailers need to have some responsibilities in place for those customers.[25]

In response to question 11, ECA does not think there is sufficient clarity within the code of what minimum standards apply to customers with open as opposed to closed accounts. ECA suggests that greater clarity is

[24] COTA and JEC, *Australian Energy Regulator's Review of payment protections in the National Energy Customer Framework Joint Submission,* August 2024. Available at: < Australian Energy Regulator's Review of payment protections in the National Energy Customer Framework Joint Submission - COTA Australia>.
[25] EWON, Spotlight On: Consumer and SMB energy debt solutions, 2021. Available at: <https://www.ewon.com.au/page/publications-and-submissions/reports/spotlight-on/consumer-and-small-business-energy-debt-solutions>.

needed in all circumstances where vulnerable customers are concerned because there is a high correlation between closed account debt and family violence'.[26]

Increasing the clarity could be done in at least two ways. Firstly, through the addition of the text 'stating 'including customers with closed accounts still holding debt' (or similar) to Div 2 s127(1). We support clarifying the minimum standards of assistance that are applicable to customers with closed accounts but recommend that instead of 'a new provision listing the minimum standards of assistance applicable to customers with closed accounts,' that the Code starts from the position that all forms of tailored assistance continue to apply to customers with closed accounts, except where they are specifically disapplied in the Code, and any disapplication should only be done to the extent that it is not practicable to apply to the customer because the customer does not have an open account.

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)?

As the price of standing offers is regulated under the Victorian Default Offer (for which there are separate publication or notification requirements), retailers generally do not have any discretion as to the price of standing offers. ECA therefore supports removing the requirement to publish variations to standing offer prices in newspapers, noting that there are existing requirements for retailers to publish offers on the Victorian Energy Compare website consistent with publication requirements for other types of offers.

Q14. Do you agree with our assessment of the provisions related to complaint handling and dispute resolution that should be made more consistent?

The existing code contains rules for how retailers must handle customer complaints, but the ESC suggests that these rules could be expanded to cover more complaint types (beyond billing disputes), and to ensure dispute resolution obligations are more consistent. The ESC does not wish to completely overhaul the complaint and dispute resolution requirements at this time and has provided a selection of the clauses they see as necessary to review. These are 14(1), 41(2)(c), 54(3)(b), 59(1), 102(1)(b), 112(2)(b), and 160(2)(c).

ECA supports the amendment of these existing provisions as stated in the consultation paper to improve clarity and consistency, noting that retailer compliance with their stated obligations is the desired outcome of this improved clarity. Furthermore, while clarifying complaint handling and dispute resolution clauses in the existing code is welcomed, ECA suggest that creating an overarching consumer duty (as referred to in Section 2 of this submission) would set even clearer obligations on retailers to behave in the customer's interest. Increased record keeping (see also D. REPORTING above) including complaints numbers, issues raised, and severity could offer additional evaluative grounding for retailer compliance with a duty to consumers.

Recent ESC penalties relating to failures of retailers to respond in a timely manner to billing disputes demonstrates inadequacy of existing processes and retailers' responses.[27] Moreover, data on complaints about energy retailers has almost doubled over the past 13 months according to EWOV.[28] Affordability pressures including the cost of energy bills are the top concerns of consumers surveyed in our last Consumer Energy Report Card, with 8 in 10 consumers believing their energy bills had increased over the last two months.[29] Many consumers also have low energy literacy. When affordability pressures are combined with low energy literacy, complaints are likely to rise rather than reduce. The case for better retailer behaviours surrounding complaint handling and resolution is clear.

[26] Consumer Action Law Centre, *Energy Assistance Report, Keeping the Lights On – How Victoria's energy policies are impacting Victorian households*, June 2024, Page 34. Available at: <https://consumeraction.org.au/wp-content/uploads/2024/06/CALC-Energy-Assistance-Report-2024-FINAL_WEB.pdf>.
[27] ESC, *Energy customers protected as retailers pay a record $24.5 million in fines in 2025,* December 2025. Available at: <https://www.esc.vic.gov.au/media-centre/energy-customers-protected-retailers-pay-record-245-million-fines-2025>.
[28] EWOV, *Trend over time,* April 2026. Available at: <https://www.ewov.com.au/data-and-reports/data-hub/trend-over-time>.
[29] ECA, *Consumer Energy Report Card data*, December 2025. Available at: <https://energyconsumersaustralia.com.au/our-work/surveys/consumer-energy-report-card-data>.

Q15. Do you have any views on the aggregation of multi-site business customers for the purpose of disapplying protections in our code of practice?

ECA considers the primary issue is the current 40MWh per year consumption threshold used to specify a 'domestic or small business customer'.[30] This threshold determines whether smaller energy users (including small businesses) receive stronger consumer protections, included access to the VDO, clearer contract terms, and billing and disconnection protections where relevant. Victoria's threshold is notably lower than in all other jurisdictions (100-160 MWh per year). As electrification advances, because more businesses will shift load from gas to electricity, this means some premises that once sat below the threshold may move above it as they electrify their heating, hot water, cooking, and even in transport. This places small businesses at risk of losing the protections they previously received. We note for example access to the VDO may be a particularly important protection for small businesses as around 21% of small business customers are on the VDO.[31]

ECA supports allowing muti-site businesses to aggregate their consumption to receive a single, consolidated bill, which reduces administrative burden for both retailers and consumers if the consumer requests it.

However, this should only be done alongside increasing the domestic or small business customer threshold to reflect current and future electricity usage and introducing specific protections, such as those proposed by the ESC, to ensure that consumers have clear information and choice about whether to aggregate their billing arrangements.

While we acknowledge the ESC's note that the consumption threshold sits in an Order in Council outside the Code of Practice, we strongly support the Commission working with DEECA to raise the Victorian small business consumption threshold to at least 100 MWh per year to align with the NECF.

If the ESC intends to allow the aggregation of multi-site business customers, it should consider the following:

- Further clarity on whether multi-site businesses are inherently larger commercial businesses that would have the specific capability and resources to take the best advantage of aggregated contracts for their energy and understand the risks involved or afford to engage externally to achieve this. ECA would welcome further information and data from the ESC on the extent to which this change would inadvertently capture and impact genuinely small businesses.
- While ECA supports the introduction of explicit informed consent as a baseline requirement for aggregation, this alone may be insufficient. If the ESC proceeds with this reform, ECA recommends further considering further disclosure requirements so that consumers understand exactly what they are agreeing to. This might include a plain summary explicitly listing the rights the customer may lose if their aggregated consumption exceeds the threshold, such as the loss of access to the VDO, prescribed billing formats and frequency and specific payment difficulty and tailored assistance frameworks.
- Given the complexity of aggregated commercial contracts and the gravity of waiving consumer protections, we would welcome the ESC to consider if aggregated multi-site agreements should be subject to a mandatory cooling off period. This would allow the customer to seek independent advice and revert their site to separate small customer accounts without facing any exit fees or penalties if they realise aggregated billing does not suit their needs.

[30] Order under section 35 of the *Electricity Industry Act 2000*, published in Victoria Government Gazette No S 315 Tuesday 25 November 2008.
[31] ESC, Victorian Energy Market Dashboard, Q2 2025-2026 data.

Q16. What opportunities are there to provide the same protections for embedded network customers as for other customers?

ECA supports clarifying obligations for retailers selling to customers in embedded networks. ECA strongly believes that consumer protections must not depend on where a consumer lives or how their energy is supplied. Everyone deserves the same rights when buying energy, regardless of their provider's license.

Customers in embedded networks are a captive market who do not have a choice in their energy provider. They cannot shop around or switch retailers.[32] This lack of choice makes them vulnerable to poor service and unfair pricing. Because market competition cannot protect them, we encourage ESC step in to ensure they are covered by adequate protections.

We see several key opportunities for the ESC to provide the same protections for embedded network customers as for other consumers:

1. Aligning protections for customers of licensed retailers in embedded networks

We welcome ESC's focus on cases of embedded network customers who are sold electricity by licensed retailers and may actually receive fewer protections than if they were sold electricity by exempt sellers.

A consumer's physical location inside an embedded network should never dilute the obligations of a fully licensed energy retailer. If a licensed retailer is selling the energy, the full suite of ERCoP protections must automatically apply. We strongly support the ESC to amend the ERCoP to explicitly state that licensed retailers operating within embedded networks are bound by the exact same obligations as they are when operating in the traditional distribution grid.

2. Re-evaluating the maximum price cap to ensure genuine affordability

While we strongly support alignment of definitions that would strengthen protections, the ultimate protection for any consumer is a fair price. Currently, under the General Exemption Order (GEO), the maximum price that can be charged to embedded network customers is capped at the Victorian Default Offer (VDO).[33]

While the VDO provides a vital safety net, it is designed as a default price, not a competitive one. The ESC's own Victorian Default Offer 2026–27: Draft Decision Paper explicitly acknowledges that most market offers are priced below the VDO.[34] Because embedded network customers are a captive market, capping their prices at the VDO effectively locks them out of the most competitive prices in the market.

We draw the Commission's attention to the recent *Embedded Network Action Plan* introduced by the New South Wales Government.[35] Following a comprehensive review by the Independent Pricing and Regulatory Tribunal (IPART), the NSW Government has committed to introducing a new price cap for embedded network customers set at the **median of the lowest market offers**. This ensures that captive customers receive a price broadly equivalent to a highly competitive market offer, rather than just a basic default rate.

Crucially, the NSW Government has committed to implementing these maximum price protections not just for electricity, but also for energy sold to residential and small business customers in gas, hot water, and air conditioning embedded networks. The NSW reforms will also protect embedded network customers in strata schemes from being locked into long-term, restrictive energy supply contracts. [36]

[32] NSW Government, *Embedded network action plan to improve outcomes for embedded network customers*, 2025. Available at: <https://www.energy.nsw.gov.au/sites/default/files/2025-09/embedded-network-action-plan.pdf>
[33] ESC, *Maximum prices for embedded networks and other exempt sellers, 2020*, ii. Available at: <https://www.energy.nsw.gov.au/sites/default/files/2025-09/embedded-network-action-plan.pdf>
[34] ESC, *Victorian Default Offer 2026–27: Draft Decision Paper*, 2026, 54.
[35] Note 29
[36] Note 29, Page 5.

ECA strongly recommends that the ESC formally advise DEECA to review the maximum pricing conditions within the GEO. To provide true parity of outcomes for embedded network customers, Victoria should look to adopt a highly competitive benchmark, similar to the NSW model, rather than relying solely on the VDO.

3. Clarifying bulk hot water services

Consumer harm regarding bulk hot water in embedded networks stems from a lack of clarity and transparency in the arrangements themselves.[37] Currently, there are limited or unclear requirements for embedded network operators or exempt sellers to proactively provide information about these arrangements when a customer moves into a building. Without mandated upfront disclosure, many consumers may be completely unaware that bulk hot water is part of their building's arrangements, and the billing treatment can be confusing. This can lead to confusion, frustration, and bill shock when they are back-billed after they discover they must sign up with a separate retailer solely for their hot water. Furthermore, billing for these services is highly opaque compared to standard gas and electricity bills. The consumer experience is often highly fragmented, as bulk hot water customers typically receive separate cold-water bills from their local water corporation and a separate bulk hot water bill from the hot water company.[38]

While there may be other obligations on third parties outside the regulatory framework such as real estate agents to disclose energy arrangements at point of sale or lease, the ESC could also consider changes within the ERCoP:

- Review the adequacy of any existing requirements for exempt sellers to give a standardised notice to each new resident before or at occupancy, and again when services are first established.
- The notice should state whether bulk hot water is separately charged, who the responsible provider is, how billing works, how to contact the provider, and dispute pathways.
- Require bills to identify all charges linked to the premises in a way that is prominent and understandable; where separate billing is unavoidable, each bill should clearly flag the existence of any other related service and how to confirm liability.
- Where an exempt seller fails to give the required notice, or otherwise does not inform the resident promptly, retrospective recovery of bulk hot water charges should be limited to a short, defined period to avoid unfair bill shock.

While bulk hot water charging is regulated under the ERCoP, the methodologies used to calculate these charges remain opaque. A fundamental issue is that while residents are metered for water volume, they are effectively being charged for the underlying energy required to heat that water. Because energy use is not metered at the individual unit level, retailers use complex technical allocation and conversion formulas to derive a cost. Expecting consumers to decipher these calculations, such as converting cents per litre back into megajoules or kilowatt-hours, to assess if they are receiving fair value is unreasonable. This misalignment between what is metered (water) and what is being paid for (energy) creates a significant barrier to price transparency and consumer trust in embedded networks.

We strongly recommend the ESC address this gap, noting that recent reforms in New South Wales have successfully introduced protections requiring customers to be provided with information about embedded network arrangements before purchasing or leasing a property.[39]

[37] Further detailed in a previous spotlight by EWON before reforms took place in NSW: EWOV, *Hot water embedded networks*, 2021. Available at: <https://www.ewon.com.au/page/publications-and-submissions/reports/spotlight-on/hot-water-embedded-networks>.
[38] EWOV, Bulk hot water, n/d. Available at: https://www.ewov.com.au/fact-sheets/bulk-hot-water.
[39] Note 29, Page 1.