

# Energy Consumer Reforms

Regulatory Impact Statement

16 May 2025



## Acknowledgement

We acknowledge the Traditional Owners of the lands and waterways on which we work and live.

We acknowledge all Aboriginal and Torres Strait Islander communities, and pay our respects to Elders past and present.

As the First Peoples of this land, belonging to the world's oldest living cultures, we recognise and value their knowledge, and ongoing role in shaping and enriching the story of Victoria.

### An appropriate citation for this paper is:

Essential Services Commission, Energy Consumer Reforms: Regulatory Impact Statement, 16 May 2025.

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# Abbreviations

| Term       | Definition  |
|------------|---|
| ACCC       | Australian Competition and Consumer Commission                            |
| AEMC       | Australian Energy Market Commission                                       |
| AER        | Australian Energy Regulator   |
| BRV        | Better Regulation Victoria  |
| Code       | where used in this document, refers to the Energy Retail Code of Practice |
| Commission | Essential Services Commission Victoria                                    |
| DEECA      | Department of Energy, Environment and Climate Action (Victoria)           |
| ECMC       | Energy and Climate Change Ministerial Council                             |
| EWOV       | Energy and Water Ombudsman Victoria                                       |
| MCA        | Multi-Criteria Analysis   |
| NECF       | National Energy Consumer Framework  |
| NERR       | National Energy Retail Rules  |
| RIS        | Regulatory Impact Statement   |
| VDO        | Victorian Default Offer   |

# Executive summary

Many Victorian energy consumers are experiencing financial stress. Consumers are facing rising energy prices and higher costs of living, which increases their risk of missing bill payments, entering into debt and being disconnected.

The Essential Services Commission aims to promote the long-term interests of Victorian consumers. Since the start of 2024, we have been reviewing the Energy Retail Code of Practice, to strengthen protections, reduce unreasonably high prices, and help lower energy bills.

We expect our proposed reforms will achieve those aims.

Customers experiencing payment difficulty and vulnerability will benefit from the reforms to lower energy prices. Other customers will be better able to access concessions, switch to their retailer's best offer and resolve complaints more efficiently.

Our key reforms can also improve the effectiveness of competition in the retail energy market. Currently, a few retailers are extracting more revenue from some customers, particularly those who cannot or are unwilling to engage with the energy market. At the extreme, some retailers may leverage customers' disengagement to extract more money from these customers, who end up paying a 'loyalty penalty'. We propose to reduce the extent of these practices.

The proposed rules will require all retailers to compete more fairly. Improving the effectiveness of competition will also help build consumer trust in the energy market.

## Purpose of our review

We are reviewing the Energy Retail Code of Practice to enhance protections for Victorian energy customers during this critical time. The code sets important energy consumer protections, requiring retailers to help customers in payment difficulty. The code also regulates terms and conditions of energy contracts, the marketing of energy offers, and billing practices.

We began a review of the code in early 2024. We released an issues paper on 6 June 2024 and a discussion paper on 24 October 2024.

This document is a Regulatory Impact Statement (RIS), which assesses potential reforms to the code, and is required for this review. This RIS also forms an important part of our public consultation process.

The primary objectives of the proposed energy consumer reforms assessed in this RIS are to:

- help households pay less for energy
- enhance protections for energy consumers.

These are supported by three sub-objectives that addresses specific problems and also helps achieve the primary reform objectives. The sub-objectives are to:

- increase support for people experiencing payment difficulty
- support eligible people to access concessions
- improve awareness of independent dispute resolution services.

## **Our approach**

For each of the proposed reforms, we describe the reform's purpose, stakeholder feedback received to date and the different options we have considered.

We assessed these options against a base-case that assumes no changes to existing rules. We used a multi-criteria analysis (MCA) to decide our preferred option – assessing each option against the criteria of effectiveness, cost to industry, and cost to government.

We believe that our proposed reforms will significantly benefit Victorian consumers and impose a reasonable and proportionate regulatory burden on energy businesses.

## **Our proposed reforms**

### **Automatic best offer for customers experiencing payment difficulty**

It is important for customers experiencing payment difficulty to be paying competitive prices for energy. This will help these customers afford their ongoing energy use and reduce the risk of falling into debt with their retailer.

Currently, retailers must provide customers with payment assistance if they miss a bill payment. One form of assistance is advising customers of the best tariff for them. Despite these rules, customers face several barriers to actively take up their retailer's best energy offer. Many customers are still leaving money on the table.

To address these barriers, we propose that retailers must automatically switch the following customers onto their best offer:

- Customers receiving tailored assistance, and
- Customers in arrears for at least three months and with arrears of \$1,000 or more (who are not receiving tailored assistance).

To reduce the key barriers for these customers to access the cheapest price, retailers would not need to seek explicit informed consent from the customer to switch. Customers will still be able to opt-out or request a switch back to their earlier contract.

This provides support to customers who are most likely to be experiencing payment difficulty, regardless of whether they have been able to engage with their retailer.

We estimate that retailers would switch up to 75,000 electricity and 60,000 gas customers to their best offer. This could result in total average annual savings of up to \$16.8 million for affected electricity customers and \$11.0 million for affected gas customers.

We also recognise that retailers will need to make major changes to their IT systems and processes to enable these automated processes, resulting in costs for the industry. However, we consider the effectiveness of the proposed approach outweighs the costs to implement it.

### **Improving access to cheaper offers**

Some retailers' cheapest offers require customers to pay by direct debit or only receive electronic bills (known as e-billing). However, we heard that some customers cannot access these affordable offers due to these restrictions. Customers most affected are the elderly, First Nations peoples and culturally and linguistically diverse Victorians.

We are proposing changes to improve access to these cheaper plans.

We propose that retailers must offer alternative payment methods for all contracts and offer paper bills and e-billing options for all contracts.

Retailers could still charge a fee or provide a conditional discount for these options. However, any fees or discounts must be set at reasonable costs.

This proposed reform will also improve competition across all Victorian retailers by preventing practices that unfairly segment customers. Retailers would no longer be able to apply different conditions or restrictions based on a customer's payment method or billing type – practices that can create barriers to accessing competitive offers. Retailers that already offer plans without these restrictions may benefit and gain further market share because of the reforms.

### **Improving the ability to switch to the best offer**

In the last financial year, over 60 per cent of electricity and gas customers were not on their retailer's best offer. This is despite rules requiring retailers to place a best offer message on customers' bills.

We propose an outcomes-based rule that requires a retailer to have effective processes for a customer to switch to their best offer. The process must be simple and accessible.

As a minimum, a retailer must have a switching process through its website and telephone. Retailers' websites must also have clear and simple instructions on how to switch, and the ability for a customer to compare their current plan to the best offer.

We believe these changes will help customers access cheaper plans. We have previously found that twenty-eight per cent of Victorian residential electricity consumers could have saved over \$100 per year from being on their retailer's current best offer.

These requirements may require costly system upgrades for retailers (particularly smaller retailers without limited existing processes or IT systems to support this change). However, we consider that these costs are outweighed by the need to help customers access competitive energy plans from their own retailers.

### **Protections for customers paying higher prices**

Although most Victorian customers have switched to a new, lower-priced plan in the last two years, there are many customers on older contracts with prices above standing offers (above the VDO for electricity).<sup>1</sup> This problem is commonly known as a 'loyalty penalty'.

In Victoria, our analysis shows that a customer is more likely to face higher prices after being with the same retailer and contract for four years. Four per cent of Victorians are on contracts older than four years, and paying at least 10 per cent above the Victorian Default Offer.

We propose that a retailer must review its customers' prices annually, and ensure that a customer on a contract four years or older is paying a reasonable price for their energy.

Retailers could reduce the tariffs paid by an affected customer. Retailers could also switch that customer to a cheaper plan (and would not need a customer's explicit informed consent, but the customer would be able to opt-out or reverse the switch after receiving their first bill).

This reform could conservatively help between 27,000 and 53,000 electricity customers, with total estimated savings of between \$10.1 million and \$12.2 million in a year. Retailers would need to invest in new processes (and potentially its systems) to identify affected customers and actively switch a customer to a cheaper plan, or lower energy tariffs. On balance, the benefits of protecting affected customers from acutely high prices outweigh the costs to industry.

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<sup>1</sup> Essential Services Commission, 'Customers on older plans significantly better off on their retailer's best offer', 16 May 2025.

## Improving the application of concessions on bills

Victoria has the lowest rate of eligible households not receiving energy concessions in the National Electricity Market. However, recent reports suggest that 7 to 14 per cent of eligible Victorian households are missing out.<sup>2</sup> Many energy retailers ask customers of their concessions eligibility when signing up for a new plan, moving house, or when receiving assistance for payment difficulty. However, not all retailers undertake these actions, or to the same extent as each other.

We propose that retailers request concession eligibility information from a customer when a retailer considers it is relevant. In addition, a retailer must request this information:

- when entering into a new contract with a customer
- when a customer requests to switch to another plan
- when a customer contacts the retailer requesting payment difficulty assistance
- as soon as practicable, if a customer may be affected by family violence.

We expect these reforms will reduce the number of eligible customers currently missing out on energy concessions. While many Victorian retailers already have systems to undertake these checks, other retailers could face higher implementation costs.

We also recognise that broader initiatives to automate concessions based on eligibility information depend on system upgrades and new agreements between Services Australia, state governments and energy retailers. We support any work in this area to improve Victorians' access to concessions in the long term.

## Extending protections for customers on legacy contracts

In 2020, we introduced a suite of reforms to ensure that contracts were clear and fair. The rules required any benefits on an energy contract to last the length of the contract. We have also capped the level of pay-on-time discounts. However, these protections only applied to contracts entered into from 1 July 2020. While the number of Victorian customers on older contracts have decreased over time, many still do not receive the same protections.

We propose that all fees and discounts relating to a payment condition (such as pay-on-time discounts) are limited to reasonable costs. If the scale of these conditional discounts exceeds this reasonable estimate (for example high pay-on-time discounts), retailers must apply these

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<sup>2</sup> Victorian Council of Social Services, [The Missing 14%: why so many Victorians are missing out on energy concessions](#), 22 May 2023, p. 9.; Consumer Policy Research Centre, [Mind the Gap: Identifying the gap between energy concession eligibility and concessions received](#), November 2022, p. 4.

discounts unconditionally. This would apply to all contracts, including those that customers have entered into before 1 July 2020.

A retailer must also provide any discount, rebate or credit in a contract entered into before 1 July 2020 for the entire duration of the contract, if the benefit has not already expired.

We believe this is a targeted reform to remove the exposure of customers on older contracts to price shocks. This is especially when a customer does not meet payment conditions and faces a much higher energy cost.

We estimate that these reforms will protect 13,855 Victorian customers on old contracts who face a cost for not meeting their pay-on-time discounts. However, the number of these affected customers have been steadily decreasing since 2020 (with around five per cent of Victorian customers on these types of contracts as of 2023).

### **Improving awareness of independent dispute resolution services**

The Energy and Water Ombudsman of Victoria (EWOV) is an independent dispute resolution service for energy customers. EWOV helps resolve complaints between a consumer and their retailer impartially, efficiently and fairly. Despite this free service, recent reports found that 66 per cent of Victorian consumers were not aware of EWOV.<sup>3</sup>

To help increase Victorian consumers' awareness of EWOV, we propose that retailers include the telephone number of the Energy and Water Ombudsman Victoria on the front page of a customer's energy bill.

Research indicates that customers benefit from clear information about dispute resolution services available to them. Consumers experiencing vulnerability stand to benefit the most, as access to these services could help them when they need it most.

While retailers will incur some costs to change customers' energy bills, we note that some retailers already voluntarily include EWOV details on its bills. Some retailers also include this information on energy bills in other jurisdictions where these rules already exist.

### **Increasing best offer and debt-disconnection thresholds**

We are also proposing changes to two thresholds, which complement our key reforms.

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<sup>3</sup> 66 per cent were either not very familiar, or completely unfamiliar with EWOV. Energy Consumers Australia, [Energy Consumer Sentiment Survey: Topline Data](#), 12 June 2024.

We propose to increase the threshold for a customer to receive a ‘best offer’ message from \$22 to \$50 in estimated annual savings. This change will support the implementation of the proposed automatic best offer reform. On balance, we believe this change will give customers enough benefit, while limiting the additional regulatory and process burden on retailers. We also note that in 2018, our consumer behavioural testing found that 90 per cent of customers would need to save at least \$50 in order to switch.<sup>4</sup>

We also propose to increase the minimum debt amount that a retailer can disconnect a customer, from \$300 to \$500. The current threshold was set in 2017 and has not been updated. We have proposed protections for customers in arrears but are not receiving assistance from their retailers – these customers face a greater risk of disconnection. On balance, increasing the debt-disconnection threshold would increase protections for some customers, with marginal additional burden on retailers. In practice, most retailers only disconnect customers with much higher levels of arrears.

## Summary of proposed reforms and impacts

**Table 1:** Summary of preferred options and proposed amendments

| Reform topic   | Preferred option   | Relevant proposed amendments (Draft code v4)                            |
|--|--|---|
| 1. <b>Automatic best offer for customers experiencing payment difficulty</b> | <p><b>Eligibility – Option AA.2</b> – Customers receiving tailored assistance and customers in arrears for at least three months and with arrears of \$1,000 or more.</p> <p><b>Implementation – Option A.1</b> – Automatic switch to best offer for all customers experiencing payment difficulty who meet the chosen eligibility criteria.</p> | Clauses 128(1)(a1), 128(2), 132A, 132B, 132C, 132D, 132E, 132F and 132G |
| 2. <b>Improving access to cheaper offers</b>                                 | <b>Option B.2</b> – Require retailers to ensure plans are not restricted based on payment method (e.g. direct debit) or communication method (e.g. e-billing) and limiting conditional fees and discounts to reasonable costs.   | Clauses 54A, 72(2A), 72(7) and 77A                                      |
| 3. <b>Improved ability to switch to best offer</b>                           | <b>Option C.2</b> – Outcomes-based approach requiring a retailer to have effective processes for customers to switch to the best offer, with minimum requirements for a retailer’s processes (e.g. having a website and a telephone process; allowing customers to compare plans).   | Clause 111A   |

<sup>4</sup> The Behavioural Insights Team, [Testing the impact of behaviourally informed energy bills and best offers](#), 2018, p. 37.

|  |  |   |
|--|--|---|
| <b>4. Protections for customers paying high prices</b>                   | <b>Option D.2</b> – Principles-based approach requiring retailers to take reasonable steps to ensure customers on older contracts are paying a reasonable price, including a flexible definition of reasonable price.  | Clauses 121A, 121B, 121C, 121D, 121E, 121F and 121G |
| <b>5. Improving the application of concessions on bills</b>              | <b>Option E.2</b> – Principles-based requirement for retailers to request concession eligibility information from customers at all times when it is relevant to do so and minimum requirements to request this information at specific contact points (e.g. at sign up). | Clause 16A  |
| <b>6. Extending protections for customers on legacy contracts</b>        | <b>Option F.1</b> – Extend protections to all contracts (extending to contracts into before 1 July 2020).  | Clause 77A and 96(1A)                               |
| <b>7. Improving awareness of independent dispute resolution services</b> | <b>Option G.1</b> – Require the inclusion of EWOV's phone number on the front page of bills.   | Clause 63(1)(v1)                                    |
| <b>Other proposed changes</b>  |  |   |
| <b>8. Increasing the best offer threshold</b>                            | Increase the minimum potential savings for a negative best offer check from \$22 per year to \$50 per year.  | Clause 109(1) and (2)                               |
| <b>9. Increasing the minimum disconnection amount</b>                    | Increase the minimum debt threshold for disconnections from \$300 to \$500.  | Clause 187(2)                                       |

Our proposed reforms will reduce prices, especially for customers experiencing vulnerability. We recognise that every extra dollar saved by these customers is likely to be worth more to them than the average customer or the industry.

We note that retailers currently price their existing customers differently. Some retailers may respond to the new rules by raising prices for other customers to offset lower revenue from customers experiencing vulnerability, depending on how they adjust their pricing strategies. Retailers' ability to recover these costs is constrained by the effectiveness of competition. Revenue that is competed away in this context is not necessarily an economic cost, but a normal feature of effective and efficient market competition.

We recognise that retailers will face additional costs to implement the reforms, including the need to update systems and processes. This will depend on each retailer's individual billing systems and internal practices.

We look forward to working with stakeholders on how best to implement the reforms and limit implementation costs.

We propose a two-stage commencement process to give time for retailers to prepare for the new reforms, with the following timings for specific reforms:

- **1 January 2026:**
  - Protections for customers paying higher prices
  - Improving the application of concessions on bills
  - Extending protections for customers on legacy contracts
  - Improving awareness of independent dispute resolution services
  - Increasing best offer check and debt-disconnection thresholds
- **1 July 2026:**
  - Automatic best offer for customers experiencing payment difficulty
  - Improving access to cheaper offers
  - Improving the ability to switch to the best offer

We propose that the reforms are implemented through amendments to the Energy Retail Code of Practice. We are working with the Victorian Government to assess if any subordinate legislation or legislative amendments are required to support the proposed reforms (or subsequent suggestions from stakeholders).

### Consultation questions

We welcome stakeholder views and feedback on the proposed reforms presented in this RIS and on the proposed amendments to the draft code. Table 2 presents our consultation questions.

**Table 2:** Consultation questions

| Topic                    | Question   |
|--------------------------|--|
| <b>General questions</b> | <ol style="list-style-type: none"><li>1. Are there any additional costs and benefits that we should consider for the proposed reforms?</li><li>2. Are there any additional implementation requirements we should consider for this package of reforms and each individual reform?</li><li>3. Do you have any feedback on the proposed implementation timeframes for the proposed reforms?</li><li>4. Are there any further considerations required for how each reform will interact with one another?</li></ol> |

|   |  |
|---|--|
|   | 5. If your preferred option differs from that identified in the MCA, could you please explain why?   |
| <b>Other matters considered</b>   | 6. Do you agree with increasing the threshold for the best offer check results from \$22 to \$50? If not, what amount would be more appropriate, and why?<br>7. Do you agree with increasing the minimum disconnection amount to \$500? If not, what amount would be more appropriate, and why? Should this amount be indexed to account for inflation or increases in energy prices?  |
| <b>Automatic best offer for customers experiencing payment difficulty</b> | 8. Are there other mechanisms we should consider in the design of the automatic best offer to protect consumer choice and agency (in addition to the proposed opt-out and post switch reversal periods)?<br>9. Could the proposed amendments for the automatic best offer be enhanced to further reduce implementation costs and maximise benefits to customers experiencing payment difficulty?<br>10. Do you have any feedback on the proposed process and implementation timeframes for the automatic best offer? |
| <b>Improving the ability to switch to the best offer</b>                  | 11. What metrics do you think could help assess the effectiveness of the process to switch to the best offer?<br>12. Are there any implementation issues for small retailers that we should consider regarding effective processes to switch to the best offer?  |
| <b>Protections for customers paying higher prices</b>                     | 13. What would you consider to be a suitable benchmark to determine a reasonable price for gas?  |

## How to give us your feedback

We want to hear your views on the Energy Consumer Reforms: Regulatory Impact Statement.

Submissions should be made by **5pm on 26 June 2025** via [Engage Victoria](#).

Submissions will be published on the commission's website, except for any information that is commercially sensitive or confidential, in accordance with our [Submissions Policy](#). Submissions should clearly identify which information you consider to be sensitive or confidential, and the basis for your claim.

We will continue to proactively engage with key stakeholders as this review progresses.

If you have any questions or would like to arrange a meeting, please contact us at [energyreform@esc.vic.gov.au](mailto:energyreform@esc.vic.gov.au).

# 1. Background

## 1.1. Introduction and purpose of this Regulatory Impact Statement

### 1.1.1. Victorian energy consumers are experiencing increasing financial stress

Energy is an essential service for Victorians. The energy retail market is a dynamic and competitive sector, with almost 30 active retailers servicing residential and small business customers.<sup>5</sup> Victoria's energy retail market is comprised of a wide range of different plans to meet the various needs of consumers.

In recent years, the retail market has faced several challenges, including rising energy prices and increasing financial stress among consumers. As a result, data suggests that Victorian energy consumers are at increasing risk of missing bill payments, entering into debt and being disconnected.

In Victoria, retailers must provide customers with tailored assistance if they are having trouble paying their bills. The number of customers accessing this tailored assistance has increased substantially since 2020.<sup>6</sup> Notably, the number of customers exiting assistance while still in arrears due to not meeting payment plan requirements has also increased steadily over the same period. Currently, almost half of customers on tailored assistance exit these programs due to failure to meet payment plan requirements.<sup>7</sup>

The number of customers in arrears has also continued to increase since 2020–21.<sup>8</sup> Despite a slight decrease in the average amount of arrears of customers receiving assistance over the most recent financial year, that amount is still historically high.<sup>9</sup> This is especially the case for customers receiving assistance who cannot pay for ongoing energy use.<sup>10</sup>

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<sup>5</sup> '[Victorian Energy Market Dashboard](#)', Essential Services Commission, accessed 23 January 2025.

<sup>6</sup> Essential Services Commission, [Victorian Energy Market Report: Annual 2024](#), 29 November 2024, p. 10 (Figure 6).

<sup>7</sup> Ibid, p.10 (Figure 7).

<sup>8</sup> We note that the commission has changed metrics in recent years for measuring the number of customers with substantial arrears. However, all recent reports show a similar trend.

For the number of customers with more than \$300 in arrears and not accessing assistance from 2022–23 to 2023–24, see: Essential Services Commission, [Victorian Energy Market Report: Annual 2024](#), 29 November 2024, p. 7. For the number of tailored assistance customers with arrears greater than \$1,000 from 2020–21 to 2022–23, see: Essential Services Commission, [Victorian Energy Market Report: 2022–23](#), 28 November 2023, p. 10.

<sup>9</sup> Essential Services Commission, [Victorian Energy Market Report: Annual 2024](#), 29 November 2024, p. 12.

<sup>10</sup> Essential Services Commission, [Victorian Energy Market Report: 2021–22](#), 30 November 2022, p. 14.

The number of Utility Relief Grants approved has also increased. Utility Relief Grants are Victorian Government grants that help customers to pay an electricity, gas or water bill that is overdue due to temporary financial crisis.<sup>11</sup> Compared to 2022–23, in 2023–24 there was a 19 per cent increase in applications approved for electricity and 32 per cent increase for gas. This may indicate that more people are seeking financial assistance or that retailers have improved their processes to assist customers in their Utility Relief Grant applications.

### 1.1.2. The Energy Retail Code of Practice sets out important consumer protections

The code plays an important role in regulating the retail energy market in Victoria. The code commenced in March 2022 and sets out the rules electricity and gas retailers must follow when selling energy to customers.<sup>12</sup> It covers various aspects of the retail process, including customer contracts, billing, payment difficulties, dispute resolution, contents of bills, life support equipment and disconnections. The code aims to protect consumers by ensuring transparency, fairness and accountability in the retail market.

Additionally, we provide several guidelines to aid retailers in compliance with the code.<sup>13</sup> These guidelines include helpful content relating, but not limited to:

- the Payment Difficulty Framework
- best offer messages
- customers under white label arrangements<sup>14</sup>
- life support customer details
- explicit informed consent
- energy fact sheets.

An important feature of the code is its focus on assisting customers experiencing payment difficulty. The code requires retailers to offer assistance to customers in this situation.

Any customer can access **standard assistance** to help them avoid getting into arrears with their retailer. Assistance may take the form of paying smaller amounts more often, changing payment intervals, extending pay-by dates or paying for energy in advance.<sup>15</sup>

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<sup>11</sup> '[Utility relief grand scheme](#)', Department of Families, Fairness and Housing, accessed 21 February 2025.

<sup>12</sup> The Energy Retail Code of Practice replaced the [Energy Retail Code](#) and the [Code of Conduct for Marketing Retail Energy](#).

<sup>13</sup> '[Electricity and gas codes, guidelines and policies](#)', Essential Services Commission, accessed 10 April 2025.

<sup>14</sup> In the retail of energy white labelling is where a licensed retail enters into an arrangement with a third party to sell energy under that third party's branding. See Essential Services Commission, [Guideline 1 \(2022\): Customers of white label arrangements are entitled to all protections of the Energy Retail Code of Practice](#), 15 March 2022.

<sup>15</sup> Clause 125(2) of the [Energy Retail Code of Practice \(version 3\)](#).

Customers in arrears are entitled to **tailored assistance**. Forms of tailored assistance include developing a payment plan, providing information on a customer's energy usage and how to lower it, and providing advice on government or non-government assistance that may be available (including Utility Relief Grants).<sup>16</sup>

If a customer owes more than \$55 and has missed a bill payment, the code requires their retailer to reach out and offer this support.<sup>17</sup> The code additionally mandates clear communication from retailers, ensuring customers are informed about their energy plans and tariff changes.<sup>18</sup>

### 1.1.3. We are reviewing the Energy Retail Code of Practice

We began a review of the code in June 2024. The purpose of this review is to:

- address key actual or potential harms to Victorian consumers in a proportionate manner
- clarify or update obligations identified as unclear or inconsistent
- support Victorians who may be experiencing or are at risk of experiencing vulnerability when engaging with the energy retail market.

We released an issues paper on 6 June 2024 to seek feedback from stakeholders on key areas for reform. The six-week consultation period closed on 19 July 2024.

In August 2024, the Energy and Climate Change Ministerial Council decided to advance a set of consumer reforms. The Commonwealth Minister for Climate Change and Energy, who chairs the council, submitted rule change requests to the Australian Energy Market Commission (AEMC).<sup>19</sup>

The consumer reforms proposed by the Energy and Climate Change Ministerial Council aim to amend the National Energy Retail Rules (NERR). To be implemented in Victoria, these reforms need to be included in the code. We received a request from the Victorian Minister for Energy and Resources asking us to consider how these reforms could be implemented in Victoria.<sup>20</sup>

The goals of the council's consumer reforms align with feedback we received from stakeholders in response to our July 2024 issues paper. We covered a broad range of topics and received strong

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<sup>16</sup> Clause 128(1) of the [Energy Retail Code of Practice \(version 3\)](#).

<sup>17</sup> Clause 129(2) of the [Energy Retail Code of Practice \(version 3\)](#).

<sup>18</sup> In energy retail, the term 'tariff' refers to both the rate and pricing structure used to calculate the price paid for energy usage or supply. Tariffs are often calculated in cost per unit, such as cents per kilowatt-hour (c/kWh) or as a fixed price over a certain time period, such as a daily supply charge. Tariff structures can include, among others, single or flat rate tariffs, time of use tariffs, controlled load or demand tariffs. Where a customer generates electricity themselves and feeds this back into the energy grid, a retailer may offer the customer a 'feed-in tariff' to compensate them for the supply of this energy.

<sup>19</sup> Energy and Climate Change Ministerial Council, [Meetings and Communiques](#), 19 July 2024. The [rule change requests](#) have been published by the Australian Energy Market Commission.

<sup>20</sup> Hon Lily D'Ambrosio MP, Minister for Energy and Resources, Victoria, [letter to Gerard Brody, Chairperson, Essential Services Commission, Victoria](#), 3 October 2024.

support for prioritising protections for consumers experiencing financial stress. Consequently, we decided to incorporate the council's proposed reforms into our existing review of the code.

The objectives of the Energy and Climate Change Ministerial Council's energy consumer reforms are to:

- help households access cheaper energy deals
- increase support for people experiencing payment difficulty
- deliver more protections for consumers.

On 24 October 2024, we released our Energy Consumer Reforms: Discussion Paper to gather stakeholder views on the reforms proposed by the council that have not yet been implemented in Victoria.<sup>21</sup> Consultation on this paper closed on 26 November 2024. We also hosted online and in-person workshops with stakeholders in December 2024 to gather additional feedback on the reforms and potential options.

Most of the proposed reforms included in this RIS were presented in the discussion paper that was released in October 2024:

- Automatic best offer for customers experiencing payment difficulty
- Improving the ability to switch to the best offer
- Improving the application of concessions to bills
- Extending protections for customers on legacy contracts
- Improving awareness of independent dispute resolution services.

In addition, stakeholder feedback and our own analysis have identified the following proposed reforms to further support energy consumers and the efficient functioning of the energy market:

- Improving access to cheaper offers
- Protections for customers paying high prices
- Increasing the best offer threshold
- Increasing the minimum disconnection amount.

#### **1.1.4. The purpose of this Regulatory Impact Statement is to assess options to increase support for households**

The purpose of this Regulatory Impact Statement (RIS) is to identify and assess potential reforms to the code. Our focus is on reforms that will help households pay less for energy and improve access to independent dispute resolution services. Other potential reforms identified through previous consultation will be addressed at a later stage.

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<sup>21</sup> Essential Services Commission, [Energy Consumer Reforms: Discussion Paper](#), 24 October 2024.

The general approach to assessing the options through this RIS included:

- identifying the nature and extent of the problems the proposed reforms seek to address
- identifying the objectives of the proposed reforms
- identifying options that could address the problems and achieve the reform objectives
- analysing the benefits and costs of proposed options against the base case and one another, including the effectiveness of the proposed option in achieving the reform objectives
- identifying the preferred option for each reform area
- assessing other impacts of the proposed reforms, including impacts on small businesses and on competition
- outlining implementation and evaluation processes relating to the proposed rule changes.

The potential reforms have been informed by stakeholder feedback received during consultation. The options have been assessed to understand the potential impacts on the retail market and Victorian energy consumers.

## **1.2. Legislative and regulatory framework governing energy retail in Victoria**

### **1.2.1. The commission regulates electricity and gas retailers in Victoria**

The Essential Services Commission is Victoria's independent energy regulator. This mandate is established under the *Essential Services Commission Act 2001*.

The commission is responsible for:

- issuing licences
- setting licence conditions, including licences for energy retailers
- registering exemption holders
- setting consumer protections and standards of conduct through codes of practice
- issuing guidelines and providing education to encourage and assist voluntary compliance
- monitoring compliance with the energy legislation and rules
- taking compliance or enforcement action in relation to non-compliance.

The commission's primary objective is to promote the long-term interests of Victorian consumers. In doing so, we must have regard to the price, quality and reliability of essential services.<sup>22</sup>

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<sup>22</sup> Section 8 of the *Essential Services Commission Act 2001*.

Our approach to regulating electricity and gas retailers involves a combination of issuing licences, imposing licence conditions and developing codes of practice and guidelines.

In addition to making rules, we have a range of other functions, powers and responsibilities which include compliance and enforcement and market performance reporting.

Our compliance and enforcement tools include the power to issue compliance notices and penalty notices, accept enforceable undertakings, vary licences, and institute civil and criminal proceedings.

Retailers set prices for market retail contracts and for gas standing offers. The commission sets prices for electricity standing offers (through setting the Victorian Default Offer) and the minimum feed-in-tariff for solar power exported to the grid.<sup>23</sup>

### **1.2.2. Victoria regulates energy retail separately from other jurisdictions**

The regulation of electricity and gas retailers in Victoria is primarily governed by the *Electricity Industry Act 2000* and the *Gas Industry Act 2001*.

Under these Acts, the objectives of the commission are to promote:

- a consistent regulatory approach between the gas industry and the electricity industry, to the extent that it is efficient and practicable to do so
- the development of full retail competition
- protections for customers, including assisting customers who are facing payment difficulties.<sup>24</sup>

Under these laws, if an electricity or gas retail business intends to operate in Victoria, it must obtain a licence issued by the commission. Under certain circumstances, it may be exempt from obtaining a licence. These businesses must also comply with applicable codes of practice made by the commission.

Victoria is part of the National Energy Market (NEM). However, the regulation of energy retail in Victoria is separate from other NEM states where the National Energy Customer Framework (NECF) applies.<sup>25</sup> The NECF has limited application to energy retailing in Victoria. The code is the main instrument governing the sale of energy by retail in Victoria and is administered by the commission.

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<sup>23</sup> For more information about the commission's decisions on electricity prices and tariffs, gas benchmarks, and payment exclusions see [Electricity and gas prices, tariffs and benchmarks | Essential Services Commission](#).

<sup>24</sup> Section 10 of the *Electricity Industry Act 2000* and section 18 of the *Gas Industry Act 2001*.

<sup>25</sup> The NECF is a suite of legal instruments that regulates the sale and supply of electricity and gas to customers. Each state or territory in the NEM applies the NECF through its own laws and can change the application of aspects of those laws within that jurisdiction. For further information, see [National Energy Customer Framework | AEMC](#).

### 1.2.3. Composition of Victoria's energy retail sector

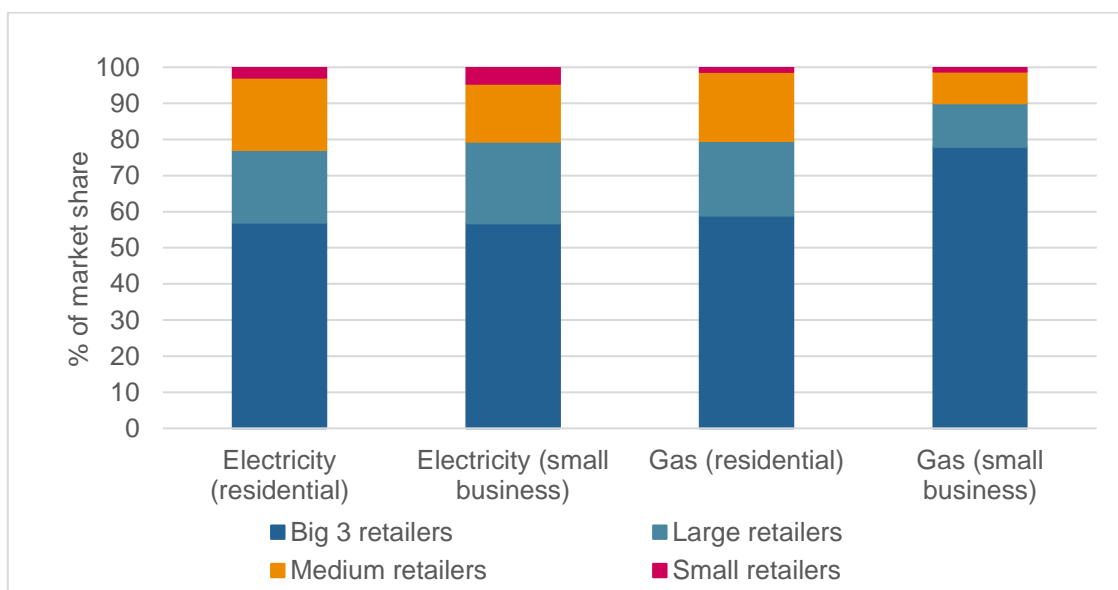
As of December 2024, there were 22 active retailers providing electricity to residential customers and 26 active retailers providing electricity to small business customers. For gas, there were 17 active retailers providing gas to residential customers and 16 active retailers providing gas to small business customers.

In Victoria, retailers provide electricity to more than 2.77 million residential customers and more than 233,000 small businesses. More than 2.15 million Victorian residential customers purchase gas from energy retailers, as well as more than 49,000 small businesses.<sup>26</sup>

Although the Victorian energy retail market is a competitive environment, both the electricity and gas retail markets are dominated by a small number of large retailers, which each have greater than five per cent market share.

Of these large retailers, three companies (AGL, Origin Energy and EnergyAustralia) account for the majority of residential and small business customers. Medium (between one to five per cent market share) and small (less than one per cent market share) retailers account for the remainder of Victorian customers.

**Figure 1: Victorian energy retailers by energy sector and market share**



Source: Victorian Energy Market Dashboard.

<sup>26</sup> ['Victorian Energy Market Dashboard'](#), Essential Services Commission, accessed 1 April 2025.

#### 1.2.4. Independent dispute resolution – the role of the Energy and Water Ombudsman

The Energy and Water Ombudsman Victoria (EWOV) is an independent dispute resolution service for Victorian energy and water consumers. It helps resolve complaints between customers and their energy or water providers.

Electricity and gas distributors and retailers have a legal requirement to join a dispute resolution scheme approved by the commission.<sup>27</sup> The commission has approved EWOV as this dispute resolution scheme. EWOV may also refer matters to the commission if a systemic issue is identified such as a retailer not complying with the Electricity Industry Act, Gas Industry Act, the Essential Services Commission Act or having generally inadequate electricity or gas policies that adversely affect customers.<sup>28</sup>

EWOV plays a crucial role in the energy retail space in Victoria by ensuring that customers have access to dispute resolution services that are free, fair and impartial, as outlined in its Charter and Constitution.<sup>29</sup>

The code currently requires retailers to provide information on their websites about payment assistance and dispute resolution services offered by EWOV.<sup>30</sup> This ensures that consumers have access to support when needed and promotes greater accountability among retailers when supplying essential energy services to their customers.

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<sup>27</sup> Section 28 of the *Electricity Industry Act 2000* and section 36 of the *Gas Industry Act 2001*.

<sup>28</sup> Section 109C of the *Electricity Industry Act 2000* and section 225 of the *Gas Industry Act 2001*.

<sup>29</sup> '[Who we are](#)', Energy and Water Ombudsman Victoria, accessed 20 February 2025.

<sup>30</sup> Clause 13(1)(c) of the [Energy Retail Code of Practice \(version 3\)](#).

## 2. The problem

An increasing number of Victorian energy consumers are finding it harder to pay for their energy. This chapter outlines some of the key problems that contribute towards Victorian energy customers paying higher prices for their energy or not benefitting from existing consumer services and protections.

### 2.1. Problems

#### 2.1.1. Most Victorians are paying more for their energy than they could be

##### **Most Victorian energy consumers are not on their retailer's best offer**

Many Victorian energy customers are paying more for their energy than they need to. In 2023–2024, an average of 69 per cent of residential electricity and 62 per cent of residential gas customers were not on their energy retailer's best offer each month.<sup>31</sup>

A retailer must perform best offer checks at least once every three months for electricity and once every four months for gas. If a customer is not already on their retailer's best offer and savings are calculated at more than \$22 per year, the retailer must advise the customer that they could be on a better plan in their bill.

We developed guidelines for retailers on the form and content of best offer messages in 2023.<sup>32</sup>

##### **What is a best offer?**

The best offer (referred to as 'deemed best offer' in the code) is the lowest cost plan offered by a retailer that is typically generally available and does not account for sign-up credits, one-off gifts or the value of other benefits (for example, green electricity or bundled products).<sup>33</sup>

Retailers must tell customers on the front page of their bill whether they are on the best offer and how much they could save by switching.

Retailers do not have an obligation to use the words 'best offer' on bills, instead they must refer to this in a box that says 'could you save money on another plan?'.

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<sup>31</sup> '[Victorian Energy Market Dashboard](#)', Essential Services Commission, accessed 23 January 2025.

<sup>32</sup> Essential Services Commission, [Guideline 1 \(2023\): Form and content of deemed best offer messages](#), 23 November 2023.

<sup>33</sup> Clause 108 of the [Energy Retail Code of Practice \(version 3\)](#).

Retailers determine the best offer by reviewing a customer's past electricity or gas usage. The retailer then compares what the customer pays on their current offer with their best offer.

While best offer messages aim to encourage customers to switch to cheaper plans, there are several reasons why most customers are not on their retailer's best offer.<sup>34</sup>

Retailer pricing strategies may explain why a proportion of consumers are not on their retailer's best offer. For example, these strategies may include:

- frequent introduction of new offers to attract new customers
- existing contracts rolling onto higher priced offers after expiration
- offers that are only available for a short period
- naming new plans with lower prices with the same name as old plans.<sup>35</sup>

There are also multiple reasons why consumers may not switch to the best offer:

- Some consumers do not look at their bill and do not see the best offer message.
- Bill information can be complex, and some consumers have difficulty understanding the actions required to switch.
- Some consumers may decide that the savings do not outweigh the actual or perceived costs of switching.
- Energy bills are potentially low on the hierarchy of some households' priorities.
- Consumers may be risk averse and reluctant to switch, preferring certainty over lower prices.
- The determination of the retailer's best offer does not consider certain types of benefits such as sign-up credits or one-off gifts or other non-financial aspects such as bundled services, which some consumers may value.<sup>36</sup>

### **Some consumers are paying prices far above standing offers**

Standing offers are contracts that retailers are legally obliged to provide.<sup>37</sup> They are a baseline contract with standard terms and conditions designed to ensure that consumers always have access to electricity or gas, even if they have not actively chosen a specific market offer.

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<sup>34</sup> We explained some of these reasons in our analysis of potential saving for Victorian consumers in: Essential Services Commission, [Victorian Energy Market Report: September 2023](#), 26 September 2023, pp. 5–9.

<sup>35</sup> Ibid., p. 8. Furthermore, the ACCC has recently found that across the NEM almost a quarter of customers were prompted to switch to an offer with lower prices which had the same name as the offer they were currently on, see: Australian Competition and Consumer Commission, [Inquiry into the National Electricity Market: December 2024 Report](#), 3 December 2024, p. 4

<sup>36</sup> [Victorian Energy Market Report: September 2023](#), 26 September 2023, pp. 8–9.

<sup>37</sup> Section 35 of the *Electricity Industry Act 2000* and section 42 of the *Gas Industry Act 2001*.

In Victoria, electricity retailers must offer the Victorian Default Offer (VDO) as a standing offer.

### **The role of the Victorian Default Offer (VDO) in establishing reasonable prices**

The VDO is designed to be a simple, trusted and reasonably priced electricity option that provides a safeguard for customers who are unwilling or unable to engage with the electricity market.<sup>38</sup> The commission is responsible for setting and annually reviewing the Victorian Default Offer.<sup>39</sup>

Retailers must offer the VDO to customers who request it or if a customer:<sup>40</sup>

- never signed up for an electricity contract
- entered into an electricity contract, cancelled the contract within the cooling off period, but continued to use electricity without entering into another contract
- moved into a new address and used electricity without entering into a contract
- specifically asked for a standing offer
- moved onto a standing offer after their market offer contract came to an end.<sup>41</sup>

The VDO also works as a price cap for customers of most embedded networks.<sup>42</sup> Embedded networks are networks where electricity is supplied to a multi-tenanted building or area through a privately owned and managed supplier rather than a licenced distributor. Embedded networks tend to buy electricity in bulk and then on-sell the energy to the customers or occupants of the area or building.<sup>43</sup>

Although not a price cap for customers outside of an embedded network, the VDO acts as a reference price that retailers use to inform their pricing for market offers. Retailers must advertise the discount provided by their market offers compared to the VDO, which helps customers find the market offer that will give them the best value for money.

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<sup>38</sup> Clause 3 (Objective of the Victorian default offer) of the Order in Council under section 13(1B) of the *Electricity Industry Act 2000*, published in the Victorian [Government Gazette No. S 208](#) on Thursday 30 May 2019.

<sup>39</sup> The commission is currently in the process of setting the VDO for 2025–26. '[Victorian Default Offer price review 2025–26](#)', Essential Services Commission, accessed 1 April 2025.

<sup>40</sup> Clauses 26(2)(b) and 26(3)(b) of the [Energy Retail Code of Practice \(version 3\)](#).

<sup>41</sup> '[Victorian default offer](#)', Essential Services Commission, accessed 23 January 2025.

<sup>42</sup> Section 10(2) of the [General Exemption Order 2022](#).

<sup>43</sup> For more information about embedded networks, see [Embedded networks | Essential Services Commission](#).

While the VDO is a reasonably priced option for customers who are unwilling or unable to engage with the electricity market, several customers are on energy plans paying prices above the VDO. Our analysis suggests that at least five per cent of all Victorian residential electricity consumers are paying more than the VDO.<sup>44</sup>

In relation to customers on the VDO, while it acts as a safeguard, standing offers tend to be more expensive than market offers. This is because they do not include discounts, special deals or lower prices that retailers offer to attract new customers to their market plans. Customers can therefore generally further save by switching from the VDO to the best market offers.

Analysis by the Australian Competition and Consumer Commission (ACCC) also identified that a significant proportion of Victorian residential electricity customers on flat rate offers are paying above the VDO, and in some cases significantly above.<sup>45</sup>

### **Consumers could save money by switching from standing offers to the best offer**

St. Vincent de Paul's tariff tracking project's latest report shows that as of January 2025, only one electricity retailer had market offers that produce an annual bill that is greater than the VDO (assuming a typical consumption household of 4,800 kWh per year).<sup>46</sup>

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<sup>44</sup> Essential Services Commission assessment of customer billing data, January 2025. The commission obtains customer billing data from nine of the largest electricity retailers each year using our information gathering powers. This analysis is based on the latest available sample of bills from October to December 2023.

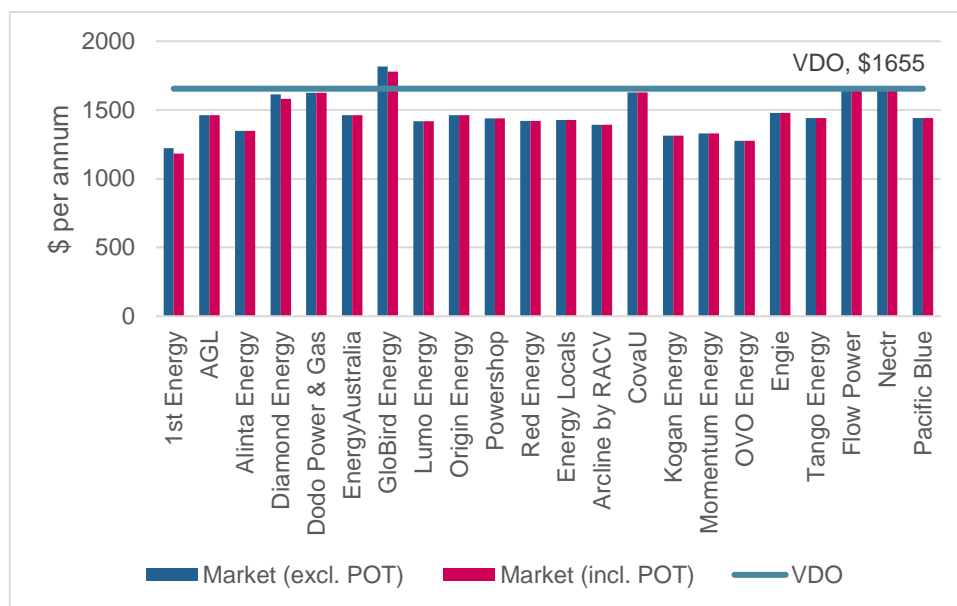
<sup>45</sup> Australia Competition and Consumer Commission, [Inquiry into the National Electricity Market: December 2024 Report, Appendix C: Data appendix](#), Supplementary Table C1.11. ACCC calculations indicate 22.5% of Victorian customers are paying above the VDO (assuming 100% achievement of conditional discounts). The differences in figures between our analysis and the ACCC's result from differences in datasets and analysis methodology.

The ACCC uses retailer offer-level data to calculate annual prices, while our analysis uses consumer bill-level data. Analysis at the bill level allows for calculation of prices using actual consumer usage data rather than reliance on default offer usage assumptions. The ACCC outlines their analysis methodology in pages 83–87 of their December 2024 report. By comparison, our analysis involves the following:

- Calculation of each customer's annual bill (including summing usage, supply, green energy, demand and other changes and subtracting concessions, rebates and discounts)
- Calculation of what each customer's annual bill would be under VDO rates for the period
- Comparison of the difference between each customer's actual bill and what their bill would be if paying VDO rates (including a 10% buffer to exclude customers paying insignificant amounts above the VDO).

<sup>46</sup> St Vincent de Paul, [Victoria Energy Prices January 2025: An update report on the Victorian Tariff-Tracking Project](#), February 2025, p. 12.

**Figure 2: CitiPower network area offers compared to the VDO**



**Source:** St Vincent de Paul, *Victoria Energy Prices January 2025: An update report on the Victorian Tariff-Tracking Project*. POT refers to pay on time discounts.

According to St. Vincent de Paul, on average, typical consumption households (4,800 kWh per year) on the VDO can save \$480 – \$655 per year if switching to the best published market offer.<sup>47</sup> This difference between the VDO and the best market offers has been relatively stable in recent years.<sup>48</sup>

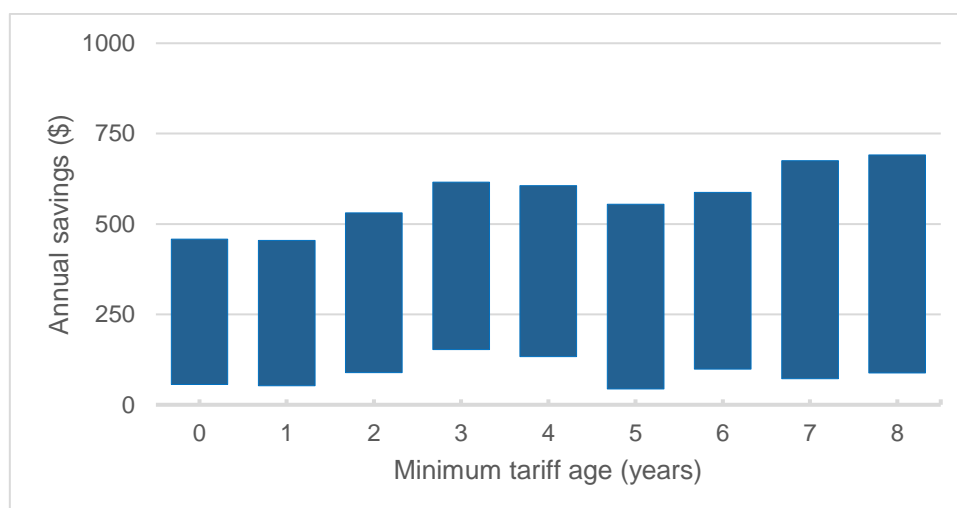
Similarly, our analysis shows that some customers receiving tailored assistance on flat rate electricity market offers could save up to \$730 per year if switching to the best published market offer. Our findings also show that potential savings generally increase the longer a customer has not changed plans.<sup>49</sup>

<sup>47</sup> Ibid., p. 9.

<sup>48</sup> St Vincent de Paul, [Victoria Energy Prices July 2024: An update report on the Victorian Tariff-Tracking Project](#), November 2024, p. 12.

<sup>49</sup> Essential Services Commission, 'Customers on older plans significantly better off on their retailer's best offer', 16 May 2025, pp. 2-3.

**Figure 3:** Annual savings for PDS customers switched to their retailer's best offer, by tariff age



**Source:** Commission analysis of customer billing data.<sup>50</sup>

Prices for standing gas offers are not regulated like in retail electricity markets. Retailers are free to set their own gas standing offer prices, which cannot be increased in less than six months.<sup>51</sup>

A gas customer switching from a gas standing offer to the best gas market offer could typically save more than an electricity customer switching from an electricity standing offer (the VDO) to an electricity best offer. A house consuming gas at typical levels (63,000 MJ per year) could save \$1,635–\$1,890 annually if switching from standing offers to the best market offers.<sup>52</sup>

As with electricity, gas market offers are generally priced below gas standing offers. For example, Figure 4 shows that in the Multinet 1 gas zone, typical consumption households on the worst standing offer can save approximately \$1,750 per year if switching to the best published market offer.<sup>53</sup>

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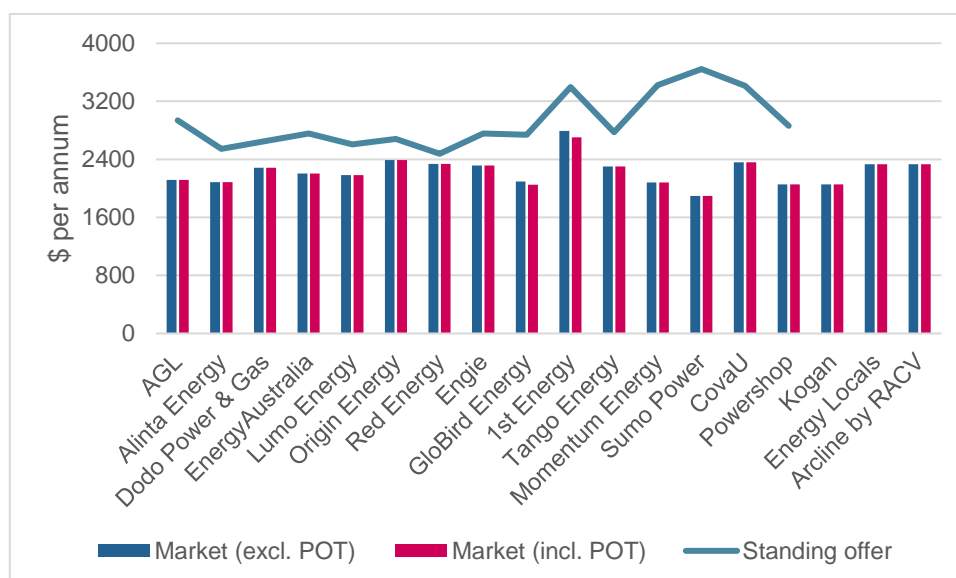
<sup>50</sup> The commission obtains customer billing data from nine of the largest electricity retailers each year using our information gathering powers. This analysis is based on the latest available sample of bills from October to December 2023.

<sup>51</sup> Section 42(3A) of the *Gas Industry Act 2001*.

<sup>52</sup> St Vincent de Paul, [Victoria Energy Prices January 2025: An update report on the Victorian Tariff-Tracking Project](#), February 2025, p. 21.

<sup>53</sup> *Ibid.*, p. 23.

**Figure 4: Multinet 1 gas zone comparison of market offers to standing offers**



**Source:** St Vincent de Paul, *Victoria Energy Prices January 2025: An update report on the Victorian Tariff-Tracking Project*.

### Customers on older plans are paying more than customers on newer plans

Analysis from the ACCC's Inquiry into the National Electricity Market (NEM) found that customers on newer plans were paying less than those on older plans.

The ACCC's analysis emphasised the importance of customers consistently engaging in the energy market to take advantage of cheaper offers.<sup>54</sup> It found that across the NEM, customers on flat rate offers that are two or more years old pay on average 17 per cent more than those on newer offers.<sup>55</sup>

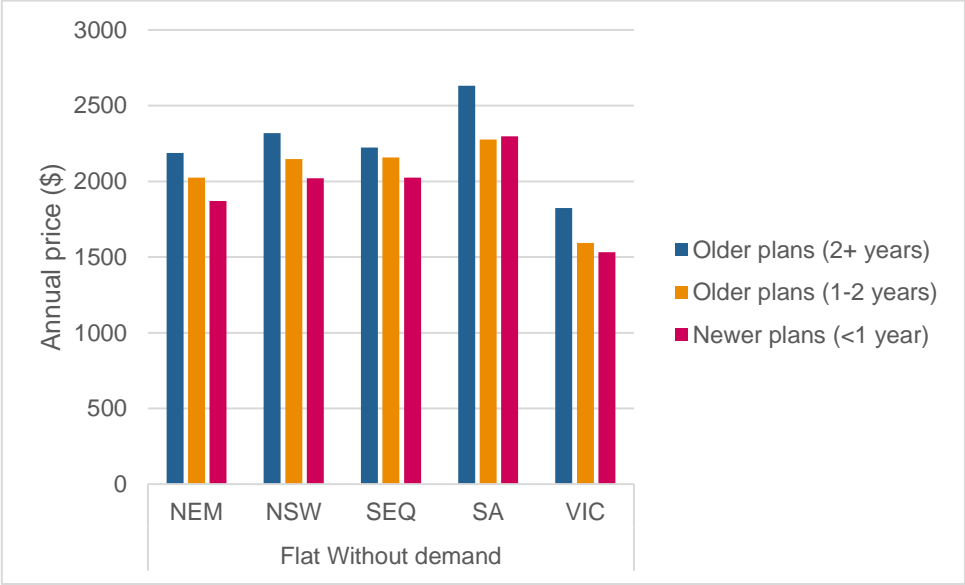
While Victorian consumers pay the lowest average prices compared to other NEM states, Victorian customers on older plans pay 'loyalty penalties' similar to other NEM states.<sup>56</sup> This 'loyalty penalty' paid by customers who engage less regularly with the market increases with the age of the contract.

<sup>54</sup> Australian Competition and Consumer Commission, [Inquiry into the National Electricity Market: December 2024 Report](#), 3 December 2024, pp. 3–4.

<sup>55</sup> Ibid, pp. 48–49.

<sup>56</sup> Ibid, pp. 2–3.

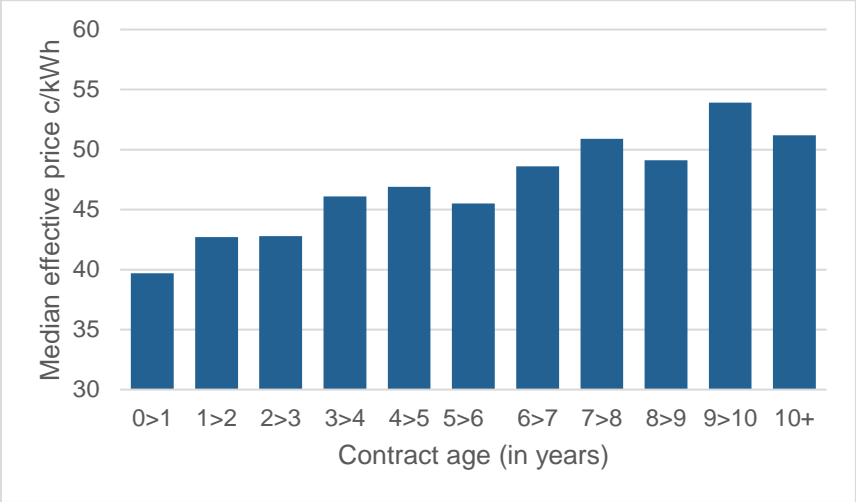
**Figure 5:** Residential customer weighted-average annual prices for newer and older offers by region (2024)



**Source:** Australian Competition and Consumer Commission, Inquiry into the National Electricity Market: December 2024 Report, Appendix C: Data appendix.

Analysis of Victorian-specific data corroborates the ACCC’s findings. Tariff pricing data indicates there is a general correlation between the age of a contract and higher median effective prices per kWh.

**Figure 6:** Median effective price by tariff age (Q4: Oct – Dec 2023, residential electricity customers on standing and market offers)



**Source:** Commission analysis of customer billing data.<sup>57</sup>

<sup>57</sup> The commission obtains customer billing data from nine of the largest electricity retailers each year using our information gathering powers. This analysis is based on the latest available sample of bills from October to December 2023.

However, the issue of Victorian consumers on older plans paying higher prices affects a minority of customers and it is not a widespread practice across retailers. For instance, our analysis shows that three per cent of Victorian electricity customers are paying 10 per cent above the VDO, while one per cent of customers are paying 25 per cent above the VDO and 0.1 per cent of all electricity customers are paying 50 per cent above the VDO.<sup>58</sup> We understand that most retailers do not have any customers paying 10 per cent or more above the VDO.

### **Customers face transaction costs and barriers to switching to the best offer**

The code requires energy retailers in Victoria to indicate on energy bills if a customer could save by switching to the retailer's best offer.<sup>59</sup> These reforms were introduced in 2019 and intended to provide clearer information and encourage consumers to engage with the energy market.

However, many consumers remain on higher-priced offers and face barriers when trying to switch to the best offer. These include:

- confusing, time-consuming or complicated switching processes
- belief that the total savings do not make the effort and complexity of switching worthwhile
- inability to find a better product for themselves (or lack of confidence in doing so).<sup>60</sup>

The time and effort associated with switching is of particular concern to consumers. This transaction cost for consumers increases where processes for switching are complicated, confusing and time-consuming. High transaction costs, whether actual or perceived, may dissuade consumers from deciding to switch to a better offer and lead to consumers assessing that potential savings are not worth the effort.

Recent research by Energy Consumers Australia indicates that complicated, confusing and time-consuming processes, as well the perception that savings were not worth it, were barriers to switching for many households.<sup>61</sup>

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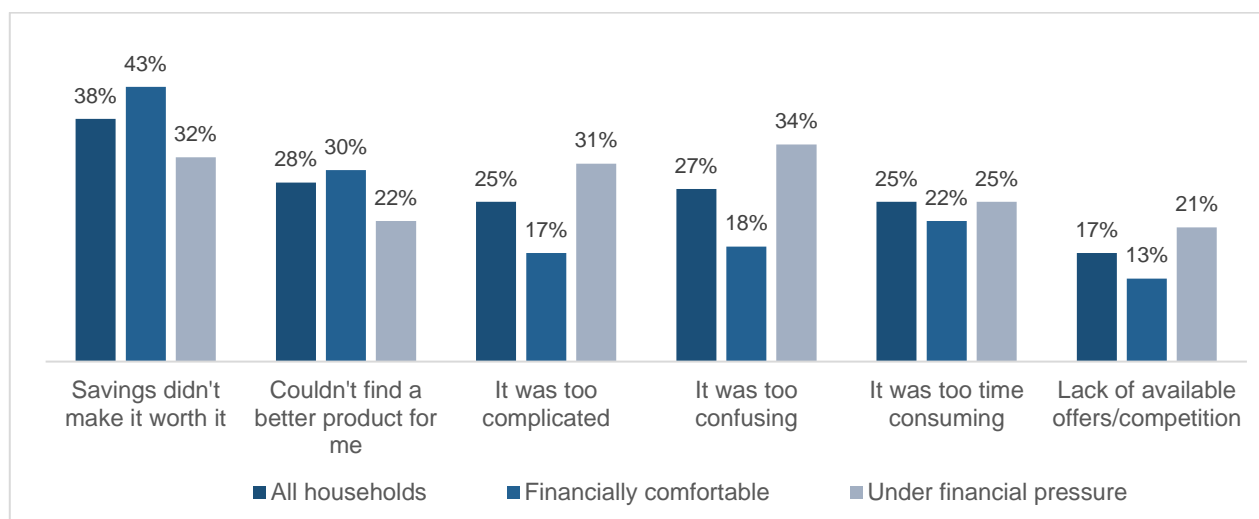
<sup>58</sup> Essential Services Commission, 'Customers on older plans significantly better off on their retailer's best offer', 16 May 2025, p. 4.

<sup>59</sup> '[Ensuring contracts are clear and fair 2019](#)', Essential Services Commission, accessed 23 January 2025.

<sup>60</sup> Energy Consumers Australia, [Energy Consumer Sentiment Survey](#), 14 June 2024; Essential Services Commission, [Victoria Energy Market Report: September 2023](#), 26 September 2023, pp. 8–9; Honeycomb, [Essential Services Commission Victoria: Energy Market Insights](#), July 2021.

<sup>61</sup> Energy Consumers Australia, [Energy Consumer Sentiment Survey](#), 14 June 2024, p. 10.

**Figure 7: Reasons why customers did not switch plans when they last considered changing retailers or switching to a better offer**



Source: Energy Consumers Australia, Energy Consumer Sentiment Survey, June 2024.

A further barrier to consumers switching to the best offer is the distrust in retailers that may be engendered by the best offer message itself.<sup>62</sup> Although designed to promote engagement and support informed decision-making, the best offer message on bills can be viewed with scepticism, particularly by consumers who have previously encountered inconsistent pricing, opaque billing practices or poor customer service. In such cases, a statement suggesting that a better offer is available from the same retailer may be interpreted as disingenuous or self-interested. This perceived lack of credibility can undermine the intended purpose of the best offer message, diminishing its effectiveness and contributing to continued consumer disengagement.

### Customers are not able to access plans with certain restrictions

In some cases, customers may not be able to meet the requirements necessary to access cheaper plans. Some cheaper offers may have limiting conditions which prevent many customers from being able to access them. This includes offers which are only available to new customers or which require payment through specific methods, such as direct debit.

In workshops with stakeholders, we heard from consumer groups and public entities that consumers who require paper billing or cannot use direct debit are often restricted from accessing some retailers' cheapest plans. These stakeholders noted that consumers impacted by these restrictions are often more likely to be experiencing vulnerability (such as elderly, First Nations, and

<sup>62</sup> Whereto Research, Consumer focus group stand-up and delivery to support the Energy Retail Code of Practice Review, March 2025, p. 19, 20.

culturally and linguistically diverse [CALD] consumers).<sup>63</sup> EWOV also identified this issue in its submissions to our issues paper and discussion paper.<sup>64</sup>

This aligns with research by the Australian Communications Consumer Action Network into the effects of direct debit only plans in the telecommunications industry.<sup>65</sup> This research noted that even when customers are technically able to use direct debit, those struggling with bills and other cost-of-living difficulties often choose to withdraw from direct debit arrangements to have more control over when bills are paid.

Households juggling multiple bills and limited sources of income often need to carefully time the payment of large expenses, such as energy bills, to ensure adequate money is available. Direct debit only plans, as well as e-billing only plans, often prevent access to retailers' cheapest plans for those consumers who need them the most.

Some retailers raised in our workshop that they are financially incentivised to offer direct debit only plans and pay-on-time discounts because it reduces the risk of late payment or other recovery issues.<sup>66</sup> However, pay on time discounts are currently regulated and capped for contracts entered into after 1 July 2020 to ensure the discounts are cost-reflective and to limit the penalties faced by small customers<sup>67</sup> who fail to meet offer conditions.

### **Customers experiencing payment difficulty are particularly vulnerable**

In Victoria, there was a 14 per cent increase in the average monthly number of electricity customers accessing tailored assistance from their retailer between October and December 2024 compared to the same quarter in the previous year. For gas customers, there was a 13 per cent increase.

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<sup>63</sup> Essential Services Commission, [Workshop 2 \(In-person\) Consultation Summary](#), January 2025, pp. 2–3.

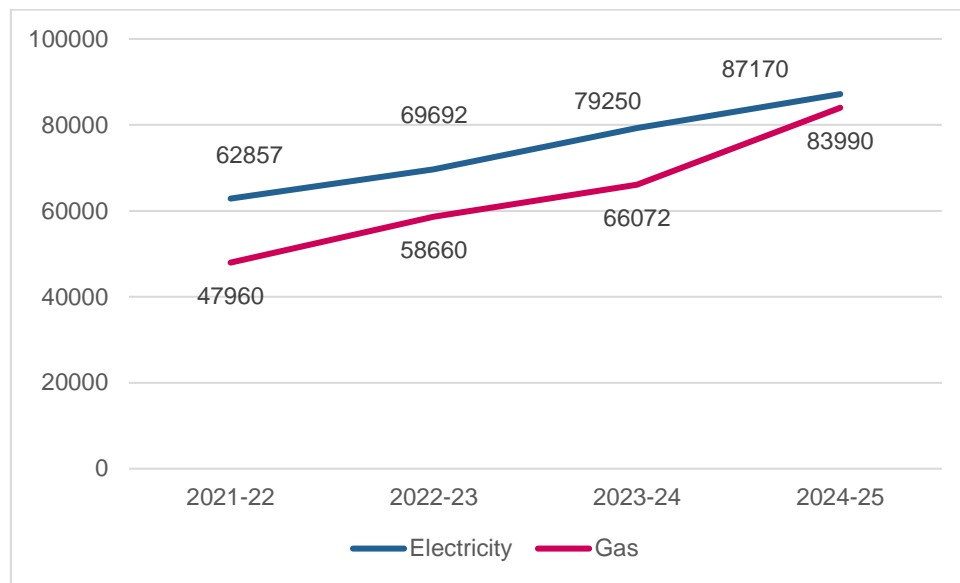
<sup>64</sup> Energy and Water Ombudsman Victoria, [submission to the Essential Services Commission 'Energy Retail Code of Practice Review: Issues Paper'](#), 31 July 2024, pp. 35–36; Energy and Water Ombudsman Victoria, [submission to the Essential Services Commission 'Energy Consumer Reforms: Discussion Paper'](#), 26 November 2024, pp. 21–22.

<sup>65</sup> Australian Communications Consumer Action Network, [ACCAN Research Snapshot: Direct Debit in Telecommunications](#), April 2023.

<sup>66</sup> Essential Services Commission, [Workshop 2 \(In-person\) Consultation Summary](#), January 2025, pp. 2–3.

<sup>67</sup> Small customer is defined in the ERCoP as a domestic or small business customer under section 3 of the Electricity Industry Act or section 3 of the Gas Industry Act; and a person to whom electricity is supplied by an exempt distributor principally for personal, household or domestic use or whose aggregate consumption of electricity has not been or is not likely to be, more than 40 megawatt hours in any calendar year.

**Figure 8:** Number of customers accessing tailored assistance (as at the end of each period), by fuel



Source: Victorian Energy Market Dashboard.

The code currently includes several protections to support energy customers experiencing payment difficulty. However, we understand these customers may face additional barriers to engaging in the energy market and accessing this support. These challenges may include:

- lack of time to engage in the market (for example, to compare offers)
- literacy or language barriers
- lack of knowledge or understanding of the energy market
- additional mental stress and pressures relating to economic hardship.<sup>68</sup>

Customers experiencing payment difficulty may also be unaware of their full rights or entitlements available to support them. Elderly and CALD customers may also face additional barriers to engaging with the market.

For example, we heard from Council on the Ageing Victoria that older Victorians have significant trust concerns in relation to information provided by retailers, often considering it to be confusing and overly promotional.<sup>69</sup>

<sup>68</sup> Essential Services Commission, [Workshop 2 \(In-person\) Consultation Summary](#), January 2025, pp. 2–5.

<sup>69</sup> Council on the Aging Victoria and Seniors Right Victoria, [submission to the Essential Services Commission 'Energy Consumer Reforms: Discussion Paper'](#), November 2024, p. 4.

## Many customers receiving payment difficulty assistance are still paying high prices

Under the current Payment Difficulty Framework, residential customers in arrears are entitled to receive tailored assistance that makes it easier for them to pay their ongoing energy use, repay their arrears and lower their energy costs.

As part of the framework, retailers must provide practical assistance to customers who cannot pay the full cost of their ongoing energy. This includes (but is not limited to) offering:

- the tariff that is most likely to minimise the customer's energy costs<sup>70</sup>
- practical assistance to help the residential customer reduce their use of energy
- information about how the customer is progressing towards lowering their energy costs.<sup>71</sup>

However, financial hardship is a multi-faceted issue. Due to the barriers customers in payment difficulty may face, some customers may not be able to action this advice and support.

For example, some customers experiencing vulnerability set up fixed payments each month resulting in a 'set and forget' approach which means they may miss best offer messages and additional support available, such as concession entitlements or utility relief grants.<sup>72</sup> Reducing energy usage can also be limited by factors such as renters being unable to change energy consumption in inadequately insulated or energy inefficient homes. In addition, reducing energy usage can have significant impacts on people's health as extreme temperatures occur increasingly often.<sup>73</sup> As a result, some payment difficulty customers continue to pay more for their energy than they should.

Consumer groups have raised concerns that many customers receiving or seeking payment assistance are on high-priced plans and are not offered a switch to their retailer's best offer. For example, the Victorian Council of Social Services noted that retailers are not consistently checking that customers experiencing payment difficulty are on the most affordable energy offer available.<sup>74</sup>

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<sup>70</sup> Retailers are required to offer the tariff that is most likely to minimise the customer's energy costs, based on the retailer's knowledge of the customer's pattern of energy use and payment history. While this is a separate check from the best offer requirements, in many cases this will be the tariff associated with the calculated best offer.

<sup>71</sup> Clause 128(f) of the [Energy Retail Code of Practice \(version 3\)](#).

<sup>72</sup> Consumer Action Law Centre, [submission to the Essential Services Commission 'Energy Consumer Reforms: Discussion Paper'](#), 27 November 2024, p. 3.

<sup>73</sup> Consumer Action Law Centre, [submission to the Essential Services Commission 'Energy Retail Code of Practice: Issues Paper'](#), 26 July 2024, p. 20.

<sup>74</sup> Victorian Council of Social Service, [submission to the Essential Services Commission 'Energy Retail Code of Practice: Issues Paper'](#), 19 July 2024, p. 9.

The Consumer Action Law Centre highlighted cases where retailers confirm payment plan arrangements without first offering tariff checks or reductions.<sup>75</sup>

Consumer advocates have also reported that households receiving assistance through the Victorian Government's Energy Assistance Program are expressing frustration that they bear responsibility of contacting their retailer to switch to their retailer's best offer, when the retailer already knows their customer is experiencing payment difficulty. Out of all participants who were supported by the Energy Assistance Program to find a cheaper offer, 45 per cent were identified as not on their retailer's best offer, with many participants being unaware of or not trusting best offer notifications.<sup>76</sup>

Billing data we collect further indicates that while many customers receiving payment difficulty support are on lower priced offers, around 30,000 Victorian electricity customers receiving payment difficulty support could save by switching to their retailer's best offer. We also know that around five per cent of customers receiving payment difficulty assistance have not changed plans for over five years. These customers could save up to \$730 per year by moving to cheaper plans.<sup>77</sup>

### **Many customers accumulating debt are not receiving assistance from retailers**

Concerningly, comparing 2023–24 to 2022–23, more Victorian customers are in debt with their retailer and are not accessing assistance. Their average debt has also increased.

As outlined in Figure 9, an average of 129,000 electricity and 101,000 gas customers (who are not accessing assistance) owed their retailer at least \$300 each month in 2023–24.<sup>78</sup> This represents an increase of 21,000 electricity and 16,000 gas customers compared to 2022–23.<sup>79</sup>

By comparison, an average of 76,000 electricity and 69,000 gas customers accessed tailored assistance each month in 2023–24.<sup>80</sup> This demonstrates that while significant amounts of

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<sup>75</sup> Consumer Action Law Centre, [submission to the Essential Services Commission 'Energy Retail Code of Practice: Issues Paper'](#), 26 July 2024, pp. 12–13.

<sup>76</sup> Department of Energy, Environment and Climate Action, *Energy Assistance Program Quarterly Report*, December 2024, p. 4. The [Energy Assistance Program](#) is a free service to support Victorians who are having trouble paying their energy bills. It helps Victorian households to navigate the energy market and access critical energy affordability supports. The program is delivered by the Department of Energy, Environment and Climate Action in partnership with Anglicare Victoria and cohealth.

<sup>77</sup> Essential Services Commission, 'Customers on older plans significantly better off on their retailer's best offer', 16 May 2025, p. 2 and 5 (Appendix Table 1: Annual savings for customers receiving payment difficulty support on flat-rate market offers compared to their retailer's best offer, by plan age).

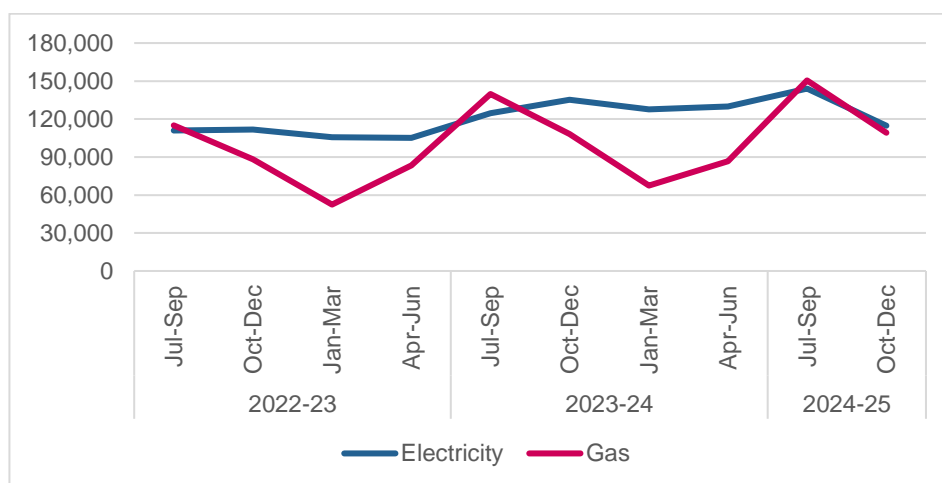
<sup>78</sup> '[Victorian Energy Market Dashboard](#)', Essential Services Commission, accessed 4 April 2025.

<sup>79</sup> Ibid.

<sup>80</sup> Ibid.

customers in debt are accessing tailored assistance, a greater number of customers in debt are not receiving assistance.

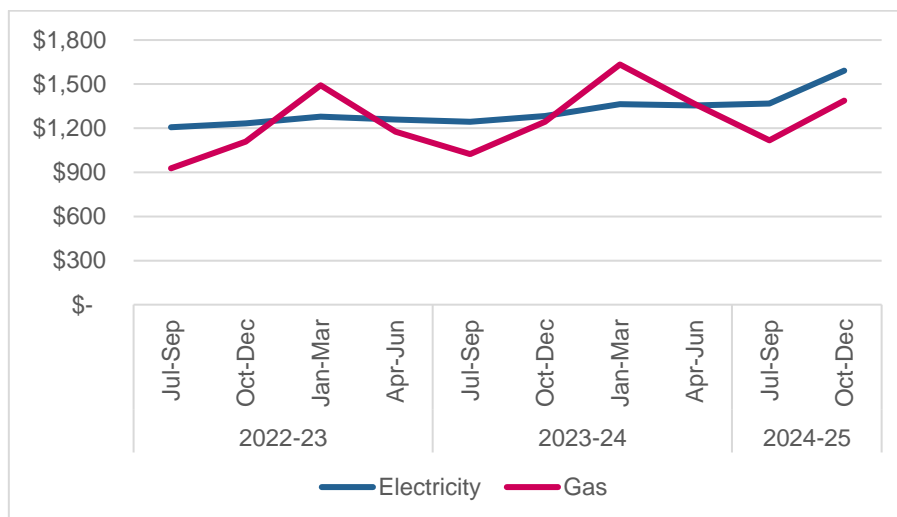
**Figure 9: Number of customers with more than \$300 in arrears and not accessing assistance**



Source: Victorian Energy Market Dashboard.

The average arrears for these customers increased, owing \$1,311 for electricity and \$1,317 for gas. This is up \$67 for electricity and \$141 for gas compared to 2022–23.

**Figure 10: Average arrears of customers with more than \$300 in arrears and not accessing assistance**

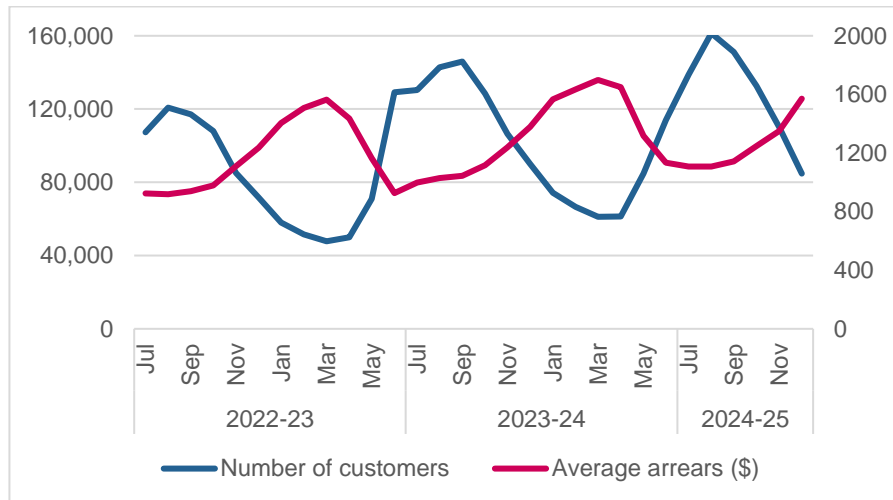


Source: Victorian Energy Market Dashboard.

The total number of electricity customers in arrears is the lowest in January to March (warmer months). However, the value of arrears peaks in January to March. This shows that customers with more substantial arrears, and who have more difficulty to repay, experience significant financial

pressure over a long period. Many of these customers remain in significant arrears after the winter peak.<sup>81</sup>

**Figure 11:** Number of electricity customers with more than \$300 in arrears and their average arrears



Source: Victorian Energy Market Dashboard.

### 2.1.2. Customers on legacy contracts are at a higher risk of price shock due to large discounts or time-limited benefits, credits or rebates

Some energy contracts include conditional discounts or benefits which apply only when certain conditions are met. This can include discounts for paying a bill within a certain timeframe or using a certain payment method, such as direct debit.

Contracts may also include discounts, credits or rebates that expire before the end of the contract. If customers do not meet the required conditions or if benefits expire during the life of a contract, customers may be penalised by being exposed to sudden increased costs.

Following the 2019 'Ensuring contracts are clear and fair' reforms, pay-on-time discounts have been capped at a level the commission sets annually.<sup>82</sup> This ensures customers who miss a bill payment do not face a large cost penalty.

<sup>81</sup> 'Victorian Energy Market Dashboard', Essential Services Commission, accessed 4 April 2025.

<sup>82</sup> 'Guideline: maximum cap for pay-on-time discounts', Essential Services Commission, accessed 1 April 2025. For contracts entered into from 1 July 2024 to 30 June 2025, the maximum pay-on-time discount cap is 6.62%.

Prior to these reforms, energy offers could include very high conditional discounts. These discounts were often as high as 40 per cent or more, which meant that the cost to a customer of not meeting a discount condition could reach up to \$386 for electricity in 2018–19.<sup>83</sup>

As demonstrated in Table 3, these reforms have been effective in addressing this risk, with a significant reduction in the proportion of plans offered with conditional discounts since the reforms came into effect on 1 July 2020.<sup>84</sup>

**Table 3: Proportion of customers on plans with a conditional discount, by offer start date and customer type**

| Customer type                            | Offer start date   |                   |
|--|--------------------|-------------------|
|  | Before 1 July 2020 | After 1 July 2020 |
| Receiving payment difficulty support     | 33%                | 1%                |
| Not receiving payment difficulty support | 47%                | 2%                |
| All customers                            | 46%                | 2%                |

**Source:** Analysis of a sample of residential electricity customers' billing data.

These reforms also introduced changes so that any customer signing up to a new offer with a discount, credit or rebate would continue to receive that benefit for the entire duration of the contract.

However, customers who are on contracts entered into prior to the 1 July 2020 commencement of the 'Ensuring contracts are clear and fair' reforms (referred to as customers on 'legacy contracts') are not covered by these protections.

These legacy contracts may still include significant pay-on-time discounts or benefits which could expire during the lifespan of the contract. Customers on these legacy contracts therefore remain at risk of price shock if they do not meet the discount conditions or if benefits suddenly expire (although time-limited benefits attached to legacy contracts are likely to have already expired).

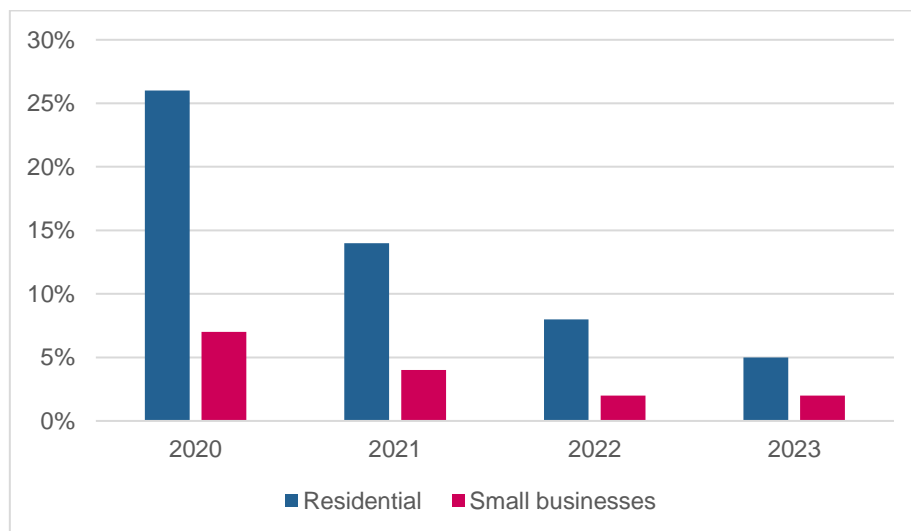
Our analysis, based on a sample of Victorian residential electricity customers conducted in 2023, indicated that around five per cent of all customers were still on legacy contracts with conditional pay-on-time discounts greater than five per cent. While this is down from 8 per cent in 2022 and 14

<sup>83</sup> Essential Services Commission, [Ensuring energy contracts are clear and fair: Draft decision](#), 10 December 2019, pp. 21–24.

<sup>84</sup> Ibid.

per cent in 2021, some Victorian consumers remain on legacy contracts which do not provide them the same protections as customers who entered into new contracts following those reforms.

**Figure 12:** Legacy contract electricity consumers with conditional pay-on-time discounts greater than five per cent



**Source:** Analysis of a sample of residential electricity customers' billing data.

### 2.1.3. Some customers who are eligible for energy concessions are not receiving them

In Victoria, customers who hold a Health Care Card, Pension Concession Card or Veteran Affairs Gold Card are eligible for energy bill concessions through a program administered by the Department of Families, Fairness and Housing.<sup>85</sup>

Households eligible for annual electricity concessions receive 17.5 per cent off the remainder of their bills after they have paid the first \$171.60. Households eligible for a winter gas concession receive 17.5 per cent off the remainder of their bills after they have paid the first \$62.40. Other energy concessions are also available, including:

- excess electricity concession
- excess gas concession
- life support concession
- medical cooling concession

<sup>85</sup> ['Concessions & benefits'](#), Department of Families, Fairness and Housing, accessed 27 February 2025.

- non-mains energy concession.<sup>86</sup>

Research from the Consumer Policy Research Centre has shown that many Victorian customers who are eligible for concessions on their energy bill are not receiving them. This includes an estimated 7 per cent of customers eligible for concessions on their electricity bill and 12 per cent of customers eligible for concessions on their gas bill.<sup>87</sup>

While this is a lower percentage than other NEM jurisdictions, this means that many Victorian households are not receiving the cost-of-living relief to which they are entitled. This is particularly problematic for low-income households who could significantly benefit from reduced energy costs.

The Victorian Council of Social Services suggests some of the key reasons households are not receiving concessions are:

- lack of awareness about available concession schemes
- lack of awareness about the need for the consumer to take action to apply concessions to bills, or update details when a new card arrives
- language barriers
- complexity of forms and procedures
- process errors between retailer and government systems
- stigma attached to claiming assistance and concessions.<sup>88</sup>

Lack of awareness of the availability of energy bill concessions appears to be a particularly important barrier to claiming concessions. Data from a recent national survey indicated that roughly one-third of Australians who have at least one concession card were unaware that they may be able to claim concessions on their energy bills or did not think they were eligible.<sup>89</sup>

While retailers are currently required to provide customers with information about concessions and eligibility criteria,<sup>90</sup> there is no requirement for them to proactively engage with new or existing customers to find out whether they are eligible for any concessions. This places the burden on customers to identify they are eligible and initiate the application of concessions to their bill.

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<sup>86</sup> Ibid.

<sup>87</sup> Consumer Policy Research Centre, [Mind the Gap: Identifying the gap between energy concession eligibility and concessions received](#), November 2022, p. 4.

<sup>88</sup> Victorian Council of Social Services, [The Missing 14%: why so many Victorians are missing out on energy concessions](#), 22 May 2023, p. 14.

<sup>89</sup> Botha, D and Prakash, K, '[Insights into energy concession awareness and energy-related behaviours among concession card holders in Australia](#)', Melbourne Institute, June 2024, p. 7.

<sup>90</sup> Clauses 30(1)(c) and 47(1)(a) of the [Energy Retail Code of Practice \(version 3\)](#). We understand retailers are also required to provide customers information about concessions eligibility under their concessions agreement with the Victorian Government.

Given the low level of consumer awareness about energy bill concessions and other barriers, this results in many energy consumers not accessing the concessions they are entitled to. Specific consumer cohorts may be missing out more than others. For example, in a recent study more than 50 per cent of community service workers surveyed identified CALD customers and customers with digital inclusion barriers as most likely to be missing out in accessing energy concessions.<sup>91</sup>

#### **2.1.4. Many consumers are not aware of the free and independent dispute resolution services provided by EWOV**

A significant number of energy consumers are unaware of the free and independent dispute resolution services offered by EWOV.

When consumers do not know about the dispute resolution services available to them, they miss a valuable resource that could help them resolve issues with their retailer efficiently and fairly. This may include support for issues ranging from billing complaints, credit and payment difficulties, disconnections and restrictions, poor customer service standards, and vital protections such as life support and family violence safeguards.

According to the June 2024 Energy Consumers Sentiment Survey by Energy Consumers Australia, 66 per cent of Victorian consumers were either not very familiar, or completely unfamiliar with EWOV.<sup>92</sup> Similarly, based on a sample, 90 per cent of which were Victorian consumers, Uniting Vic. Tas's June 2024 Consumer Experience Report revealed that even people who have experienced long-term financial hardship and who are adept at finding information about managing their energy consumption were unaware of the energy ombudsman and its role or function.<sup>93</sup>

Findings from other jurisdictions show that lack of consumer awareness about independent dispute resolution services might be a key reason for those services being underused. For example, the Energy and Water Ombudsman of New South Wales (EWON) had a 57 per cent increase in complaints received in 2023–24 compared to 2022–23. It noted that this increase could be in part attributed to an increase in phone calls from customers who found EWON's phone number on their bill following the introduction of the AER's Better Bills Guideline.<sup>94</sup> We have heard similar findings

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<sup>91</sup> Victorian Council of Social Services, [The Missing 14%: why so many Victorians are missing out on energy concessions](#), 22 May 2023, p. 5.

<sup>92</sup> Energy Consumers Australia, [Energy Consumer Sentiment Survey: Topline Data](#), 12 June 2024.

<sup>93</sup> Uniting Vic. Tas, [Consumer experience report – accessing payment support from energy retailers](#), 22 July 2024, p.18.

<sup>94</sup> Energy and Water Ombudsman New South Wales, [Annual Report 2023–24](#), p. 21. Data provided by EWON also indicates that in July 2022, EWON received 1,352 complaints about their retailer, with only 35 customers seeking EWON services resulting from information on their bill, representing 2.6% of customers who contacted EWON. In June 2024,

from the Energy and Water Ombudsman of South Australia and the Energy and Water Ombudsman of Queensland.

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EWON received 2,213 complaints, with 419 customers obtaining information about EWON from bills, representing 18.9% of customers who contacted EWON ; The AER's [Better Bills Guideline \(Version 2\)](#) includes the telephone number of the relevant energy ombudsman in the list of 'Tier 1' information. Tier 1 information must appear on the first page of a paginated energy bill and at the beginning of an unpaginated bill.

## The Problem

### 3. Objectives

The objectives of the proposed energy consumer reforms assessed in this Regulatory Impact Statement closely align with the objectives of the commission and the objectives of the Energy and Climate Change Ministerial Council consumer reforms advanced in August 2024.<sup>95</sup>

#### Energy consumer reform objectives

The primary objectives of the proposed energy consumer reforms assessed in this RIS are to:

- help households pay less for energy
- enhance protections for energy consumers.

These primary objectives are supported by three sub-objectives which are intended to address some specific problems identified in Section 2.1 and which contribute towards the achievement of the primary reform objectives.

The sub-objectives are to:

- increase support for people experiencing payment difficulty
- support eligible people to access concessions
- improve awareness of independent dispute resolution services.

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<sup>95</sup> Under section 8 of the *Essential Services Commission Act 2001* the objective of the commission is to promote the long-term interests of Victorian consumers. In performing our functions and powers to achieve this objective, we must have regard to the price, quality and reliability of essential services. Section 10 of the *Electricity Industry Act 2000* and section 18 of the *Gas Industry Act 2001* also require the commission to promote: a consistent regulatory approach between the gas industry and the electricity industry, to the extent that it is efficient and practicable to do so; the development of full retail competition; and protections for customers, including assisting customers who are facing payment difficulties.

## 4. Options development and analysis methodology

### 4.1. The base case

This Regulatory Impact Statement assesses the benefits and impacts to industry and society of the proposed new rules relative to a comparative base case in which current requirements apply. The overarching base case used in this RIS is a scenario in which existing obligations of the code and the legislative framework detailed in Section 1.2 continue to apply, but no new or changed obligations are introduced.

This includes, for example, the existing requirements on retailers to provide support to customers experiencing payment difficulty. It also includes the current requirements for retailers to include messages on bills and bill communications if a customer could switch to the best offer. The base case is clarified in relation to specific reform proposals in subsequent chapters detailing proposed new rules.

### 4.2. Options design and development

In developing this RIS, we considered and assessed different options that could achieve the stated objectives of this reform. The design of these options involved consideration of quantitative and qualitative data, including Victorian energy market data, consumer behaviour and experiences, literature and sector reports, information from energy retailers and insights from regulators in other jurisdictions. We have explored different regulatory approaches in designing the options. We have considered flexible, principles and outcomes based approaches as well as more prescriptive obligations.

We tested and refined potential options through a stakeholder engagement process. This included workshops, individual meetings with stakeholders and reviewing submissions to the consultation paper received from industry, government, non-government organisations and consumer advocacy groups.

In general, consultation confirmed our approach to options design. Most stakeholders acknowledged the value of these reforms and agreed with the proposed areas of reform. Stakeholder feedback provided valuable insights about the complexity and challenges of some potential changes and the impacts these might have on consumers and retailers. This included feedback about:

- the value customers place on different aspects of energy plans (including non-energy related benefits, offers and services)
- technical complexities of implementing forms of automatic support for customers

- certain conditions or restrictions on cheaper energy plans that can make them inaccessible to customers experiencing vulnerability.

We have outlined the key stakeholder feedback we received on potential options in the relevant chapters of this RIS. In all cases, potential options were assessed for feasibility, scope and whether they were appropriately targeted at the relevant problem or harm.

We are working with the Victorian Government to assess if any subordinate legislation or legislative amendments are required to support the implementation of any of the proposed reforms. This includes potential alternative preferred options to those described in this RIS that may be raised by stakeholders as part of this consultation process.

#### **4.2.1. Options considered but not assessed and out of scope matters**

A number of options were considered in the early policy development phase and during consultation but not progressed to formal review as part of this RIS.

Several options were not progressed due to their significant or unpredictable impact on the energy retail market, which could include excessive price increases for consumers. This included options to limit the total number of offers that can be provided by retailers, to require retailers to switch all customers to their best offer or otherwise restrict prices without targeting a specific consumer harm.

We also considered several non-regulatory options such as additional guidance (not supported by rule changes) or consumer education campaigns. These measures were assessed as unlikely to be effective in meaningfully addressing the problems identified in Chapter 2 or achieving the objectives of these reforms. In particular, these mechanisms lack the enforceability and assurance that targeted rule changes can provide. However, guidance and other non-regulatory tools remain important parts of the 'regulatory tool kit' to complement and support legislative and regulatory frameworks and may be considered in the future.

We identified several additional matters as being outside the scope of this reform. This includes proposals for government consideration, such as a social tariff for customers experiencing payment difficulty or a market-wide cap on retail energy prices.

Other out of scope matters included options that would set obligations on or require actions from entities outside industries regulated by the commission. This includes automation of data-sharing between energy retailers and relevant Commonwealth agencies to enable concessions to be automatically applied to bills for eligible customers.

More generally, given the problems identified in Chapter 2, the base case of retaining the current arrangements is not considered a feasible option to achieve the reform objectives set out in Chapter 3.

### 4.3. Other matters that were considered

The proposed amendments to the code prescribe two matters for which no other options were considered. These include:

- Increasing the threshold for receiving a 'best offer' message from \$22 to \$50 in estimated annual savings
- Increasing the minimum debt that a retailer can disconnect a customer, from \$300 to \$500.

These proposed changes have been considered, to the extent possible, when assessing other proposed reforms presented in this RIS.

#### Increasing the threshold for receiving a 'best offer' message

The current best offer requirements involve a calculation between the annual cost of a customer's current plan against the annual cost of their best offer. A retailer must provide a best offer message on a customer's bill if the potential annual savings are above \$22.<sup>96</sup> This threshold was set in 2018 and was based on the maximum exit fee retailers may charge.<sup>97</sup> It has not been updated or adjusted for inflation since.

We have reviewed the threshold to support the implementation of the proposed automatic best offer mechanism. The automatic best offer mechanism should provide customers with a substantial enough benefit for the additional regulatory and process burden on retailers.

Setting too low a threshold could lead to customers receiving repeated information notices and erode consumer trust. For example, a customer in payment difficulty could receive several 'best offer' messages within a year, for marginal savings. In 2018, we conducted consumer behavioural testing which indicated that 90 per cent of customers would need to save at least \$50 in order to switch.<sup>98</sup> Consumers in our focus groups also indicated that seeing higher savings from 'best offer' messages would improve consumer confidence that they would actually benefit from the switch.<sup>99</sup>

On the other hand, setting the threshold too high could lead to customers missing out on substantial savings. This would directly affect those in payment difficulty (who would receive an automatic best offer).

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<sup>96</sup> Clause 109(2) and (3) of the [Energy Retail Code of Practice \(version 3\)](#).

<sup>97</sup> Essential Services Commission, [Building trust through new customer entitlements in the retail energy market: Final Decision](#), 30 October 2018, p. 66.

<sup>98</sup> Ibid; The Behavioural Insights Team, [Testing the impact of behaviourally informed energy bills and best offers](#), 2018, p. 37.

<sup>99</sup> Whereto Research, *Consumer focus group stand-up and delivery to support the Energy Retail Code of Practice Review*, March 2025, p. 12–13.

On balance, we propose increasing the ‘best offer’ check threshold to \$50. This represents a 3 per cent annual saving for a customer, compared to a 1.3 per cent under a \$22 threshold.<sup>100</sup> This change would lower costs for retailers related to including best offer messages on bills. In addition, it would lower the implementation costs of the reform relating to automatic switching to the best offer for customers experiencing payment difficulty, which is proposed later in this RIS.

Increasing the threshold to \$50 could also avoid some negative experiences for customers. For example, if an automatic switch to the best offer is implemented for customers experiencing payment difficulty, a customer could be frustrated by being switched to a plan with marginally cheaper tariffs which may not guarantee savings depending on the customer’s future consumption patterns.

We consider that increasing the best offer threshold from \$22 to \$50 would have a small impact on retailers and consumers. We estimate that around 95,350 customers receive a message each quarter showing that they could save between \$22 and \$50 per year on their retailer’s best offer. A low proportion of these customers are likely to switch to their retailer’s best offer, given the low savings reported on best offer messages for this group. We estimate that with this change retailers would potentially earn (and consumers forego savings) between \$11,920 and \$23,840 per year.<sup>101</sup> This may be offset by consumer benefits associated to the proposed reform, such as reducing information overload and focusing attention where action is most valuable.

We welcome feedback from stakeholders on the proposed change.

### Increasing the minimum debt amount for disconnection

Retailers currently cannot disconnect customers who have debt of \$300 or lower and are not receiving tailored assistance from their retailer. The \$300 threshold was set in 2017 and has not been updated since.<sup>102</sup>

In this RIS, we considered further support for customers in arrears who are not receiving assistance from their retailers. These customers are at greater risk of disconnection. To further support these customers, we propose increasing the debt-disconnection threshold to \$500.

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<sup>100</sup> Based on an average Victorian Default Offer for domestic customers in 2024–25 is \$1,655 (based on annual usage of 4,000 kWh). Essential Services Commission, [Victorian Default Offer 2024–25: Final decision paper](#), 20 May 2024, p. 1.

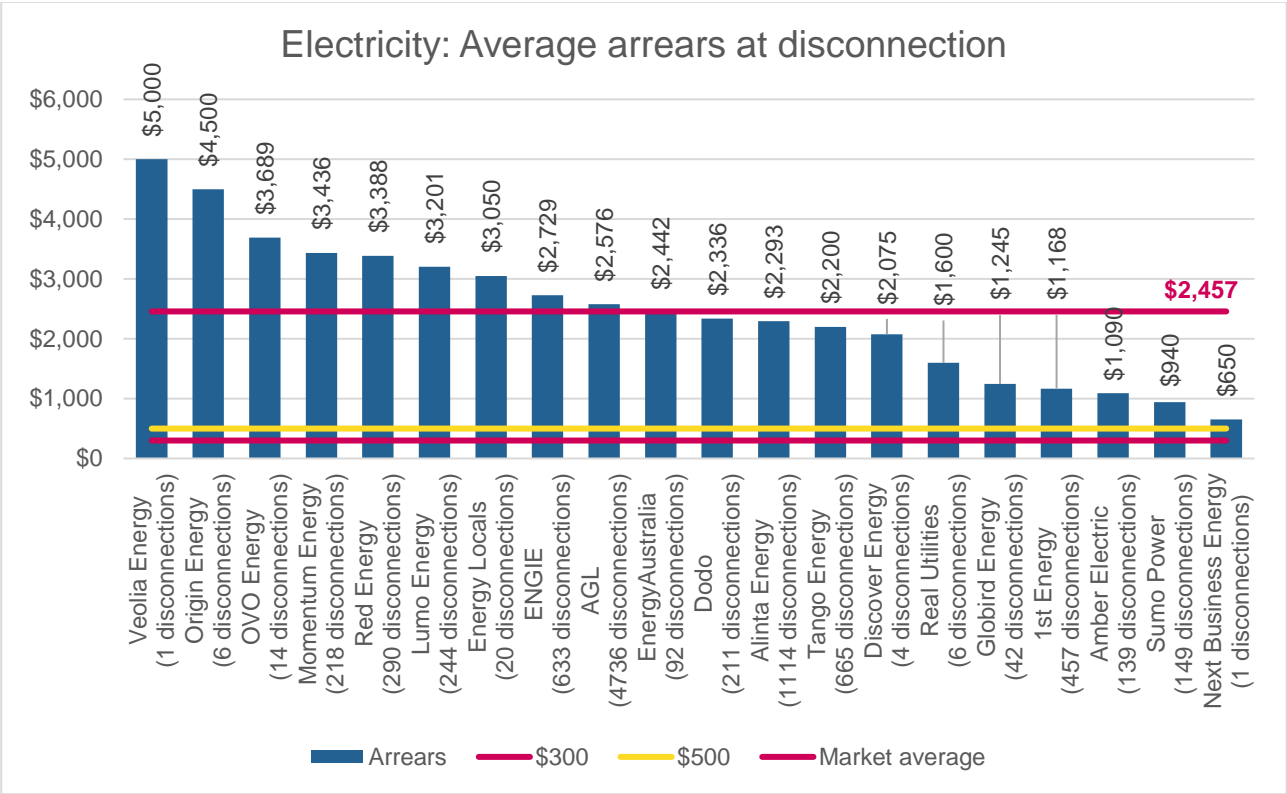
<sup>101</sup> Our estimates are based on data from September 2023 to October 2024. We assume an average response rate to best offer messages of one per cent, based on current switching rates. We assume an actual response rate for customers affected by this change of 0.25 to 0.5 per cent, as the relatively low savings reported on best offer messages for this group of customers means we expect them to have a lower response rate. To calculate the potential impact, we assume all customers who respond to the best offer message would save \$50 each per year.

<sup>102</sup> Essential Services Commission, [Amendments to the Energy Retail Code: Revised Minimum Disconnection Amount](#), 10 October 2017. This threshold was later incorporated in legislation through section 40SM(1)(b)(i) of the *Electricity Industry Act 2000* and section 48DO(1)(b)(i) of the *Gas Industry Act 2001*.

On balance, we consider that this would increase protections for some customers, with marginal additional burden on retailers. In practice, most retailers only disconnect customers with higher arrears levels. Between January and December 2024:

- approximately 82 per cent of electricity and gas disconnections were for customers in arrears over \$1,000
- the average level of debt when at the point of disconnection was approximately \$2,500
- no retailer had average levels of debt at disconnection of below \$500.<sup>103</sup>

**Figure 13: Average arrears at disconnection (electricity): January – December 2024**



**Source:** Compliance and Performance Reporting Guideline data.

As illustrated in Figure 13, the retailer with the lowest average arrears at disconnection between January and December 2024 had average arrears of \$650. This retailer only had one disconnection completed in 2024 (out of a total of 9,042 disconnections that year).

<sup>103</sup> Based on compliance and performance data provided by retailers. Some of this data is published in our [Victorian Energy Market Dashboard](#).

We also considered the average prices of energy bills. For example, a quarterly gas bill in Victoria can often be over \$300, especially during the winter period when gas consumption is higher.<sup>104</sup> This means that a customer who misses a single bill could be at risk of disconnection. We also note that adjusting the threshold for inflation (using the consumer price index (CPI) from 2017 to 2024) would result in an updated amount of approximately \$375.

We understand that the AER is also considering raising this threshold in other NEM jurisdictions from \$300 to \$500. We note that aligning the debt-disconnection threshold could help reduce regulatory burden for retailers operating across jurisdictions.

Given the analysis above, we expect this change would not impose a significant burden on retailers. It would only affect the potential disconnection of a very small number of customers with arrears between \$300 and \$500. As the average arrears at disconnection for all retailers in 2024 were \$650 or above, we consider the overall impact of this change for retailers to be marginal.

We welcome feedback from stakeholders on the proposed change.

**Questions for stakeholders**

6. Do you agree with increasing the threshold for the best offer check results from \$22 to \$50? If not, what amount would be more appropriate, and why?
7. Do you agree with increasing the minimum disconnection amount to \$500? If not, what amount would be more appropriate, and why? Should this amount be indexed to account for inflation or increases in energy prices?

**4.4. Summary of options for assessment**

The options in Table 4 below are considered feasible and practicable and are assessed further in the following reform-specific chapters (Chapters 5 to 11).

**Table 4:** Summary of options progressed to assessment

| Reform topic  | Options  |
|---|--|
| A. Automatic best offer for customers experiencing payment difficulty | <i>Eligibility options</i>                             |
|   | Option AA.1 – Customers receiving tailored assistance. |

<sup>104</sup> St Vincent de Paul’s latest tariff tracking report found the average gas market offer in Victoria produces an annual bill of between \$2,115 and \$2,265 for households using 63,000 MJ per year. St Vincent de Paul, [Victoria Energy Prices January 2025: An update report on the Victorian Tariff-Tracking Project](#), February 2025, p. 2.

|   |   |
|---|---|
|   | <p><b>Option AA.2</b> – Customers receiving tailored assistance and customers in arrears for at least three months and with arrears of \$1,000 or more.</p> <p><b>Implementation options</b></p> <p><b>Option A.1</b> – Automatic switch to best offer for all customers experiencing payment difficulty who meet the chosen eligibility criteria.</p> <p><b>Option A.2</b> – Change customer's tariff to match best offer tariff, for customers who meet chosen eligibility criteria.</p> <p><b>Option A.3</b> – Credit the difference between customer's offer and the best offer, for customers who meet chosen eligibility criteria.</p>      |
| <b>B. Improving access to cheaper offers</b>                | <p><b>Option B.1</b> – Require retailers to ensure plans are not restricted based on payment method (e.g. direct debit) or communication method (e-billing).</p> <p><b>Option B.2</b> – Require retailers to ensure plans are not restricted based on payment method (e.g. direct debit) or communication method (e.g. e-billing) and limiting conditional fees and discounts to reasonable costs.</p>  |
| <b>C. Improved ability to switch to best offer</b>          | <p><b>Option C.1</b> – Outcomes-based approach without minimum requirements.</p> <p><b>Option C.2</b> – Outcomes-based approach requiring a retailer to have effective processes for customers to switch to the best offer, with minimum requirements for a retailer's processes (e.g. having a website and a telephone process; allowing customers to compare plans).</p> <p><b>Option C.3</b> – Prescriptive requirements for a retailer's processes for switching customers to the best offer.</p>   |
| <b>D. Protections for customers paying high prices</b>      | <p><b>Option D.1</b> – Principles-based approach requiring retailers to ensure that customers on older contracts pay a 'reasonable price', without defining what a 'reasonable price' is.</p> <p><b>Option D.2</b> – Principles-based approach requiring retailers to ensure customers on older contracts are paying a 'reasonable price', including a flexible definition of 'reasonable price'.</p> <p><b>Option D.3</b> – Prescriptive approach requiring retailers to identify and review plans for customers on older contracts paying higher prices with a definition of 'reasonable price' (e.g. at or below the VDO for electricity).</p> |
| <b>E. Improving the application of concessions on bills</b> | <p><b>Option E.1</b> – Principles-based requirement for retailers to request concession eligibility information from customers at all times where it is relevant to do so.</p> <p><b>Option E.2</b> – Principles-based requirement for retailers to request concession eligibility information from customers at all times when it is</p>   |

|  |   |
|--|---|
|  | relevant to do so and minimum requirements to request this information at specific contact points (e.g. at sign up).  |
| <b>F. Extending protections for customers on legacy contracts</b>        | <b>Option F.1</b> – Extend protections limiting pay-on-time discounts and on benefit periods to all contracts (extending to contracts entered into before 1 July 2020). |
| <b>G. Improving awareness of independent dispute resolution services</b> | <b>Option G.1</b> – Require the inclusion of EWOV's phone number on the front page of bills.  |
| <b>Other proposed changes (not assessed using an MCA)</b>                |   |
| <b>Increasing the best offer threshold</b>                               | Increase the minimum potential savings for a negative best offer check from \$22 to \$50.   |
| <b>Increasing the minimum disconnection amount</b>                       | Increase the minimum debt threshold for disconnections from \$300 to \$500.   |

## 4.5. Approach to impact analysis

The proposed reforms considered in this RIS have been assessed using a multi-criteria analysis (MCA). A separate MCA has been conducted to assess options under each reform area and each reform is assessed independently of one another. Interactions between the preferred options are examined further in Chapter 12.

Reforms relating to extending protections for customers on legacy contracts (Chapter 10) and improving awareness of dispute resolution services (Chapter 11) involve a comparison of a single intervention against the base case. No MCA was conducted for the proposals to increase the threshold for the best offer check results and the minimum disconnection amount (Section 4.3) due to the low implementation burden expected from these changes.

### 4.5.1. Multi-criteria analysis

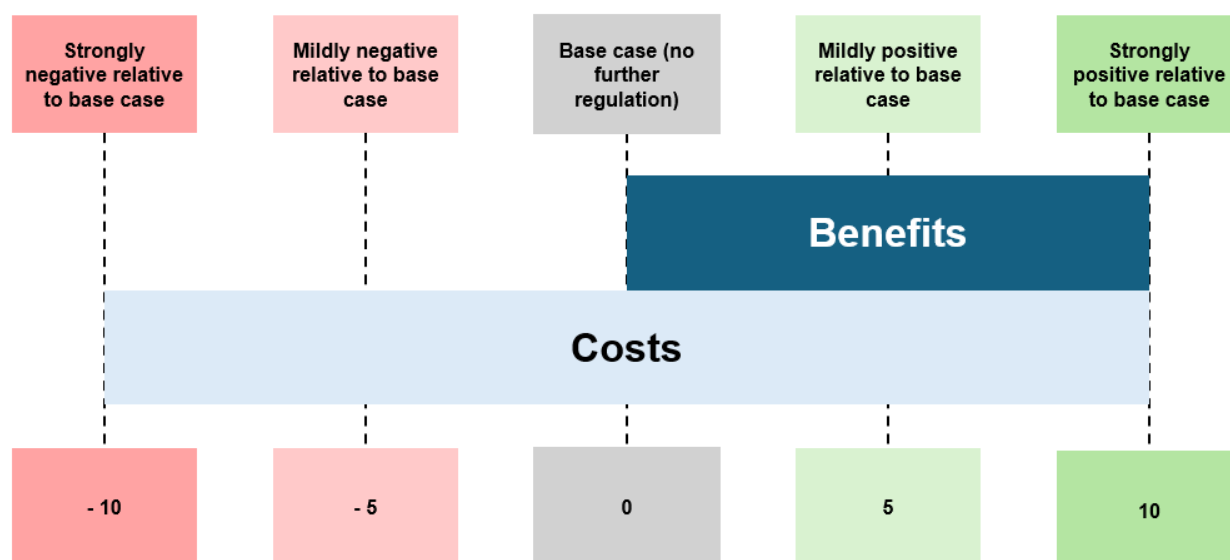
MCA is an analysis process that scores and rates options against multiple criteria that are linked to the objectives of a proposal. MCA provides a way of analysing options against impacts that are important to decision makers, but which cannot be readily quantified and monetised.

Under this type of analysis, each option is scored against criteria relative to the base case as illustrated below in Figure 14. In this case, benefits mean achievement of reform objectives which are to help households pay less for energy and enhance protections for energy consumers, and include increasing support for people experiencing payment difficulty, supporting eligible people to access concessions, and improving awareness of independent dispute resolution services.

Benefits are scored between 0 and +10. A score of 0 means that the option does not add or reduce any net benefits over the base case (that is, has the same impact as the current arrangements). A

score of +10 means that the option furthers the objectives of the proposals to the optimum extent possible. Costs are scored from +10 to -10. A score of -10 means that the option imposes costs significantly higher than the base case. A positive score would be given where the regulations reduce costs relative to the base case.

**Figure 14: Options assessment MCA scoring scale**



#### 4.5.2. Types of costs and benefits

We have considered specific costs and benefits that are specific to customers, retailers, the regulator (the commission) and other parties. The following section outlines the type of costs and benefits we have considered in assessing each reform option.

We also summarise the impacts to consumers and energy retailers of the preferred reform options in chapter 12.

##### Consumers

Consumers who access cheaper electricity and gas plans as a result of the proposed reforms are expected to decrease their energy bills and save money. We have quantified the magnitude of these savings where possible. It is worth noting that consumers would already be accessing the best offers in an efficient market with 'perfect information' and without behavioural constraints. Despite receiving better information, some consumers may not be able to, or may choose not to, switch contracts, and this proportion cannot be determined.

Some outcomes will occur regardless of consumer action (for example, automatic switching to the best offer), and other changes will rely on proactive consumer action to enable benefits to be

realised. In these cases, the proposals will rely on the retailer providing better information and customers changing their behaviour to access better deals.

The proposed reforms aim to support customers, particularly customers experiencing vulnerability, to save on their energy bills. Retailers may choose to pass on the costs of some changes, which could increase energy bills for some customers. However, the competitive energy retail market would constrain retailers' ability to pass on costs. While it is not possible to anticipate retailers' behaviour, if any costs are transferred to other customers, we recognise that a dollar saved by customers experiencing vulnerability is likely worth more than an extra dollar to a customer who is better off.

In addition to monetary benefits for consumers experiencing vulnerability from energy bill savings and making energy more affordable, we expect the proposed reforms to deliver non-monetary benefits and improve customers' wellbeing, especially for those experiencing payment difficulty. Customers may have less stress and anxiety from having more manageable payments. A recent report from the Australian Council of Social Service shows that some customers are sharply cutting back on lighting, cooling and heating to afford energy bills. Some are paying energy bills by going without food, medicine or other essentials.<sup>105</sup>

Overall, the proposed reforms are likely to improve the functioning of the energy market by increasing consumer trust, promoting greater participation, boosting market efficiency and reducing transaction costs. Customers will also benefit from retailers competing more fairly, particularly where industry costs are more transparent and the effectiveness of competition is improved.

## Energy retailers

The commission expects all Victorian retailers to fully comply with any new obligations. To comply, retailers may need to update their systems, processes and training needs. These changes will lead to added implementation costs to industry, and include:

- **Accounts and billing systems.** This includes automating processes to send information to customers and switching customers to the best offer. This can also include once-off costs, such as changes to IT systems (for example, to update the content of energy bills).
- **Support for customer service agents.** This may include templates for information to customers and additional training for staff.
- **Internal processes, including compliance and reporting.** Retailers may need to review their internal practices, such as changing their pricing approach to avoid non-compliance with the

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<sup>105</sup> [Heat in Homes Survey Report 2025](#), Australian Council of Social Service, accessed 24 April 2025.

proposed reforms. Retailers would also need to monitor compliance with the proposed new rules and self-report any potential non-compliance to the commission.

The scale and complexity of these changes will depend on the size and sophistication of an individual retailer. This makes it difficult to accurately estimate the entire cost to industry for various reforms.<sup>106</sup> It is also normal business practice for retailers to regularly review and update their systems and processes for efficiency gains, and to improve customer experience. Retailers that have already invested in ways to support better customer experiences might face less costs to implement the proposed reforms.

For example, some retailers are already providing most customers who are receiving tailored assistance with their best offer or ensuring that their long-standing customers are already paying below the VDO. Likewise, some retailers already regularly request concessions eligibility from customers or have put EWOF's contact details on energy bills.

We also recognise that some retailers may receive indirect benefits (or avoidance of costs) from the proposals, including fewer disputes and more timely payments of bills. Some retailers may also benefit from fairer competition across the market. For example, if a retailer already provides multiple payment options to all customers it may benefit from other retailers being required to provide the same level of protections to their customers (therefore competing on a fairer level).

Some reforms may reduce revenue for certain retailers, as previously disengaged customers, who are often paying high prices due to limited information or trust, move to better offers. These higher prices, commonly referred to as a 'loyalty penalty', reflect market power and information asymmetries rather than genuine cost differences.

Retailers may seek to offset lower revenue by raising prices for other customers, but their ability to do so is constrained by effective competition. Revenue that is competed away in this context is not necessarily an economic cost, but a sign of more efficient and fair market outcomes.

To the extent that retailers absorb some of the reduced revenue, there may be short-term impacts on profitability. In turn, lower margins could lead to reduced investment or innovation in the sector over time. However, any revenue loss should be weighed against the clear consumer benefits of more equitable pricing. Our assessment recognises this trade-off, accounting for lower retailer revenue as a cost, while also recognising the corresponding consumer savings as a benefit.

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<sup>106</sup> Four retailers commented that the highest once-off costs could relate to major IT system changes, and one retailer provided confidential cost estimates in response to our issues and discussion papers.

## **Regulator (government)**

The commission already incurs costs for administering and enforcing the code. We do not forecast any additional costs for implementing these reforms. We will monitor and enforce the new reforms using our existing resources, applying our compliance and enforcement approach as described in section 13.2.

However, we may reallocate existing resources from current compliance activities to implement the reforms. As such, there may be an opportunity cost associated with the reforms. New activities may include communicating the new protections to consumers, updating reporting requirements and guidelines for industry. We may also gain some efficiencies by leveraging data to monitor or promote compliance, rather than undertake costlier enforcement interventions.

## **Other bodies**

EWOV may incur additional costs if it receives more complaints as a result of greater consumer knowledge of its complaints process. EWOV is funded by industry participants who are members of the scheme. This funding comes through a combination of membership fees and case-based fees for handling complaints. Therefore, there is an economic incentive for energy providers to reduce the number of complaints to minimise these costs. The extent to which the number of complaints to EWOV might increase costs, if at all, cannot be currently estimated.

It has also been shown that engaging with external dispute resolution schemes allows businesses to identify and address systemic issues, leading to reduced compliance costs, better customer satisfaction and continuous improvement in processes and practices over time. In the long term, increasing consumer awareness of external dispute resolution can lead to net benefits for businesses.

### **4.5.3. Choice of criteria**

The assessment criteria used to test options in this RIS align with our objectives outlined in Chapter 3. The criteria ensure that both the strengths and limitations of each option are appropriately considered. The criteria have also been weighted to reflect its relative importance to the policy decision. Benefit-related criteria and cost-related criteria have been neutrally weighted at 50 per cent each.

**Table 5: Criteria for MCA analysis**

| Criteria                  | Description   | Weighting          |
|---------------------------|---|--------------------|
| <b>Effectiveness</b>      | <p>This criterion measures the extent to which the option supports the achievement of the primary and sub-objectives of these reforms. As individual reform areas target certain customers and objectives, what constitutes ‘effectiveness’ is specifically described for each reform area.</p> <p>We provide this description in the analysis section of the chapter dedicated to each individual reform area. For example, this criterion recognises the extent of benefits gained by specific customers.</p> | 50%                |
| <b>Cost to industry</b>   | <p>Cost to industry to implement and administer the proposed option, such as costs to upgrade IT systems.</p> <p>We also separately consider the potential for total reduced revenue to retailers under the proposed reforms. Some retailers may attempt to recover this revenue by increasing prices for other customers. Retailers could also absorb part of the revenue reduction.</p>   | 40%                |
| <b>Cost to government</b> | <p>Cost to government of implementing and administering the proposed option. This includes consideration of the administrative simplicity of an option (e.g. whether an option would be more complicated to assess compliance against and to enforce).</p>  | 10% <sup>107</sup> |

Economic theory recognises that the value of a dollar depends on its context.<sup>108</sup> For a person experiencing vulnerability, an additional dollar is a significant portion of their disposable income used to meet necessities such as food, housing, or healthcare. Since these needs are essential, the benefit from each additional dollar is extremely high. Conversely, for a large corporation, an additional dollar is a negligible fraction of its total revenue or assets – a small amount does not significantly impact their overall financial position or operational decisions. For a person experiencing vulnerability, financial resources are scarce, and every dollar spent on an essential service means sacrificing another essential good or service.

Therefore, an additional dollar to a large corporation may be valued lower than to a person struggling with financial difficulties. We have accounted for this asymmetry when scoring the MCA

<sup>107</sup> Cost to government has been assigned a lower weighting compared to effectiveness and cost to industry in recognition that cost to industry also includes considerations of transferred costs that may be passed to the wider customer base. As a result, cost to government is weighted lower to reflect the reduced relative importance to the policy decisions for the proposed reforms.

<sup>108</sup> These theories include economic principles such as diminishing marginal utility, opportunity cost, and income elasticity of demand. Diminishing marginal utility states that as a person consumes more of a good or service, the additional satisfaction (utility) gained from each extra unit decreases. Opportunity cost refers to the value of the best alternative foregone when a decision is made. Since a person in financial distress operates under strict budget constraints, their opportunity cost for every dollar spent is high. Income elasticity of demand measures how the demand for goods and services responds to changes in income. Less well-off individuals or family units have a higher marginal propensity to consume, meaning they are more likely to spend an additional dollar on essential goods and services.

results, while maintaining a reasonable proportionality between the estimated impacts of options where we were able to quantify these impacts.

For the purposes of our assessment, we have directly considered the total potential reduced revenue as a cost to retailers. However, we note that in practice, retailers may attempt to recover reduced revenue from other customers. If retailers choose to absorb this lost revenue, this would be an accounting loss for the retailer.

## 5. Automatic best offer for customers experiencing payment difficulty

### Preferred option

A retailer would be required to automatically switch to the best offer residential customers who are:

- receiving tailored assistance or
- in arrears for at least at least three months and with arrears of \$1,000 or more.

Automatic switching would require an amendment to existing explicit informed consent requirements in the code.

Customers switched to the best offer would have opt-out and post-switch reversal protections.

A retailer would be required to ensure a customer eligible for this support is on the best offer at least every six months for electricity and every eight months for gas.

### 5.1. Scope of reform

#### 5.1.1. Purpose of reform

The proposed automatic best offer reform seeks to enhance support for customers experiencing payment difficulty to ensure they are not paying more for energy than they need to. Automatic best offer refers to any mechanism that leverages the best offer calculation to provide automatic cost relief to consumers.

The specific outcomes we want to achieve include:

- an increase in the number of customers in payment difficulty on their retailer's best offer
- a reduction in length of time that customers spend in payment difficulty
- a decrease in the average arrears of customers in payment difficulty.

As outlined in Section 2.1.1, an increasing number of customers are missing bill payments, in debt and at risk of disconnection.<sup>109</sup> Since 2022, there has been a gradual increase in the monthly average number of customers with missed bill payments.<sup>110</sup> This has led to more customers

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<sup>109</sup> Essential Services Commission, [Victorian Energy Market Report: Annual 2024](#), 29 November 2024, p. 6.

<sup>110</sup> Ibid, p. 6 (Figure 1).

entering and remaining in energy debt. From 2019–20 to 2023–24, the monthly average number of customers receiving tailored assistance increased from 52,722 to 69,518 for electricity and from 41,869 to 62,806 for gas.<sup>111</sup>

The Payment Difficulty Framework (implemented in 2019) requires retailers to provide customers with standard or tailored assistance to help them avoid or manage debt.<sup>112</sup> Standard assistance is available to any residential customer who wants to avoid getting into arrears and consists of a range of payment arrangements and options to better suit that customer's needs. Tailored assistance is available to all residential customers in arrears and seeks to make it easier for them to pay for their ongoing energy use, repay their arrears and lower their energy costs.

Retailers must provide practical assistance to residential customers to lower their energy costs by checking which tariff will most likely minimise their costs based on their patterns of energy use and payment history (a tariff check).<sup>113</sup>

The Payment Difficulty Framework has resulted in several improvements to customer outcomes, including:

- an increase in the number of customers receiving assistance
- a decrease in disconnections
- most customers receiving tailored assistance paying less for energy than other customers.<sup>114</sup>

We have heard concerns from consumer advocacy groups that some customers receiving assistance are not receiving tariff checks in a timely and appropriate manner.<sup>115</sup>

Retailers have commented that they cannot easily move these customers to their best offer due to existing explicit informed consent requirements.<sup>116</sup> This means customers experiencing payment difficulty are remaining on plans where their ongoing energy costs are higher than they need to be. As a result, the remaining assistance options to pay off arrears and afford ongoing energy costs are less effective.

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<sup>111</sup> Ibid, p. 10 (Figure 6).

<sup>112</sup> Essential Services Commission, [Payment Difficulty Framework: Final Decision](#), 10 October 2017, p. xiv.

<sup>113</sup> Clause 128(1)(f)(i) of the [Energy Retail Code of Practice \(version 3\)](#).

<sup>114</sup> Essential Services Commission, [Payment Difficulty Framework Implementation Review 2022: Findings Report](#), 31 May 2022, p. 9.

<sup>115</sup> Consumer Action Law Centre, [submission to the Essential Services Commission 'Energy Retail Code of Practice: Issues Paper'](#), 26 July 2024, pp. 12–13; Energy and Water Ombudsman Victoria, [submission to the Essential Services Commission 'Energy Retail Code of Practice: Issues Paper'](#), 31 July 2024, pp. 8, 36; Victorian Council of Social Service, [submission to the Essential Services Commission 'Energy Retail Code of Practice: Issues Paper'](#), 19 July 2024, pp. 9–10.

<sup>116</sup> ['Foresighting Forum 2025: Panel Discussion – Embedding a Duty of Care across the Energy System'](#), Energy Consumers Australia, accessed 27 March 2025.

There also continues to be an increase in the number of customers with arrears above \$300 not receiving the assistance they are entitled to under the Payment Difficulty Framework.<sup>117</sup> This can be for a number of reasons, including average energy bills increasing (due to increased wholesale and network costs or changes in consumption patterns) as well as some customers experiencing barriers to entering and remaining in tailored assistance.

Many customers are unable to engage with their retailer. This is problematic, as they need to engage with their retailer in order to receive assistance that is currently available in the first place. Additionally, retailers are able to stop providing tailored assistance to customers if they fail to meet their payment plan requirements (such as not being able to pay their instalment on time).<sup>118</sup> As customers' debt can accumulate, making it more difficult for them to pay off their arrears over time, since 2022–23 we have seen a lower percentage of customers successfully ending their need for tailored assistance with no arrears.<sup>119</sup> An increasing proportion of customers are also exiting tailored assistance after failing to meet their payment plan requirements.<sup>120</sup>

### **Why is the best offer a good way to strengthen support for customers experiencing payment difficulty?**

Best offer messages provide consumers with clear information about how much they could save by switching plans and encourage their engagement with the energy market.<sup>121</sup>

Retailers are required to regularly calculate and inform customers if they are on their best offer (the lowest cost generally available plan based on their past energy usage).<sup>122</sup> Retailers are required to do this for all residential and small business customers at least once every three months for electricity and once every four months for gas.

The proposed reform considers whether an automatic best offer would improve outcomes for customers experiencing payment difficulty. We are exploring the ways in which an automatic best offer could be implemented (for example, via switching plans, changing tariffs or a crediting mechanism).

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<sup>117</sup> Essential Services Commission, [Victorian Energy Market Report: Annual 2024](#), 29 November 2024, p. 7 (Figures 3 and 4).

<sup>118</sup> Clause 132 of the [Energy Retail Code of Practice \(version 3\)](#).

<sup>119</sup> Essential Services Commission, [Victorian Energy Market Report: March 2024](#), 26 March 2024, pp. 20–21.

<sup>120</sup> Essential Services Commission, [Victorian Energy Market Report: Annual 2024](#), 29 November 2024, p. 10 (Figure 7); Essential Services Commission, [Victorian Energy Market Report: 2022–23](#), 30 November 2023, p. 9 (Figure 5).

<sup>121</sup> *Ibid*, p. 3.

<sup>122</sup> Clauses 108–111 of the [Energy Retail Code of Practice \(version 3\)](#).

An automatic best offer reform would leverage the existing best offer calculation used for best offer messages on bills. It would seek to automatically give customers experiencing payment difficulty the savings indicated by this calculation.

### 5.1.2. What we heard from stakeholders

Energy retailers and industry have a preference for incentivising customer engagement over an automatic best offer for customers experiencing payment difficulty.<sup>123</sup> There was a broad view that the existing support under the Payment Difficulty Framework was sufficient and allowed retailers to tailor their support to an individual customer's needs.

Retailers expressed concerns that any automatic best offer could limit customer agency and prevent customers from benefitting from more innovative, longer-term products. They also noted that the automatic best offer reform would be expensive for retailers to implement and create compliance risks. Potential compliance risks would include greater difficulty complying with existing explicit informed consent, customer notification and timeline requirements.

Consumer advocacy and community groups were generally supportive of an automatic best offer and expressed support for a variety of implementation and eligibility options.<sup>124</sup> They acknowledged the harm caused by high bills and agreed that customers experiencing payment difficulty should be paying less for energy.<sup>125</sup> However, they also emphasised the importance of maintaining customer agency and consent processes.

Other public entities were supportive of an automatic best offer reform.<sup>126</sup> In particular, they suggested that there was potential for this reform to lead to better consumer trust and customer engagement with retailers as well as improved customer outcomes.<sup>127</sup> We also note that the AER have previously recommended automated better offers for customers in hardship programs, as part of its Game changer report in November 2023.<sup>128</sup>

### 5.1.3. Approach to options development

Our key considerations when developing options for this reform were to understand:

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<sup>123</sup> Essential Services Commission, [Workshop 2 \(In-person\) Consultation Summary](#), January 2025, pp. 5–6.

<sup>124</sup> Ibid, p. 6.

<sup>125</sup> Financial Counselling Victoria, [submission to the Essential Services Commission 'Energy Consumer Reforms: Discussion Paper'](#), 26 November 2024, p. 2.

<sup>126</sup> Essential Services Commission, [Workshop 2 \(In-person\) Consultation Summary](#), January 2025.

<sup>127</sup> Australian Energy Regulator, [submission to the Essential Services Commission 'Energy Consumer Reforms: Discussion Paper'](#), 5 December 2024, p. 2.

<sup>128</sup> Australian Energy Regulator, [Game changer: A package of reforms to improve outcomes for consumers in energy hardship](#), November 2023, pp. 22.

- how retailers could switch customers to the best offer
- who should be eligible for this switch.

We looked at the Victorian Energy Market Dashboard, Victorian Energy Market Reports and other datasets to develop eligibility options. We reviewed other relevant reports, research and papers which consider similar reforms.<sup>129</sup> We conducted internal discussions on key opportunities, risks and benefits to determine potential mechanisms to move customers to the best offer.

### **Concurrent consideration of a similar reform by the Australian Energy Market Commission**

We note the AEMC's concurrent review of the rule change request to assist hardship customers. The AEMC released a draft determination on 27 March 2025.<sup>130</sup>

In its draft determination, the AEMC proposed to introduce a new obligation on retailers to ensure hardship customers pay no more than the deemed better offer for that customer.<sup>131</sup>

Retailers would be able to comply with this obligation either by providing a financial benefit (a credit or discount) on the customer's bill or by moving the customer to the deemed better offer after obtaining their explicit informed consent.

The AEMC also proposes to introduce new reporting obligations which will measure the total number and percentage of hardship customers on offers that are a deemed better offer, not a deemed better offer (and why) and above and below the standing offer.

We considered adopting in Victoria a similar approach to the AEMC. However, we consider there are important differences between the base case for our reforms and for the AEMC's draft determination. These differences include:

- The lack of a Payment Difficulty Framework in the National Energy Customer Framework (NECF). This means there is no clear set criterion to define eligibility for an automatic best offer mechanism (which would rely on each retailer's criteria for accepting customers into its hardship program).

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<sup>129</sup> Australian Energy Regulator, [Game Changer: A package of reforms to improve outcomes for consumers in energy hardship](#), November 2023; Energy and Climate Change Ministerial Council, [Rule change request: improving the ability to switch to a better offer](#), 12 August 2024; Australian Energy Market Commission, [Improving the ability to switch to a better offer: Consultation paper](#), 6 February 2025.

<sup>130</sup> Australian Energy Market Commission, [Assisting hardship customers: Draft rule determination](#), 27 March 2025.

<sup>131</sup> The deemed better offer is the equivalent of the Victorian deemed best offer in the Australian Energy Regulator's [Better Bills Guideline \(version 2\)](#).

- The commission has the statutory power to review and amend the explicit informed consent requirements that are set in the code. To make similar amendments in the NECF, a legislative process would be required to amend the National Energy Retail Law.
- Stakeholder feedback on the comparative advantages and disadvantages of the potential mechanisms to implement this reform, which was more unfavourable towards the crediting mechanism.

### **What options are we presenting and assessing?**

We have conducted an initial assessment of the options that are appropriate to progress for further assessment. This is based on how likely the options are to achieve our desired outcomes, ease of implementation and other practical considerations as well as initial feedback from stakeholders in their submissions and during workshops we held in December 2024.

There are several implementation considerations on which we are not presenting multiple options. These include:

- the frequency of when eligibility checks need to occur
- how quickly a customer needs to be moved to the best offer
- how opt-outs or additional protections would operate.

We consider that testing multiple options for each of these considerations would be too complex for the purposes of assessing the impact of this reform. However, we encourage stakeholders to provide feedback on these considerations, particularly in relation to appropriate timelines and protections for the proposed mechanism.

## **5.2. Options considered but not progressed to assessment**

### **5.2.1. Automatic switching of all customers eligible for a concession**

We considered the option of applying the automatic best offer reform to all customers receiving energy concessions to be non-viable.

We consider it is unlikely that all customers with concessions are experiencing payment difficulty or require additional support from the automatic best offer. This is because concessions are offered to make energy affordable for low-income households – not all of which may be experiencing payment difficulty.<sup>132</sup> The Department of Families, Fairness and Housing states that more than 900,000 Victorian households receive help from concessions.<sup>133</sup> In comparison, the monthly

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<sup>132</sup> ‘[Concessions and benefits](#)’, Department of Families, Fairness and Housing, accessed 11 April 2025.

<sup>133</sup> Department of Families, Fairness and Housing, [Victorian concessions: A guide to discounts and services for eligible households in Victoria](#), July 2024, p. 3.

average number of electricity customers receiving tailored assistance in 2023–24 was 69,518. Further, this option would substantially increase the scope, cost and complexity of the reform and provide less targeted support to those experiencing payment difficulty.

### 5.3. Options

In this section we describe and consider the base case. We then discuss the frequency of applying the automatic best offer reform to each individual customer. We are proposing a single option for frequency but invite stakeholders to suggest alternatives that may be more effective or easier to implement. We outline two different options for eligibility to receive the automatic best offer, followed by three options for how this reform could be implemented using a variety of mechanisms.

All proposed options to implement an automatic best offer would require updating the commission’s payment difficulty framework guideline, compliance and performance reporting guideline, best offer guideline and retailers’ financial hardship policies.<sup>134</sup>

#### 5.3.1. Base case

##### Payment difficulty assistance requirements

The base case for this reform would be that the existing Payment Difficulty Framework and best offer requirements in the code continue to apply.

Under the framework, customers are eligible to receive tailored assistance when they are in any amount of energy debt.<sup>135</sup> To receive this assistance, customers are required to engage and communicate with their retailer.

All tailored assistance customers are entitled to:

- specific advice about the likely cost of a residential customer’s future energy use and how this cost may be lowered

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<sup>134</sup> The commission’s the [Payment Difficulty Framework Guideline](#) came into effect on 24 July 2024. It provides guidance to retailers and exempt sellers on the payment difficulty framework.

The commission’s latest version of the compliance and performance reporting guideline came into effect on 1 October 2024. It sets out the reporting obligations for energy retailers to enable the commission to perform its functions, including reporting on the extent to which a licensee has complied, or failed to comply, with its obligations under licence conditions, industry acts and codes of practice and on indicators of performance.

The commission’s form and content of deemed best offer messages guideline ([Guideline 1 \(2023\)](#)) was published on 23 November 2023 and outlines the commission’s expectations for best offer messages and their appearance on bills, bill summaries and bill change alerts.

Clause 137 of the [Energy Retail Code of Practice \(version 3\)](#) requires retailers to prepare and submit a financial hardship policy to the commission and specifies what that policy must include.

<sup>135</sup> Clause 126 of the [Energy Retail Code of Practice \(version 3\)](#).

- specific advice about any government and non-government assistance (including Utility Relief Grants and energy concessions) available to help a residential customer meet their energy costs.

Currently, retailers are only required to conduct a tariff check for customers receiving tailored assistance who are in arrears and cannot afford to pay for their ongoing energy costs.<sup>136</sup>

A tariff check requires the retailer to identify the tariff that is most likely to minimise a residential customer's energy costs, based on that customer's pattern of energy use and payment history. In contrast, a best offer is calculated having regard to that customer's annual usage history and indicates the lowest cost generally available plan to that customer. While a tariff check is more flexible, we understand that in practice it is often the case that a retailer's best offer would be the plan most likely to minimise a customer's energy costs. Currently, both methods require the same process of obtaining a customer's explicit informed consent to switch to a new plan.

### **Best offer message requirements**

Best offer messages on bills are required for all Victorian residential and small business customers. The base case would mean that these customers continue to receive the best offer message on their bills at least once every three months for electricity and once every four months for gas. A customer would still need to contact and give their explicit informed consent to their retailer to switch to a best offer.

#### **5.3.2. Proposed process for automatic best offer and regular reviews**

We propose that any automatic best offer mechanism would require a retailer to undertake a best offer check within 10 business days from the date a customer becomes eligible. Retailers would then be required to check whether eligible customers are on the retailer's best offer at least once every six months for electricity and once every eight months for gas, for as long as the customer remains eligible. This aligns with the existing frequency requirements of the best offer message on bills and would involve a maximum of two billing cycles.<sup>137</sup> This would be less frequent than the AEMC's proposed frequency of 100 days for retailers to check and offer a hardship customer the better offer. The difference in timeframes is to align with existing best offer message requirements in each jurisdiction.<sup>138</sup>

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<sup>136</sup> Clauses 128(1)(f)(i) and 128(3) of the [Energy Retail Code of Practice \(version 3\)](#).

<sup>137</sup> Clause 110(1) of the [Energy Retail Code of Practice \(version 3\)](#). A deemed best offer message must be provided to a small customer on a bill or bill summary at least once every three months for electricity or at least once every four months for gas.

<sup>138</sup> Section 52 of the Australian Energy Regulator's [Better Bills Guideline \(version 2\)](#) requires a retailer to provide a deemed best offer message on a bill to a small customer at least once every 100 days or by agreement on each billing cycle where the retailer and customer have agreed to a billing cycle of greater than 100 days.

To mitigate regulatory burden, this frequency would leverage existing requirements for a retailer to perform a best offer calculation to determine which plan is the customer's best offer. A retailer would only be required to conduct one additional best offer check (when the customer first becomes eligible) compared to what is currently required and would perform the best offer check in lieu of the tariff check required today.

We welcome feedback on alternative timeframes for how often a retailer should be required to check eligible customers are on their best offer.

## Eligibility

### 5.3.3. Eligibility option AA.1 – customers receiving tailored assistance

The first eligibility option is to make the automatic best offer reform available only to customers in arrears receiving tailored assistance from their retailer, regardless of whether they can or cannot pay the full cost of their ongoing energy use.

A retailer would be required to switch to the best offer every customer that engages with their retailer to receive any type of tailored assistance available under the Payment Difficulty Framework.<sup>139</sup> This includes receiving:

- advice about payment options to repay their arrears
- advice on any government and non-government assistance (including Utility Relief Grants and energy concessions) available to them
- practical assistance to complete an application for a Utility Relief Grant
- practical assistance to help them lower their energy costs.

The automatic best offer would replace the existing tariff check available to all customers receiving tailored assistance who cannot pay for their ongoing energy costs. This would simplify the assistance required from retailers and avoid divergent outcomes resulting from tariff checks.

### 5.3.4. Eligibility option AA.2 – customers receiving tailored assistance and customers in arrears above a certain amount

An alternative broader eligibility option is to capture customers experiencing payment difficulty beyond those engaging with their retailer and accessing tailored assistance.

Retailers are required to contact and offer assistance to any residential customer in arrears over \$55.<sup>140</sup> However, not all customers can engage with their retailer to receive this assistance. We

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<sup>139</sup> Clause 128 of the [Energy Retail Code of Practice \(version 3\)](#).

<sup>140</sup> Clause 129(2) of the [Energy Retail Code of Practice \(version 3\)](#).

propose extending this reform to other customers experiencing payment difficulty, who may be facing barriers that are preventing them from engaging with their retailer.

This option acknowledges that there are many customers experiencing payment difficulty who face barriers to access tailored assistance or who are exiting tailored assistance that still require support. Since 2022, there has been an increase in the number of customers in arrears not accessing assistance and in the average amount of those arrears.<sup>141</sup> There has also been an increase in the number of customers exiting tailored assistance after failing to meet payment plan requirements.<sup>142</sup>

We suggest that the best way to capture these customers and customers accessing tailored assistance is to establish a debt threshold to be eligible for the automatic best offer.

### **Customers with debt of \$1,000 or more would be eligible for the automatic best offer**

The proposed debt threshold for this reform needs to be sufficiently high so that it captures customers who are truly experiencing payment difficulty. It can be common for customers to miss a pay-by date for one bill, which will put them in arrears with their retailer. Moreover, a single missed gas bill over a winter period could be high, resulting in large arrears when a single payment is missed. Some of these customers may be able to pay off these arrears quickly if they are not experiencing payment difficulty. Therefore, we propose that the level of debt needs to be sufficiently high over a significant period of time to ensure this reform is targeting customers who are experiencing payment difficulty.

An existing debt threshold of \$300 is already central to the energy rules. Under the Gas Industry Act and the Electricity Industry Act, a customer can only be disconnected for non-payment of their bill or failure to comply with a relevant assistance program if they are in arrears of more than \$300.<sup>143</sup> We consider this threshold could be too low for the purposes of this reform. It is not unusual for a single missed energy bill to go beyond this threshold, particularly in higher usage households and if billing is quarterly. As such, this threshold could include many customers who are not experiencing payment difficulty. We note that we are proposing to increase this threshold from \$300 to \$500, as explained in Section 4.3.

Our analysis shows that most customers in arrears over \$300 have significantly higher debt levels. In 2023–24, the average arrears for customers owing more than \$300 was \$1,311 for electricity and \$1,317 for gas.<sup>144</sup> This suggests that a higher threshold of approximately \$1,000 may be more

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<sup>141</sup> Essential Services Commission, [Victorian Energy Market Report: Annual 2024](#), 29 November 2024, pp. 6–7.

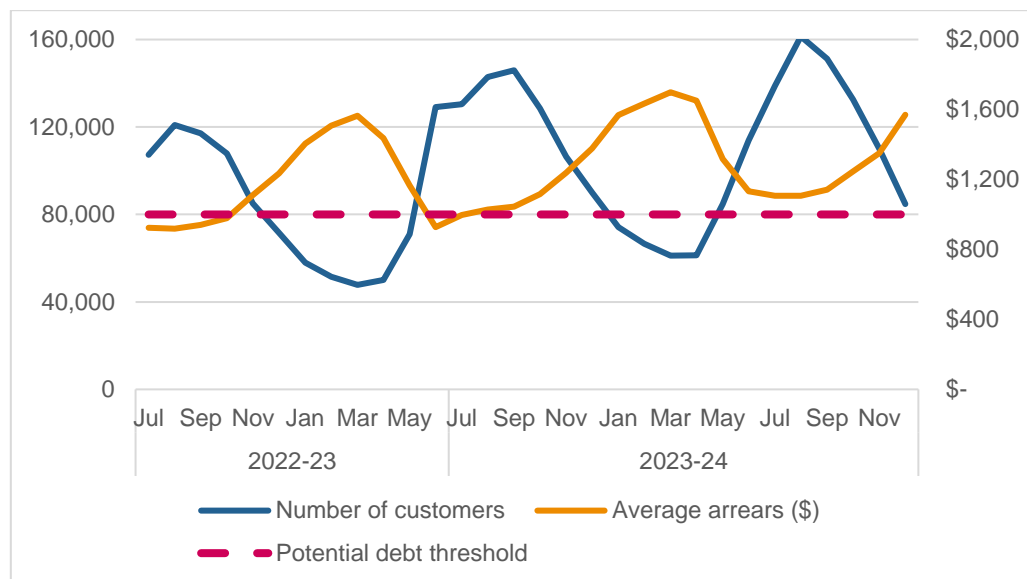
<sup>142</sup> Ibid, p. 10.

<sup>143</sup> Section 40SM(1)(b)(i) of the *Electricity Industry Act 2000* and Section 48DO (1)(b)(i) of the *Gas Industry Act 2001*.

<sup>144</sup> [Victorian Energy Market Dashboard](#), Essential Services Commission, accessed 9 April 2025.

appropriate to capture customers experiencing payment difficulty to the exclusion of customers who can afford their energy costs but have missed paying a single bill. Figure 15 illustrates how a potential debt threshold of \$1,000 would compare with the average arrears of gas customers in the last two financial years.

**Figure 15:** Number of gas customers with more than \$300 in arrears and their average arrears



Source: Victorian Energy Market Dashboard.

While a debt threshold of \$1,000 may be appropriate, in the near future we may need to adjust it as prices change and debt levels evolve. For this reason, in this option the initial debt threshold would be established at \$1,000 but with flexibility for future changes through a guideline issued by the commission. This would make it simpler for us to adjust the debt threshold in the future, ensuring it remains fit for purpose, while still enabling the commission to enforce compliance with the proposed new rule.

### A debt threshold could lead to complex interactions with the existing disconnection requirements

By choosing a threshold greater than \$300 (or \$500 as we are proposing in Section 4.3), we acknowledge that this may create some complexity for retailers and their customers. In particular, there will be some overlap between a potential disconnection process and the automatic best offer. Retailers may disconnect a customer if they are in arrears over \$300 and not receiving assistance.

This means that under this option, a retailer could disconnect a customer before they become eligible to receive the automatic best offer. However, we understand this would be minimal given current retailer practices.

Firstly, most disconnections are for customers with arrears over \$1,000 (82 per cent of disconnections between January and December 2024).<sup>145</sup> Many customers also engage with their retailer when they have arrears below \$1,000, and would be eligible for the automatic best offer under the tailored assistance pathway. There are also customers with debt over \$1,000 who are not receiving assistance, but previously received assistance (and the automatic best offer switch, under the proposed reforms) – these customers would then likely already be on their retailer’s best offer.

Lastly, retailers cannot disconnect a customer receiving tailored assistance. If the customer is not receiving assistance, retailers must also take all reasonable steps to provide the customer with information about assistance available under the Payment Difficulty Framework.<sup>146</sup> However, it is possible that customers in arrears that are eligible but not receiving tailored assistance could be disconnected.

We acknowledge the complexity these different thresholds may generate. We are interested to hear from stakeholders on the appropriateness of the eligibility threshold for an automatic best offer and how it may interact with disconnection processes.

### **The automatic best offer would apply for customers in debt over a period of at least three months**

In addition to the debt threshold of \$1,000 for the automatic best offer, we consider that establishing a minimum time period for how long a customer has been in debt would further ensure this reform is targeting those who most need support.

This time period could be defined in relation to the number of missed payments. For example, this could be two consecutively missed scheduled payments or bills. However, we consider this could be complex to implement, given that bills can be issued monthly, quarterly, or according to a billing cycle agreed between a customer and a retailer.<sup>147</sup>

Our preferred approach is to limit this reform to customers who have been in debt for at least three months and whose debt has reached a level equal to or above \$1,000 by the end of that period.<sup>148</sup> This would mean that customers who are in debt over short periods of time are not captured by this

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<sup>145</sup> Based on performance data received by retailers under the [Compliance and Performance Reporting Guideline \(version 9\)](#).

<sup>146</sup> Clause 187(1)(a)(ii) of the [Energy Retail Code of Practice \(version 3\)](#).

<sup>147</sup> Clause 62 of the [Energy Retail Code of Practice \(version 3\)](#).

<sup>148</sup> This would be similar to the ‘Debt Trigger’ in Ofgem’s [standard conditions of electricity supply licence](#) in the United Kingdom, although that trigger applies for other purposes (the potential installation of prepayment meters).

reform. It would also provide an incentive for retailers to engage with customers in debt early, and to work with them to avoid debt levels reaching the threshold.

Once a customer no longer meets this eligibility criteria (for example, their energy debt reduces to below \$1,000 or they pay off their debt within three months), retailers would no longer be required to undertake regular reviews to provide them with the automatic best offer. Despite this, retailers would still be required to continue to offer a range of options and support to customers experiencing payment difficulty under the Payment Difficulty Framework.

### 5.3.5. MCA assessment – eligibility options AA.1 and AA.2

Out of all proposals considered in this RIS, the automatic best offer options considered in this section are likely to deliver the most benefits to consumers and impose the highest costs on industry.

The automatic switching proposals represent a fundamental change from the current approach of requiring retailers to provide information to customers (for example, best offer messages on bills) to proactive compulsory actions to provide customers with cheaper plans. It would remove a major barrier for customers, as the current framework requires a customer to engage with their retailer and provide their explicit informed consent to switch to a cheaper plan.

A first MCA assessment was undertaken to compare the likely costs and benefits of the two eligibility options described above. We note that the key difference between the options is the number of customers benefitting and receiving the proposed automatic best offer.

**Table 6: MCA assessment of options AA.1 and AA.2: Effectiveness**

| Option | Criteria<br>(weighting 50%)  | Assessment  | Score<br>(-10 to 10) | Weighted<br>score |
|--------|--|---|----------------------|-------------------|
| AA.1   | <p>Effectiveness</p> <p>Reform objectives:</p> <ul style="list-style-type: none"> <li>• help households pay less for energy</li> <li>• increase support for people experiencing payment difficulty.</li> </ul> | <p>This option targets customers who are receiving tailored assistance from their retailer.</p> <p>We estimate this would result in total average annual savings of \$13.6 million for affected electricity customers and \$9.4 million for affected gas customers.</p> <p>From October to December 2024, an average of 87,391 electricity and 83,696 gas residential customers accessed tailored assistance each month. We applied the average percentage of Victorian customers not on their energy retailer's best offer (which was 69 per cent for electricity and 62 per cent for gas each month</p> | 5.5                  | 2.75              |

in 2023–24).<sup>149</sup> We also assumed electricity customers could save around \$225 and gas customers around \$182 annually from switching to their retailers' best offer.<sup>150</sup>

This would result in around 60,000 electricity and 52,000 gas customers being switched to the retailer's best offer (around 2% of Victorian customers).

These customers will also benefit from increased confidence in the support provided by their retailer by being proactively moved to their best offer. This would mean these customers are able to pay off their debts faster. They would also be in a better position to discuss payment plans, reducing future energy costs and other forms of support they may need.

|      |   |   |   |     |
|------|---|---|---|-----|
| AA.2 | Effectiveness   | Option AA.1 provides assistance to customers receiving tailored assistance. Option AA.2 applies to customers receiving tailored assistance, <i>and</i> customers not receiving assistance but in arrears for at least three months and with arrears of \$1,000 or more.   | 7 | 3.5 |
|      | Reform objectives:  |   |   |     |
|      | <ul style="list-style-type: none"> <li>• help households pay less for energy</li> <li>• increase support for people experiencing payment difficulty.</li> </ul> | <p>We estimate this would result in an additional total average potential annual savings of \$3.3 million for affected electricity customers (\$16.8 million in total) and \$1.5 million for affected gas customers (\$11.0 million in total).<sup>151</sup></p> <p>In September 2024, we estimate 31,494 electricity customers and 20,495 gas customers had arrears of \$1,000 or more and were not receiving tailored assistance.<sup>152</sup> We also assumed that around two thirds of those</p> |   |     |

<sup>149</sup> 'Victorian Energy Market Dashboard', Essential Services Commission, accessed 23 January 2025. Note that we did not have specific data on the percentage of tailored assistance customers not on their retailers' best offer. However, we expect a potentially lower proportion of customers on tailored assistance would not be on their retailer's best offer.

We note that our proposal to increase the current \$22 threshold to \$50 (see Section 4.3) would mean a slightly lower number of customers would benefit from this option. We could not estimate the difference in savings due to this change in thresholds, due to data limitations. However, we consider this would not have a significant impact on the expected benefits of this reform.

<sup>150</sup> Average savings are based on data reported by retailers from September 2024 (excluding data from Engie) for indicators B201 and B181 in the 'Compliance and Performance Reporting Guideline (version 9)'. Calculation uses the mid-point method based on the number of customers by range of savings, with the lower and upper averages at \$201 to \$247 (for electricity) and \$160 to \$204 (for gas), respectively.

<sup>151</sup> We also applied the same average percentage of Victorian customers not on their energy retailer's best offer (which was 69 per cent for electricity and 62 per cent for gas each month in 2023–24). See footnote 149.

<sup>152</sup> These numbers were extrapolated from data collected for our [Payment Difficulty Framework implementation review 2021](#), accounting for growth in the proportion of customers with arrears over \$300 since this data was collected.

customers would be in arrears for three or more months.<sup>153</sup>

Therefore, this option could benefit around 14,500 electricity and 8,500 gas customers in addition to the customers that benefit under Option AA.1 (amounting to a total of around 75,000 electricity and 60,000 gas customers).

Compared to Option AA.1, the larger number of customers covered by this option would result in around 0.8% (for electricity) and 0.7% (for gas) additional customers automatically switching to the best offer. This option therefore results in greater effectiveness for helping households pay less for energy.

This option also targets customers in debt who are not engaging and receiving assistance from their retailer (in addition to those who are receiving assistance). Customers with large amounts of accumulated debt who are not engaging with their retailer are likely to be facing significant barriers to navigating, understanding and making choices regarding their energy use. Given the barriers or lack of confidence they have in seeking assistance, these customers are also not benefitting from other types of support available.

Compared to Option AA.1, these additional targeted customers would benefit more from proactive support coming from their retailer. An automatic form of support reaching this cohort of customers would therefore be more effective than Option AA.1 in increasing support for people experiencing payment difficulty.

**Table 7: MCA assessment of options AA.1 and AA.2: Cost to industry**

| Option | Criteria<br>(weighting 40%) | Assessment  | Score<br>(-10 to 10) | Weighted<br>score |
|--------|-----------------------------|---|----------------------|-------------------|
| AA.1   | Cost to industry            | <p><u>Compliance costs</u></p> <p>Retailers would have no additional costs to identify eligible customers as this option only includes customers receiving tailored assistance.</p> <p>Retailers currently regularly monitor and report on customers receiving tailored assistance under our Compliance and Performance Reporting</p> | -4.5                 | -1.8              |

<sup>153</sup> While we do not have exact data on the period of time customers are in arrears of \$1,000 or more, to estimate potential impact we made an assumption that two thirds of those customers would be in arrears for three or more months by extrapolating from data for customers in arrears over \$300 (see Figure 15).

Guideline. This is also supported by retailers' existing IT systems, policies and processes.

#### Cost transfers

To the extent that affected customers are currently on higher tariffs relative to the best offer, this option would reduce retailer income – representing an estimated \$22.9 million per year in foregone revenue under certain assumptions.

For the purposes of our assessment, we treat this lost revenue as a cost. However, it is not necessarily an economic cost in the broader sense. Much of this revenue reflects higher prices charged to disengaged customers, rather than efficient service delivery.

In a competitive market, some of this revenue may be recovered from other customers – representing a transfer rather than a net cost – or absorbed by retailers. Moreover, this option could reduce retailers' debt recovery costs over time, as more customers are placed on manageable plans and are less likely to default. As a result, the actual revenue impact is likely to be lower than the headline estimate.

|  |                  |                         |    |      |
|--|------------------|-------------------------|----|------|
| AA.2   | Cost to industry | <u>Compliance costs</u> | -6 | -2.4 |
| <p>Compared to Option AA.1, retailers would have additional compliance and implementation costs to identify eligible customers. Retailers' internal processes would need to monitor and identify customers that have met the eligibility threshold of being in arrears for at least three months and with arrears of \$1,000 or more.</p> <p>Retailers are already required to monitor and report on several arrears indicators included in our Compliance and Performance Reporting Guideline. This includes indicators of customers in arrears over \$1,000 and where this level of arrears is more than 12 or 24 months old.<sup>154</sup></p> <p>Therefore, while retailers would need to make some adjustments to identify customers with this level of arrears over three or more months, retailers already have the systems and processes to do so.</p> <p><u>Cost transfers</u></p> <p>Automatically switching a larger number of customers to the best offer would reduce retailer income – estimated at around \$30.1 million per year under certain assumptions. For the purposes</p> |                  |                         |    |      |

<sup>154</sup> Essential Services Commission, '[Compliance and Performance Reporting Guideline \(version 9\)](#)', 1 October 2024, p. 59.

of our assessment, this foregone revenue is treated as a cost. However, much of this revenue is currently derived from higher prices paid by disengaged customers, and does not reflect efficient or value-adding service. As such, it is not necessarily an economic cost in the broader sense.

This impact is likely to be overstated, as the additional customers targeted under this option have a higher risk of defaulting. By placing them on more affordable plans, this option may improve repayment outcomes and reduce retailers' debt recovery costs over time. Additionally, to the extent that some lost revenue is recovered from other customers, it reflects a redistribution of costs – not a net increase in system-wide costs.

**Table 8: MCA assessment of options AA.1 and AA.2: Cost to government**

| Option | Criteria<br>(weighting 10%) | Assessment   | Score<br>(-10 to 10) | Weighted<br>score |
|--------|-----------------------------|--|----------------------|-------------------|
| AA.1   | Cost to government          | The commission would need to administer and monitor compliance with this option. Retailers already report numbers of customers entering and exiting tailored assistance. The commission also already verifies compliance with tariff checks to which customers receiving tailored assistance are entitled.   | -0.25                | -0.025            |
| AA.2   | Cost to government          | Under this option, the commission's monitoring would be more complex and therefore more costly. The commission already monitors and requires retailers to report on customers' arrears levels over time. However, the commission may need to collect more data for this specific cohort of customers. The commission may also need to prepare guidance material for retailers. | -0.75                | -0.075            |

### 5.3.6. Preferred option – eligibility

**Table 9: Summary of MCA assessments – Automatic switching to best offer: Eligibility**

| Option | Description  | Weighted score           |
|--------|--|--------------------------|
| AA.1   | Customers receiving tailored assistance.   | 0.925                    |
| AA.2   | Customers receiving tailored assistance and customers in arrears for at least three months and with arrears of \$1000 or more. | <b>1.025 (preferred)</b> |

## Implementation

All implementation options aim to reduce barriers for customers in payment difficulty from accessing the lowest energy plans. Each option puts the onus on the retailer, and reduces the time, stress and burden on customers to navigate, understand and choose between complex energy plans. This would also leave more time for retailers to provide these customers with other forms of support available (for example, applying for concessions, rebates or grants). It would also reduce information fatigue or overload for customers.

Each of the options would also replace the need for retailers to undertake tariff checks for customers receiving tailored assistance (as outlined in section 5.3.1). Therefore, we propose to remove the existing tariff check requirement in the current code.<sup>155</sup> This would also reduce some burden on industry under all three options.

### 5.3.7. Implementation option A.1 – switching plans

Option A.1 requires retailers to switch customers experiencing payment difficulty who meet the eligibility criteria to the best offer (the lowest cost generally available plan based on their past energy use).

#### **Exemption from the requirement to obtain explicit informed consent for entry into a market retail contract**

Explicit informed consent is a key consumer protection that supports customer agency and informed decision making.<sup>156</sup> Explicit informed consent can only be provided by a customer who is competent and has been provided with full, clear and adequate information. Consent may be given to a retailer or exempt person in writing, verbally or via electronic communication generated by the customer.

This option would require amendments to the code to allow retailers to automatically switch customers to a different plan without their explicit informed consent.<sup>157</sup> We consider this would be justified because of the significant amount of harm caused to customers experiencing payment difficulty paying more for energy costs than they need to.

Retailers are already required to place a customer on the standing offer (VDO for electricity) if they have begun to use energy at a premises but have not signed up to a contract or their fixed term

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<sup>155</sup> Clause 128(1)(f)(i) of the Energy Retail Code of Practice (version 3).

<sup>156</sup> Requirements to obtain a small customer's explicit informed consent are imposed by clauses 10(1)(a)(iii), 26(4), 57(1)(a)(iii), 57(1)(b)(iv), 59(1)(a), 61(2), 62(2), 72(3)(b), 93(2), 113(1)(a), 120(1)(c)(ii), 139(2), 146(5), 166(7)(b) and 171(6)(b) of the [Energy Retail Code of Practice \(version 3\)](#).

<sup>157</sup> Clause 26(4) and 118(1) of the [Energy Retail Code of Practice \(version 3\)](#).

contract has ended.<sup>158</sup> This can occur without the customer's explicit informed consent. In addition, some customer preferences would be protected by our proposed reforms outlined in Chapter 6. For example, regardless of the plan a customer is moved to, the customer would be able to choose to receive paper bills and have the option to pay using a method other than direct debit.

Explicit informed consent would be replaced with safeguards such as an opt-out and a post-switch reversal. Some customers may not want to be switched to a different plan because of the benefits attached to their existing plan. For example, a customer may have Qantas rewards points or Netflix as benefits linked to their existing energy plan. These customers would be able to opt out from an automatic switch.

### **Opt-out and post switch reversal periods**

An opt-out period and a post switch reversal would function as additional layers of protection for eligible customers who do not want to be switched to a different plan. We consider that an opt-out is more appropriate than an opt-in because it will be more effective in moving customers to cheaper plans.<sup>159</sup>

We are proposing an opt-out period of 10 business days. We consider this would provide sufficient time for a customer to consider the proposed switch and make a decision about whether to opt out. We also suggest that it would not be too long so as to delay the switch and reduce the accuracy of the best offer calculation. This timeframe also aligns with many existing timeframes in the code, such as the cooling off period and timeframes to notify customers of overcharging or shortened collection cycles.<sup>160</sup>

The post-switch reversal would function similarly to the existing cooling off period defined in the code. A cooling off period occurs after a customer enters into a market retail contract or an exempt person arrangement with a retailer and allows the customer to withdraw from the contract.<sup>161</sup> This would function similarly for the automatic best offer except it would allow the customer to return to their original plan after having been moved to the best offer.

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<sup>158</sup> Sections 35 and 39 of the *Electricity Industry Act 2000* and sections 42 and 46 of the *Gas Industry Act 2001*.

<sup>159</sup> Australian Securities and Investment Commission, [Report 785: Better banking for Indigenous consumers](#), 15 July 2024, p. 19.

Evidence from the banking sector indicates that opt-out campaigns tend to be far more effective than opt-in campaigns in moving customers to lower-priced products and services. Following a review of low-income customers on high-fee accounts by the Australian Securities and Investment Commission (ASIC), all participating banks took up ASIC's recommendation to embrace opt-out migration where the banks write to customers advising they will be switched to a low-fee account, unless they choose to retain their higher-fee account by opting out.

<sup>160</sup> Clauses 97(2), 71(1) and 75(3) of the [Energy Retail Code of Practice \(version 3\)](#).

<sup>161</sup> Clause 97 of the [Energy Retail Code of Practice \(version 3\)](#).

We consider that the post-switch reversal should be longer than the existing cooling off period. Consumer focus groups indicated that a period of a full bill cycle to reverse a switch would promote consumer confidence.<sup>162</sup> We propose that customers should have at least five business days from when they receive their first bill on the best offer to request a post switch reversal. This timeframe acknowledges that some customers may not realise they have switched plans until they receive the first bill on their new plan.

### **There may be an opportunity for efficiencies with existing notification requirements**

We acknowledge that there is a range of existing notification requirements in the code that retailers must follow. For example, before disconnecting a customer for non-payment, a retailer must send a reminder notice and a disconnection warning notice.<sup>163</sup>

We are seeking feedback on how the proposed opt-out and post-switch reversal requirements may interact with these existing requirements. In particular, we welcome feedback on ways in which retailers can create efficiencies in the timing and contents of these notifications.

### **Automatic switching process**

In order to meet the requirements of this implementation option, we propose that retailers would need to follow the steps below:

1. Once a customer becomes eligible, the retailer has 10 business days to undertake a best offer check and determine if the result is positive or negative.<sup>164</sup>
2. If the best offer check is negative, the retailer must provide the customer with a notice of intention to switch the customer to the best offer within 5 business days of the best offer check.
3. The notice of intention to switch should be provided to the customer in writing and using their preferred method of communication. It should include information about the best offer and the customer's right to opt out or switch back to their previous plan after the switch.
4. The retailer must allow the customer a period of at least 10 business days to opt out of the switch after receiving the notice of intention to switch.
5. If the customer does not opt out before the date indicated on the notice of intention to switch, the retailer must switch the customer's plan on the date indicated on the notice.

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<sup>162</sup> Whereto Research, *Consumer focus group stand-up and delivery to support the Energy Retail Code of Practice Review*, March 2025, p. 21.

<sup>163</sup> Section 40SM of the *Electricity Industry Act 2000* and section 48DO of the *Gas Industry Act 2001*.

<sup>164</sup> Clause 109 and 111(3) and 111(4) of the [Energy Retail Code of Practice \(version 3\)](#). Currently, a deemed best offer check is positive if a customer would save less than or equal to \$22 per year from switching to the deemed best offer from their current plan. A deemed best offer check is negative if a customer would save more than \$22 per year from switching to the deemed best offer from their current plan. We are proposing to amend this threshold to \$50 which would alter the meaning of a positive or negative result.

6. After the customer receives their first bill on the new plan, they would have at least five business days to request a reversal and return to their original plan.
7. The customer would remain on this new plan until one of the following occurs:
  - the customer chooses to change plans
  - the customer is again eligible for the automatic best offer
  - if the plan is a fixed-term retail contract, the contract ends and the customer has not provided consent to be moved to a different offer (in which case the customer would be moved to the Victorian Default offer for electricity or the retailer's standing offer for gas).<sup>165</sup>
8. If the customer remains eligible for the automatic best offer, the retailer would be required to switch them to a new best offer (if available) at least once every six months for electricity and eight months for gas.

### 5.3.8. Implementation option A.2 – changing tariffs

Option A.2 would require retailers to lower the tariffs on a customer's existing energy plan once they meet the proposed eligibility criteria to align tariffs with their best offer. This option would allow a customer to retain other benefits and services associated with their plan while paying less for their energy.

The code currently allows a retailer to increase tariffs on an energy plan once a year.<sup>166</sup> There are no restrictions as to when or how often a retailer can reduce tariffs. However, this option would also require amendments to the code to allow retailers to change the structure and nature of the tariff of a customer's market retail contract without their agreement.<sup>167</sup>

We propose that this option could have similar protections in the form of opt-outs and a post-switch reversal in order to protect customer agency and explicit informed consent. However, we consider these protections are less likely to be requested because customers would not lose any non-tariff related benefits or services from their existing plan. We also acknowledge that some customers may not want their tariff structure altered or a different weighting of daily supply and usage charges.

We propose that retailers would follow similar steps to those outlined above for the implementation of Option A.1, including opt-out and post switch reversal protections. Retailers would also notify customers of tariff changes under existing rules.<sup>168</sup> However, retailers would change the

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<sup>165</sup> Sections 35 and 39 of the *Electricity Industry Act 2000* and sections 42 and 46 of the *Gas Industry Act 2001*.

<sup>166</sup> Clause 94 of the [Energy Retail Code of Practice \(version 3\)](#).

<sup>167</sup> Clause 93 of the [Energy Retail Code of Practice \(version 3\)](#).

<sup>168</sup> Clause 92(3) of the [Energy Retail Code of Practice \(version 3\)](#).

customer's tariffs instead of switching the customer's energy plan. If a customer ceased to be eligible (for example, by reducing their debt), the new tariffs would remain in place until changed by a retailer in accordance with existing requirements of the code. This would usually occur on 1 August each year for contracts that are not fixed-term contracts.<sup>169</sup>

### 5.3.9. Implementation option A.3 – crediting

Option A.3 requires retailers to credit all customers experiencing payment difficulty who meet the eligibility criteria the difference in price of the energy they have used on their current plan compared to the cost of that same energy usage on the best offer. This would only apply when customers could have saved money by being on a different plan.

We understand that retailers have existing billing systems which allow for incidental and occasional credits to be applied to customer accounts. This option would require the retailer to perform a calculation dependent on a customer's billing cycle to determine the precise credit amounts for each customer. The crediting option would also allow customers to retain any services or non-tariff benefits associated with their current energy plan.

This option would not require opt-outs and a post switch reversal, compared to the other two implementation options. This is because there would be no change to a customer's current plan, just a potential decrease in the total cost of their energy if the customer is not on their best offer. If a customer ceased to be eligible (for example, by reducing their debt), they would no longer be credited the difference in price between their current plan and the best offer for the energy they have used.

### 5.3.10. MCA assessment – implementation options

Given the absence of quantitative data concerning industry and government costs, an MCA assessment was undertaken to compare the costs and benefits of implementing Option AA.2. The scoring is relatively low because this assessment considers implementation issues only.

**Table 10: MCA assessment of options A.1, A.2 and A.3: Effectiveness**

| Option | Criteria<br>(weighting 50%)             | Assessment   | Score<br>(-10 to 10) | Weighted<br>score |
|--------|---|--|----------------------|-------------------|
| A.1    | Effectiveness<br><br>Reform objectives: | A barrier identified for automatic switching to the best offer is the requirement for retailers to receive explicit informed consent from the customer. This option would exempt retailers from this requirement but put in place safeguards | 4                    | 2                 |

<sup>169</sup> Existing requirements include rules that state tariffs can only be increased once a year and changes to the structure and nature of the tariff of market retail contracts must be agreed between a customer and a retailer. See clauses 92, 93 and 94 of the [Energy Retail Code of Practice \(version 3\)](#).

- help households pay less for energy
- increase support for people experiencing payment difficulty.

in the form of opt-out and switch reversal period provisions.

This option would provide customers with the benefits of the new contract (the best offer) for the entire duration of the contract, regardless of whether a customer would continue to be eligible for this support. For example, a customer could be eligible for the automatic best offer switch for only six months, but once switched to the best offer, they could potentially benefit from the new plan for longer if, for example, the new plan has fixed prices for 12 or 24 months. Retailers would still be allowed to increase prices once a year. Under current rules, retailers are only allowed to increase prices for customers once a year, either on the day that is one month after network tariff prices change (usually on 1 August each year), or on the anniversary date of a customer's initial fixed price period expiring (where the initial fixed price period must be no less than 12 months).

Given the variety of plans' terms and conditions, we cannot estimate the additional potential savings for customers from this option. However, it is reasonable to assume it would result in savings for customers over a longer period of time compared to Options A.2 and A.3. This would also help households pay less for energy and increase the effectiveness of the support provided to customers experiencing payment difficulty for a longer time.

We expect this option would also be more effective in encouraging customers to engage with their retailer than Options A.2 and A.3. Receiving proactive support from a retailer by being switched to the best offer could increase confidence in the energy market and lead customers to seek other forms of support available.

This option would also provide the most clarity for customers, as they may more easily understand and appreciate the benefits of being switched to the best offer plan rather than having tariff changes or receiving a credit on their bills.

However, we acknowledge that there may be some risk of reduced trust from being switched plans without explicit informed consent, despite the automatic best offer being mandated and resulting in a customer saving money. There could be a risk of a customer losing a non-monetary benefit in their original plan. We have reduced this risk through opt-outs and post-switch reversal protections.

|     |               |  |     |      |
|-----|---------------|--|-----|------|
| A.2 | Effectiveness | The option of changing tariffs in relation to a customer's existing energy plan to an equivalent | 3.5 | 1.75 |
|-----|---------------|--|-----|------|

|     |   |  |   |     |
|-----|---|--|---|-----|
|     | <p>Reform objectives:</p> <ul style="list-style-type: none"> <li>• help households pay less for energy</li> <li>• increase support for people experiencing payment difficulty.</li> </ul> | <p>amount to the best offer would initially result in a similar financial impact for consumers as Option A.1. However, changing a customer's tariffs to match the best offer could have a potentially shorter benefit than switching a customer to the best offer.</p> <p>For example, a customer could receive tailored assistance for only six months, and the end of this period could coincide with annual tariff increases as explained in Option A.1. In this case, the customer would benefit from this option for a shorter period than they would under Option A.1. We note retailers must notify customers before increasing tariffs.</p> <p>Given the variety of plans' terms and conditions, we cannot estimate the overall potential savings for customers from this option. However, it is reasonable to assume that in most cases it would lead to slightly reduced savings for customers compared to Option A.1.</p> <p>On the other hand, changing tariffs without switching customers to a new plan would mean a customer continues to enjoy non-tariff benefits from their current plan (for example, online subscription services). While this would be an advantage compared to switching plans, we expect that in most cases it would not be a significant difference, as it would need to be compared to the potential advantages and benefits of the best offer plan (for example, plans with free online subscriptions have higher tariffs). We cannot reasonably estimate or quantify these benefits, as they would need to be assessed on a case-by-case basis.</p> <p>We expect this option would not be as effective as switching plans in encouraging customers to engage with their retailer and to seek other forms of support available. Customers could have more difficulty in understanding the benefits of changed tariffs, particularly as they would remain on the same plan. This could lead to a slightly less positive consumer experience.</p> <p>Based on the collective reasons above, we consider this option slightly less effective than Option A.1.</p> |   |     |
| A.3 | <p>Effectiveness</p> <p>Reform objectives:</p> <ul style="list-style-type: none"> <li>• help households pay less for energy</li> <li>• increase support for people</li> </ul>             | <p>The option of crediting a customer's account with the difference between their current plan and the best offer would have an initial equivalent financial impact for consumers as Option A.1.</p> <p>However, there would be a degree of impermanence associated with this option. Customers would only receive a credit while eligible for this support. Their plans would remain unchanged. This could lead to price shocks once</p>  | 3 | 1.5 |

experiencing payment difficulty.

a customer exits tailored assistance or is no longer eligible under the debt threshold. This could be particularly problematic for customers who enter and exit tailored assistance in a short period of time.

For example, a customer who received tailored assistance for two months would only receive a credit for the last relevant bill, and would need to continue paying at higher energy rates for the next bills. However, under options A.1 and A.2, The same customer would continue to benefit from a cheaper plan or tariffs until at least the next tariff increase.

While we cannot quantify the financial impact of this option compared to Options A.1 and A.2, we can reasonably assume that it would be less effective in helping households pay less for energy.

We also expect this option would be slightly less effective in encouraging customers to engage with their retailer and seek other forms of support available. Customers are more likely to engage with a notice of being switched to a better plan, or a tariff decrease (options A.1 and A.2), than a credit as a line item on their bill. The other two options would require a specific notice being sent to the customer notifying the changes rather than a credit simply appearing on a customer's bill, which is currently standard practice for different types of credits and rebates.

We therefore consider this option would be less effective than the two other options in increasing support for people experiencing payment difficulty.

**Table 11: MCA assessment of options A.1, A.2 and A.3: Cost to industry**

| Option | Criteria<br>(weighting 40%) | Assessment   | Score<br>(-10 to 10) | Weighted<br>score |
|--------|-----------------------------|--|----------------------|-------------------|
| A.1    | Cost to industry            | <p><u>Compliance costs</u></p> <p>Retailers would need to comply with a new set of steps for automatically switching customers and would need to provide opt-out and post-switch reversal processes. This also includes new notification requirements. We anticipate that retailers would need to update IT systems and processes, due to the automated nature of these steps. The scale and complexity of these changes will depend on the size and sophistication of an individual retailer. We note that four retailers</p> | -3                   | -1.2              |

commented that, in general, the highest once-off costs could relate to major IT system changes.

However, we note that retailers currently have processes in place for switching customers to the best offer, and these could be utilised under this option. Retailers could also consider the number and frequency of offers they make available in the market, and how to optimise offers so that customers eligible for this support can be efficiently switched to their best offer.

#### Cost transfers

This option is expected to result in higher foregone revenue for retailers, reflecting the greater effectiveness of helping households pay less for energy. Customers switched to the best offer are likely to benefit from lower prices for a longer period than under alternatives such as temporary tariff reductions or credits. For the purposes of our assessment, total foregone revenue is treated as a cost. However, as with other options, it is not necessarily an economic cost. Much of this revenue reflects higher prices paid by disengaged or vulnerable customers, rather than efficient service provision.

Some of the revenue loss may be recovered from other customers, depending on the retailer's pricing strategy and the degree of competitive constraint, meaning it represents a redistribution of costs, not a net system cost.

#### Comparison with other options

Unlike Options A.2 and A.3, this option does not require retailers to change existing plans or offers as it relies on existing best offer calculations. However, Option A.1 leads to slightly higher forgone revenue than Options A.2 and A.3. Overall, costs to industry will be similar to Option A.2 and slightly higher than Option A.3.

|     |                  |   |    |      |
|-----|------------------|---|----|------|
| A.2 | Cost to industry | <u>Compliance costs</u><br><br>Retailers provided strong feedback on reducing customers' tariffs outside of their usual timings (which is often a once-a-year process). Retailers also noted that their systems are not set up to unbundle existing tariffs from plans. Therefore, this option would likely involve major changes to retailers' processes (and possibly systems).<br><br>Under this option, retailers would also have to provide opt-out and post-switch reversal processes and ensure that appropriate notifications and timeframes are followed.<br><br><u>Cost transfers</u> | -3 | -1.2 |
|-----|------------------|---|----|------|

This option would involve lower foregone revenue by retailers (or costs passed onto other customers) in comparison to Option A.1, but higher than Option A.3. This reflects the assessed effectiveness of this option in helping households pay less for energy, which is driven by the expected duration of the financial benefit.

#### Comparison with other options

Given the difficulties and complexity for retailers to unbundle existing tariffs from plans, this option would require more significant changes to retailers' accounts and billing systems, in addition to the costs related to support for customer service agents and changes to internal processes expected for Option A.1 and Option A.3. Option A.2 leads to slightly lower forgone revenue than Option A.1 and similar foregone revenue to Option A.3. Therefore, the overall cost to industry would be similar to costs for Option A.1 and higher than Option A.3.

|     |                  |   |      |    |
|-----|------------------|---|------|----|
| A.3 | Cost to industry | <u>Compliance costs</u><br><br><p>This option would impose more compliance costs and be more complex to implement than Option A.1 but less complex and costly than Option A.2.</p> <p>It is likely that major IT system changes will be required for this option.</p> <p>Retailer billing systems are not currently configured to provide credits based on a comparison with the customer's best offer. Retailers would need to make credit calculations and credit amounts to eligible customers in each bill. Given that customers can have different billing cycles, this could lead to various calculation timelines and additional complexity for compliance with new requirements.</p> <p>The number of additional best offer checks (or calculations) required from a retailer would likely be higher than Option A.1 and similar to Option A.2, as a new calculation would be required for every bill.</p> <p>On the other hand, under this option retailers would not have to provide opt-out and post-switch reversal protections. This would mean less safeguard costs compared to Options A.1. and A.2.</p> <u>Cost transfers</u><br><br><p>Given credits are more temporary than other Options A.1 and A.2, this option would involve lower foregone revenue from retailers. This reflects the reduced effectiveness of this option in helping</p> | -2.5 | -1 |
|-----|------------------|---|------|----|

households pay less for energy, driven by the more temporary nature of credits.

Comparison with other options

On balance, the extent of changes to retailers' IT system changes may be slightly higher than Option A.1. However, this option would involve lower forgone revenue than Option A.1.

Compliance costs would be less costly than Option A.2 and foregone revenue would be lower than Option A.2.

**Table 12: MCA assessment of options A.1, A.2 and A.3: Cost to government**

| Option | Criteria<br>(weighting 10%) | Assessment  | Score<br>(-10 to 10) | Weighted<br>score |
|--------|-----------------------------|---|----------------------|-------------------|
| A.1    | Cost to government          | <p>The commission would need to monitor implementation, including with the best offer checks, opt-out and post-switch reversal protections. It would need to ensure that retailers adhere to the steps for switching customers without their explicit informed consent.</p> <p>The commission's costs would involve reviewing retailers' compliance and performance reporting obligations, assisting with implementation and monitoring compliance with the new switching process. Costs for this option are relatively minor once updated reporting is in place. They are not significantly different than the costs for monitoring compliance with Options A.2 and A.3.</p> | -1.0                 | -0.10             |
| A.2    | Cost to government          | <p>The commission's costs for this option would not be materially different from Option A.1, since it would monitor and enforce the best offer checks, opt-out and post-switch reversal protections and ensure that retailers adhere to the steps for changing customers' tariffs.</p>  | -1.0                 | -0.10             |
| A.3    | Cost to government          | <p>The commission would need to monitor implementation of the crediting arrangements. As these arrangements are likely to be more complex than switching customers or reducing their tariffs, this could involve reviewing and monitoring additional reporting obligations. However, we do not expect the commission's costs would be significantly different than for Options A.1 and A.2.</p>   | -1.0                 | -0.10             |

### 5.3.11. Preferred option – implementation

**Table 13:** Summary of MCA assessments – Automatic switching to best offer: Implementation

| Option | Description      | Weighted score          |
|--------|------------------|-------------------------|
| A.1    | Switching plans  | <b>0.70 (preferred)</b> |
| A.2    | Changing tariffs | 0.45                    |
| A.3    | Crediting        | 0.40                    |

## 5.4. Summary and preferred options

The MCA assessment suggests that the preferred options are Option AA.2 (for eligibility) and Option A.1 (for implementation). That is, energy retailers automatically switching to the best offer customers who are receiving tailored assistance as well as customers who have been in arrears for at least three months and with arrears of \$1,000 or more.

First, an MCA assessment was undertaken to assess two proposals to determine the preferred eligibility option. Option AA.2, applying to customers receiving tailored assistance as well as customers in arrears for at least three months and with arrears of \$1,000 or more, was the preferred option (see table below). This is primarily because it covered a larger number of people experiencing payment difficulty, and hence was more effective. While this option imposed higher costs on industry and higher administrative costs on government than Option AA.1, the higher benefits attached to this option were higher than those for AA.1 (and considerably higher than the base case).

Second, three implementation options were considered to assess the preferred implementation of Option AA.2. Option A.1, automatic switching to the best offer for all customers experiencing payment difficulty who meet the chosen eligibility criteria was preferred. The main difference between these options was the effectiveness in delivering assistance to consumers, particularly in relation to the expected duration of the benefits. Another key difference was noted in the costs and complexity associated with changing payment systems to deliver Option A.2 and Option A.3, resulting in higher costs for industry.

**Table 14:** Summary of MCA assessments – Automatic switching to best offer

| Option | Description                              | Weighted score |
|--------|--|----------------|
| AA.1   | Customers receiving tailored assistance. | 0.925          |

|      |  |  |
|------|--|--|
| AA.2 | Customers receiving tailored assistance and customers in arrears for at least three months and with arrears of \$1000 or more. | <b>1.025<br/>(preferred eligibility)</b>   |
| A.1  | Automatic switch to best offer for all customers experiencing payment difficulty who meet the chosen eligibility criteria.     | <b>0.70<br/>(preferred implementation)</b> |
| A.2  | Change customer tariff to cheapest available tariff, for customers who meet chosen eligibility criteria.                       | 0.45                                       |
| A.3  | Credit difference between customer offer and best offer, for customers who meet chosen eligibility criteria.                   | 0.40                                       |

## 5.5. Questions for stakeholders

8. Are there other mechanisms we should consider in the designing of the automatic best offer to protect consumer choice and agency (in addition to the proposed opt-out and post switch reversal periods)?
9. Could the proposed amendments for the automatic best offer be enhanced to further reduce implementation costs and maximise benefits to customers experiencing payment difficulty?
10. Do you have any feedback on the proposed process and implementation timeframes for the automatic best offer?

## 6. Improving access to cheaper offers

### Preferred option

A retailer would be required to:

- offer alternative payment methods for all contracts
- offer paper bills and e-billing for all contracts.
- A retailer would be able to charge a conditional fee or to offer a conditional discount related to payment conditions. However, all conditional fees or discounts would be limited to the reasonable costs incurred by the retailer resulting from the customer's failure to satisfy a payment condition.

### 6.1. Scope of reform

#### 6.1.1. Purpose of reform

As discussed in Section 2.1.1, most electricity and gas customers are not on their retailer's best offer. Additionally, many cannot access their retailers' cheapest offers due to plans requiring direct debit and e-billing. Customers at risk of experiencing vulnerability including the elderly, First Nations peoples and culturally and linguistically diverse Victorians are often unable to sign up to plans with those requirements.

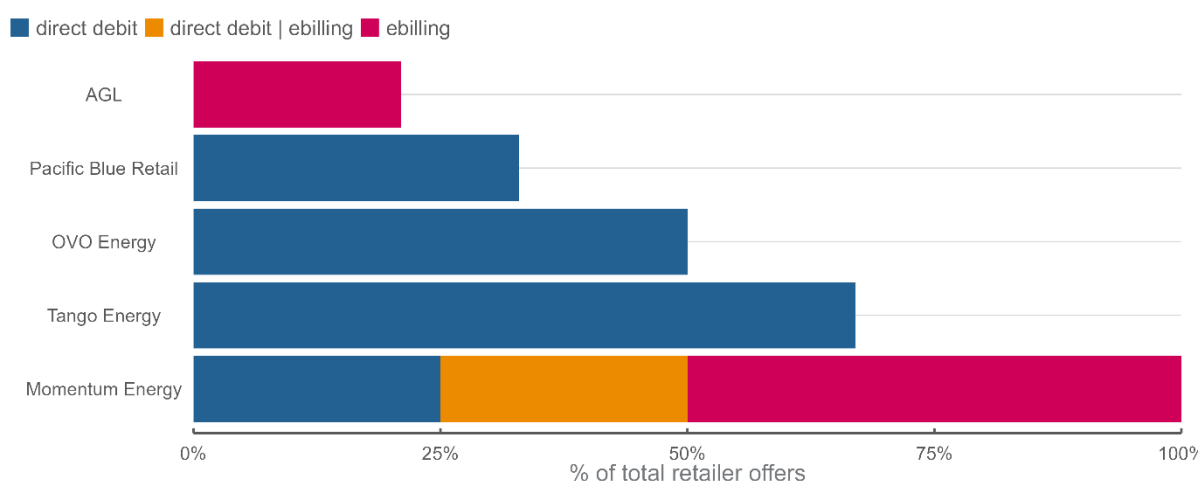
To support all small customers, we are proposing changes to improve access to cheaper plans. This would involve ensuring that payment method restrictions or electronic communication requirements are not used as barriers for cheaper plans.

While most plans on the market do not require payment through direct debit or e-billing, some retailers offer plans that restrict payments to direct debit and/or require e-billing. We found five retailers with electricity offers restricted to e-billing and/or direct debit, with some retailers having most of its offers with these conditions.<sup>170</sup> Momentum Energy and Tango Energy have the largest share of its offers with these conditions, as shown below. Also note that only one retailer, Momentum, has all its electricity market offers restricted by payment or billing type.

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<sup>170</sup> Note that Pacific Blue Retail and Tango Energy are brands under the same licensed retailer, Pacific Blue Retail Pty Ltd.

**Figure 16:** Percentage of electricity offers with e-billing and/or direct debit condition, by retailer



**Source:** Victorian Energy Compare (VEC) data from April 2025.

Note that we found only two gas retailers offering similarly restricted gas plans. Together, these plans account for at least fifty per cent of each retailer's available offers.<sup>171</sup>

When compared to the wider market, plans with payment method or paper bill restrictions are among the cheapest in the market, though they might not always be the cheapest plans offered by all retailers.

As energy is an essential service, we consider it necessary that customers have the same access to competitively priced energy offers, without restrictions on payment or billing types.

This reform is expected to increase fairness when competing for customers in the energy market, preventing energy retailers from restricting specific types of customers from accessing cheaper plans. This would provide additional benefits for customers who cannot choose direct debit or e-bills.

### 6.1.2. What we heard from stakeholders

During consultation and workshops, consumer groups and public entities raised the issue of paper billing and alternative payment methods to direct debit. They noted that customers who require these alternatives may be restricted from accessing some retailers' cheapest plans.

<sup>171</sup> Our analysis is based on a sample of 2,132 residential electricity offers and 847 gas offers on Victorian Energy Compare (VEC) data downloaded in April 2025.

Stakeholders considered that consumers affected by these restrictions are often from groups that are more likely to be experiencing vulnerability. They include the elderly, First Nations peoples and culturally and linguistically diverse Victorians.<sup>172</sup>

Some retailers stated that prohibitions on requiring certain payment methods and e-billing would raise costs. They considered that these costs could be socialised across their entire customer base. However, other retailers noted that they have already moved away from offering direct debit-only plans or e-billing only plans. They noted that they already offer a wider range of payment and communication methods across all their plans.<sup>173</sup>

### 6.1.3. Approach to options development

Our approach to developing options considered the current variety of energy plans offered in the Victorian market and the feedback we heard from stakeholders. We compared current Victorian regulations with requirements in other jurisdictions and developments in other industries. We considered the potential consequences of different interventions and how retailers might react to new rules.

We understand that the majority of plans with payment or billing restrictions required both e-billing and payment by direct debit. We therefore consider that any intervention would need to address both restrictions collectively. We welcome stakeholders' views on our proposed approach.

We also considered that retailers could react to new rules requiring them to offer alternative payment methods or paper bills by introducing conditional fees or discounts that would act as barriers preventing customers from accessing these options.

In developing the options below, we considered:

- potential savings for customers
- the likelihood of cheaper offers being withdrawn from the market
- potential implementation costs for retailers.

## 6.2. Options considered but not progressed to assessment

We have not considered options that do not allow retailers to recoup reasonable costs for paper bills or alternative payment methods. Failing to allow retailers to do so would place increased costs on retailers that would potentially be socialised among the wider customer base. In addition, there

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<sup>172</sup> Energy and Water Ombudsman Victoria, [submission to the Essential Services Commission 'Energy Retail Code of Practice: Issues Paper'](#), 31 July 2024; Essential Services Commission, [Workshop 2 \(In-person\) Consultation Summary](#), January 2025, pp. 2–3; Victorian Council of Social Service, [submission to the Essential Services Commission 'Energy Retail Code of Practice: Issues Paper'](#), 19 July 2024.

<sup>173</sup> Essential Services Commission, [Workshop 2 \(In-person\) Consultation Summary](#), January 2025.

are already provisions in the code that allow retailers to recoup costs such as merchant service fees or additional retailer charges.<sup>174</sup>

We noted that some conditional discounts or fees may incentivise more efficient communications and billing, leading to indirect benefits for customers, retailers and society (for example, by avoiding the use of postal services when possible).

We also considered the recent AEMC draft determination to restrict certain fees and charges.<sup>175</sup> The AEMC considered that prohibiting paper bills fees for all consumers would be unnecessary. However, its draft determination proposes to restrict all ancillary fees and charges to hardship customers, customers of payment plans, customers experiencing family violence and customers receiving a concession.<sup>176</sup> We understand that the Victorian Government will consider the AEMC's reforms, so we have not progressed options involving prohibiting certain fees and charges.

## 6.3. Options

### 6.3.1. Base case

The base case for this reform would be the status quo. Retailers would continue to be able to offer plans that require payment via direct debit or the use of e-billing. While most plans are not restricted in this way, some are. The latter include the cheapest offers for some retailers. Customers unable or unwilling to pay via direct debit or use e-billing would not be able to access these plans.

No changes would be made to limit conditional discounts or conditional fees. The code currently allows retailers to recover merchant service fees (for example, for payments with a credit card) and to add additional charges for specific services. Any additional retail charges must be fair and reasonable having regard to related costs incurred by the retailer.<sup>177</sup>

### 6.3.2. Option B.1 – Requiring retailers to offer paper billing and alternative payment methods to direct debit with no further consumer protections

This option would require retailers to offer paper billing and alternative payment methods to direct debit for all plans.

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<sup>174</sup> Clauses 77 and 78 of the [Energy Retail Code of Practice \(version 3\)](#).

<sup>175</sup> Australian Energy Market Commission, [Improving consumer confidence in retail energy plans: Draft rule determination](#), 27 March 2025.

<sup>176</sup> *Ibid.*, pp. 41 and 52.

<sup>177</sup> Clauses 77 and 78 of the [Energy Retail Code of Practice \(version 3\)](#).

Any current or future plans offered by retailers would have to allow the option of paper billing and to offer payment methods other than direct debit. These alternative payment methods would include payments in person (for example, at an Australia Post office), by telephone, by mail or by electronic funds transfer. These payment methods are already required for a retailer's standing offers.

No other protections or amendments to the code would be made, allowing retailers to engage in various pricing practices to recoup the costs of paper bills or alternative payment methods. The use of e-billing and direct debit could be subject, for example, to conditional discounts of varying amounts. Payment methods or paper bills could also be the subject of additional retail charges, but these are already limited to reasonable costs incurred by the retailer under the code.<sup>178</sup>

Under this option, retailers could offer plans with large discounts for customers who use e-billing or who pay using direct debit. This may benefit customers who can use these options. However, customers who could not meet the conditions of these discounts would continue to pay higher prices.

For example, under this option, a retailer could offer a higher-priced plan that includes significant discounts for the use of e-billing and payment by direct debit. When excluding discounts, the total price of the plan could be higher than plans that already allow for paper bills and alternative payment methods.

It is worth noting that because direct debit is necessarily paid on time, large discounts for direct debit could provide a method for retailers to bypass the current cap on pay-on-time discounts.<sup>179</sup>

### **6.3.3. Option B.2 – Requiring retailers to offer paper billing and alternative payment methods to direct debit and limiting conditional fees and discounts to 'reasonable costs'**

Similar to Option B.1, this option would require retailers to offer paper billing and alternative payment methods to direct debit on all plans. In addition, this option would include additional limits to cap the sum of any conditional fees and conditional discounts related to payment conditions. These conditional fees and discounts would be limited to a reasonable estimate of the costs incurred, or likely to be incurred, by the retailer resulting from a customer's failure to satisfy the condition(s). We would also require retailers to offer at least one fee-free payment option.

This would reduce the risk that customers who require paper billing or alternative payment methods may still end up paying significantly higher costs than other customers.

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<sup>178</sup> Ibid.

<sup>179</sup> Clause 95 of the [Energy Retail Code of Practice \(version 3\)](#).

We would seek to replicate the operation of caps to conditional fees and conditional discounts in the NERR.<sup>180</sup> We note that when these rules were made by the AEMC, it considered that a definition of ‘reasonable costs’ was not required, given the term was a widely used and understood concept. The AEMC also considered it would be unnecessary to require the AER to develop a guideline to determine reasonable costs levels.<sup>181</sup>

Given the range of different retailer costs and types of conditional fees and discounts, enforcement of these rules would be on a case-by-case basis. Nevertheless, in an internal analysis we found that credit or debit card fees were generally half a per cent to one per cent charged on top of the total bill amount. Some retailers did not charge a fee for this. Fees for paying in person at Australia Post ranged between \$2 and \$4. The average fee for paper bills was \$2.16 for electricity and \$2.34 for gas. We expect that any conditional fees or discounts to cover reasonable costs would be within current market practice.

Under this option, retailers would be able to recoup the costs of providing paper bills and alternative payment methods. This would minimise the risk of relevant retailers needing to remove their cheapest plans from the market.

A ‘reasonable cost’ cap would coexist and reduce the risk of these reforms impacting existing pay-on-time discount caps. It would also discourage pricing strategies that might negate the intent of this reform.

This option would also include a similar provision related to payment methods proposed by the AEMC in its ‘Improving consumer confidence in retail energy plans’ draft determination.<sup>182</sup> This would require a retailer to provide a customer with at least one method of payment which is commonly used and accessible, for which no charges are imposed (whether by the retailer or the payment service provider). We consider this aligns with the intended outcomes of this option, to expand access to payment methods for customers without imposing unnecessary restrictions.

This requirement for a fee-free payment method would be in addition to the requirement for alternative payment methods. Direct debit could be the free payment method if a retailer so chose.

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<sup>180</sup> Rules 46C and 52B of the National Energy Retail Rules.

<sup>181</sup> Australian Energy Market Commission, [Regulating conditional discounting: Rule determination](#), 27 February 2020, p. 12.

<sup>182</sup> Australian Energy Market Commission, [Improving consumer confidence in retail energy plans: Draft rule determination](#), 27 March 2025.

## 6.4. Analysis

### 6.4.1. MCA assessment – Options B.1 and B.2

Based on our analysis, currently only five retailers offer electricity plans restricted by direct debit payment and/or e-billing. This represents a small number of retailers compared to over 20 retailers operating in Victoria.

Customers who cannot meet those conditions may miss out on potential savings. For example, we have identified offers with these restrictions from these retailers, where a customer could save between \$164 and \$398 per year compared to the VDO.<sup>183</sup>

We recognise the value to a retailer of a customer who pays on time, but we do not have data on the actual savings to a retailer for direct-debit only offers. However, we note that:

- The current regulated cap for pay-on-time discounts is 6.62 per cent. The average bill for a customer on the VDO is \$1,663 during the same year, meaning the estimated actual cost of a pay-on-time discount (which is like a direct-debit payment) is approximately \$110.<sup>184</sup>
- The average paper bill fee is \$2.16.<sup>185</sup> This would result in an actual yearly cost of \$8.64 for a customer who receives bills quarterly, and \$25.92 for a customer who receives a monthly bill.

Together these costs (\$136 per year) are lower than the 'opportunity cost' of some of these restricted plans (\$164 to \$398 per year).

Therefore, we consider there are two main types of benefits for this reform:

- Improved access for all Victorian customers to competitively priced offers without payment or billing type restrictions. This would also improve access to more offers for customers experiencing vulnerability, noting that every extra dollar saved by these customers is likely to be worth more to them than the average customer.
- Improved competition between all Victorian retailers, as all retailers would not be able to use conditions for payment as a barrier to cheaper offers. Retailers would compete with equal restrictions and would not be able to segment customers differently, based on their preferred

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<sup>183</sup> Based on offers available on 23 April 2025, in the Jemena distribution area. The offers identified were Momentum's Nothing Fancy, Tango's eSelect, Pacific Blue's Blue First, Ovo Energy's The One Plan, and AGL's Netflix Plan. Savings were based on an annual consumption of 4,000kWh per year, based on flat-rate offers (except for The One Plan, which assumes all consumption at the peak rate), and do not include the value of additional benefits. We have used the VDO to compare benefits as it is a reasonably priced electricity offer set by the commission that is usually used as a benchmark. As market offers can be below the VDO, the use of the VDO may understate the potential savings.

<sup>184</sup> Based on an annual consumption of 4,000kWh per year in the Jemena distribution area.

<sup>185</sup> Based on paper bill fees charged by seven electricity retailers in February 2025.

payment method or billing type. Some retailers who already offer plans without these restrictions may benefit and gain further market share because of the reforms.

We note that, for both options, the extent of effectiveness will depend on the level of behavioural change (the proportion of customers choosing to switch plans).

In terms of costs, only retailers who currently have restricted plans in this manner would need to review and adjust their offers. We note that retailers regularly change their offers, including the development, creation and marketing of these offers. We are providing a six-month implementation time for these reforms, allowing retailers to incorporate these changes into their business-as-usual processes (to minimise additional costs). Most retailers would not need to make any changes because of this reform.

We also recognise that there may be some merit in retailers offering novel energy plans with certain restrictions, for example plans for customers who own an electric vehicle. We will continue to monitor how restricted plans are being offered by retailers.

Customers may be able to switch to a lower-priced unrestricted plan with another retailer noting that a customers’ ability to switch is influenced by many factors such as pricing, incentives, bundling, consumer energy resources and search costs. While it is not possible to predict the number of customers that would switch to cheaper offers if this proposed reform is implemented, we expect it to benefit a limited number of customers and consequently impose minimal total costs on the industry.

An MCA assessment was undertaken to compare the costs and benefits of Option B alternatives. The tables below show these results, broken down by assessment criteria.

**Table 15:** MCA Assessment of Options B.1 and B.2: Effectiveness

| Option | Criteria<br>(weighting 50%)   | Assessment   | Score<br>(-10 to 10) | Weighted<br>score |
|--------|---|--|----------------------|-------------------|
| B.1    | <p>Effectiveness</p> <p>Reform objectives:</p> <ul style="list-style-type: none"> <li>• help households pay less for energy</li> <li>• enhance protections for energy consumers.</li> </ul> | <p>While only a small proportion of energy retailers have plans that are restricted to require direct debit or e-billing, the impact on a customer experiencing vulnerability can be considerable.</p> <p>This option is expected to improve access for all Victorian customers to competitively priced offers without payment or billing type restrictions as well as improve competition between all Victorian retailers (as all retailers would not be able to use conditions for payment as a barrier to cheaper offers). This is expected to benefit consumers experiencing vulnerability who currently cannot access those cheaper plans.</p> <p>Under this option, energy retailers would be able to include conditional discounts for new plans using direct debit and e-billing without general restrictions. This could result in reduced benefits, because customers who cannot use direct debit or e-billing could still pay significantly more than customers who can (by not being able to access discounts).</p>  | 2                    | 1.0               |
| B.2    | <p>Effectiveness</p> <p>Reform objectives:</p> <ul style="list-style-type: none"> <li>• help households pay less for energy</li> <li>• enhance protections for energy consumers.</li> </ul> | <p>This option is also expected to improve access for all Victorian customers to competitively priced offers without payment or billing type restrictions as well as improve competition between all Victorian retailers (as all retailers would not be able to use conditions for payment as a barrier to cheaper offers). As with Option B.1, this is expected to benefit consumers experiencing vulnerability who currently cannot access those cheaper plans.</p> <p>Unlike Option B.1, retailers would be limited in applying conditional discounts related to payment methods to 'reasonable costs' for new plans.</p> <p>Compared to Option B.1, this option provides greater certainty that customers who cannot use direct debit or e-billing will not pay unreasonably more than customers who can. Under this option, retailers would not be able to charge significant, unreasonable costs for the use of non-direct debit payment methods or paper bills. They would also not be able to offer significant discounts for the use of direct debit or e-billing that have the effect of significantly raising prices for customers who cannot meet those conditions or pricing those customers out of accessing these plans altogether.</p> <p>Because of the additional protections provided under this option and potential for wider savings across the customer base, this option would</p> | 3                    | 1.5               |

achieve our primary objective of helping households pay less for energy to a greater degree than Option B.1.

**Table 16: MCA Assessment of Options B.1 and B.2: Cost to industry**

| Option | Criteria<br>(weighting 40%) | Assessment   | Score<br>(-10 to 10) | Weighted<br>score |
|--------|-----------------------------|--|----------------------|-------------------|
| B.1    | Cost to industry            | <p>Many energy retailers (representing most of the energy retail market share) already allow for a range of payment and billing methods and would not be required to make changes in relation to these reforms.</p> <p>Some energy retailers (five electricity and two gas retailers) could experience a reduction in revenue as some customers that are currently restricted from cheaper offers would be able to access better deals.</p> <p>Payment methods such as direct debit also reduce the risk of bills not being paid on time, and this may result in an additional cost. However, we consider that customers who currently cannot access direct debit are already more likely to be missing bill payments.</p> <p>This option acknowledges that paper-based or in-person transactions are more costly to process than direct debit or e-billing payment. Therefore, the ability to apply service charges or incentivise discounts to other payment methods would help energy retailers recoup such costs and potentially foregone revenue.</p> | -1.5                 | -0.6              |
| B.2    | Cost to industry            | <p>As with Option B.1, many energy retailers (representing most of the energy retail market share) already allow for a range of payment and billing methods and would not be required to make changes in relation to these reforms.</p> <p>As with Option B.1, some energy retailers could experience a reduction in revenue as customers would be able to move to cheaper offers with their same retailer that are currently restricted. However, the number of customers who will switch to cheaper offers with the same retailer due to these reforms is not expected to be significant.</p> <p>In addition, with service charges set as 'reasonable costs' (and capping of discounts) energy retailers will have a more limited ability to recoup revenue forgone compared to Option B.1.</p> <p>We note that some of the few retailers who currently have restricted plans may lose new customers if discounts are capped, as they might not be able to</p>   | -2                   | -0.8              |

offer plans as cheap as other retailers, which may impact their market share and result in a potential loss of future revenue. Therefore, this option will impose higher costs on industry compared with Option B.1.

**Table 27: MCA Assessment of Options B.1 and B.2: Cost to government**

| Option | Criteria<br>(weighting 10%) | Assessment   | Score<br>(-10 to 10) | Weighted<br>score |
|--------|-----------------------------|--|----------------------|-------------------|
| B.1    | Cost to government          | Cost to government associated with this option is likely to be small. These costs will consist of working with industry to support implementation of changes and informing consumers of the proposal.  | -0.25                | -0.025            |
| B.2    | Cost to government          | Cost to government for this option are likely to be similar as for Option B.1. However, under this option, the government will be required to consider and monitor conditional fees and discounts set by retailers against the concept of 'reasonable costs' in order to assess compliance. While there are currently mechanisms in place for this, this option will be slightly more costly for government than Option B.1. | -0.35                | -0.035            |

## 6.5. Summary and preferred option

The MCA assessment of these options results in Option B.2 being preferred. The primary reason is that Option B.2 is likely to be more effective than Option B.1 because it will provide customers who may be experiencing vulnerability with access to more affordable plans while providing safeguards for these customers by setting reasonable limits on conditional fees and discounts. In the absence of this safeguard, customers who require paper billing or alternative payment methods could be potentially worse off as retailers seek to clawback foregone revenue by increasing revenue from conditional fees or discounts.

The implementation costs to industry of these options would be similar. However, Option B.2 would impose limitations on revenue from conditional fees or discounts and thus would be more costly for industry. The costs for the commission would also be similar for both options, but enforcement costs would be slightly higher for Option B.2 since the commission would need to monitor 'reasonable costs' and the application of conditional fees or discounts.

**Table 38:** Summary of MCA assessments – Improving access to cheaper offers

| Option | Description   | Weighted score                     |
|--------|---|------------------------------------|
| B.1    | Requiring retailers to ensure plans are not restricted based on payment method (e.g. direct debit) or communication method (e-billing)  | -0.375                             |
| B.2    | Requiring retailers to ensure plans are not restricted based on payment method (e.g. direct debit) or communication method (e.g. e-billing), and limiting all plan fees and discounts to reasonable costs | <b>0.665</b><br><b>(preferred)</b> |

## 7. Improving the ability to switch to the best offer

### Preferred option

A retailer would be required to have effective processes for a small customer to switch to the best offer. An effective process must be simple and accessible. A retailer would also be required to:

- provide clear and simple instructions on its website on how customers can switch to the best offer
- have a process through its website and a process by telephone for a customer to switch to the best offer
- provide a simple and accessible process for a customer to compare their current plan to other plans available to them, including the best offer.

### 7.1. Scope of reform

#### 7.1.1. Purpose of reform

As outlined in Section 2.1.1, many Victorians are still paying more than they need to for energy. There are some occasions where a customer may not wish to be on their retailer's best offer (for example, having contracts with bundled services). However, in the last financial year, on average over 60 per cent of electricity and gas customers were not on their retailer's best offer.<sup>186</sup> This indicates that a majority of consumers could benefit from switching to their best offer.

This is despite existing obligations that require retailers to regularly place a best offer message on customers' bills (every three months for electricity and every four months for gas). These messages inform customers whether they are on their retailer's best offer and how to switch to the best offer if they are not.

Given most customers are not on their retailer's cheapest plan, in addition to proposing to automatically switch customers experiencing financial hardship to the best offer as explained in Chapter 5, we consider there is scope for improvements to help all small customers obtain better prices. Furthermore, even when customers have found better priced plans, they often find transaction costs (real and perceived) too high to switch to cheaper plans.

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<sup>186</sup> ['Victorian Energy Market Dashboard'](#), Essential Services Commission, accessed 23 January 2025.

For example, internal analysis by the commission revealed that many retailers do not have clear information on their websites instructing a customer how to switch their plan. Retailers are required to put this information on bills that contain a best offer message. However, if a customer does not have a bill at hand, it can be difficult to know how to switch.

The proposed reform aims to reduce transaction costs of switching to the best offer. To achieve this, it aims to improve retailers' processes for customers to switch to the best offer.

By making switching quicker and easier, more customers would be able and willing to switch to cheaper plans. This would save them money and support competition on prices between energy retailers.

### 7.1.2. What we heard from stakeholders

We heard from consumer groups and public entities that many customers find switching confusing, difficult and time-consuming. This prevents some customers from switching as they do not feel it is worth their time and effort.<sup>187</sup>

These stakeholders also emphasised the importance of having multiple channels for customers to contact retailers and switch plans, including online and over the phone. This caters to differing needs, accounting for disabilities, language skills, digital literacy, and work schedules (for example, a call centre only being open during business hours).<sup>188</sup>

EWOV also identified similar issues in their submission to the discussion paper on these reforms. They noted that even when some customers contacted retailers' call centres, they still experienced difficulties in switching to their best offer.<sup>189</sup>

We heard similar concerns from consumer focus groups. For example, consumers mentioned not being able to access online accounts with their retailer or effectively communicate via telephone. They emphasised logistical barriers to switching and lack of confidence in switching processes.<sup>190</sup>

Consumer groups highlighted that many consumers from culturally and linguistically diverse backgrounds struggle to understand and engage with their retailer. They also noted customers

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<sup>187</sup> Council of the Aging Victoria, [Energy Retail Code of Practice Review](#), November 2024. Essential Services Commission, [Workshop 2 \(In-person\) Consultation Summary](#), January 2025.

<sup>188</sup> Victorian Council of Social Services, [submission to the Essential Services Commission 'Energy Consumer Reforms: Discussion Paper'](#), December 2024.

<sup>189</sup> Energy and Water Ombudsman Victoria, [submission to the Essential Services Commission 'Energy Consumer Reforms: Discussion Paper'](#), 26 November 2024, p. 7.

<sup>190</sup> Whereto Research, [Consumer focus group stand-up and delivery to support the Energy Retail Code of Practice Review](#), March 2025, pp. 11-12 & 14-16.

may face other forms of disadvantage (based on age or educational factors) when engaging the complex energy market.<sup>191</sup>

During consumer focus groups research, we heard from consumers that they would like standardised systems to enable them to make like-for-like comparisons between plans. Consumers reported that this would better help them understand the difference between plans and improve confidence in the switching process.<sup>192</sup>

Retailers considered that reforms should allow flexibility in implementation. They mentioned this could involve multiple available options for switching, without prescription of which options would be mandatory. Retailers also noted that:

- current explicit informed consent requirements delay switching processes
- larger retailers are better placed to absorb the costs of system changes to allow multiple methods of switching
- industry would need clarity on how to benchmark against any principles-based or outcomes-based approach.<sup>193</sup>

### 7.1.3. Approach to options development

Our approach to developing options for this reform considered the large diversity of customers and customer needs. This includes various preferences for how to engage with retailers.

We also considered that different energy retailers may have different processes, systems, offers and target markets.

We noted there is currently no established best practice for switching to the best offer within the sector. While switching to another retailer is facilitated by comparison websites such as Victorian Energy Compare, switching to a best offer with the same retailer has no equivalent standardised process.

We therefore considered it would be important to allow retailers flexibility to develop their systems and processes in ways that most efficiently align with existing processes and best cater to their customers' needs.

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<sup>191</sup> Energy and Water Ombudsman Victoria, [submission to the Essential Services Commission 'Energy Retail Code of Practice: Issues Paper'](#), 31 July 2024; Essential Services Commission, [Workshop 2 \(In-person\) Consultation Summary](#), January 2025, pp. 2–3; Victorian Council of Social Service, [submission to the Essential Services Commission 'Energy Retail Code of Practice: Issues Paper'](#), July 2024.

<sup>192</sup> Whereto Research, [Consumer focus group stand-up and delivery to support the Energy Retail Code of Practice Review](#), March 2025, pp. 16–17.

<sup>193</sup> Essential Services Commission, [Workshop 2 \(In-person\) Consultation Summary](#), January 2025, pp. 3–4.

## 7.2. Options considered but not progressed to assessment

We considered whether the development of guidance alone could achieve the objectives of this reform. However, on assessment, we decided to not progress this further to assessment through MCA. Under this approach, the commission would develop guidance on how retailers could implement a switching process that is effective, simple and accessible. A guidance-only approach is not preferred as it would not provide the same degree of assurance or enforceability as a new rule.

## 7.3. Options

### 7.3.1. Base case

The base case for this reform would be the status quo.

Retailers would continue to be obliged to conduct best offer checks and to display best offer messages on customers' bills. These messages include instructions on how a customer can switch to the best offer. However, there are no regulated requirements for switching processes. Retailers would not be under any further obligations to ensure that processes for switching met minimum requirements.

### 7.3.2. Option C.1 – Outcomes-based without minimum standards

Option C.1 establishes an outcomes-based approach without establishing any minimum standards that a retailer must implement.

An outcomes-based approach specifies the high-level desired objective to be achieved. In this case, retailers would be required to ensure that processes for switching small customers to the best offer are effective. That is, those customers who want to switch to the best offer are able to actually complete the process and end up on that offer. To be effective, we consider that switching processes need to be simple and accessible, including that any process takes a reasonable time to complete. However, this approach leaves it up to each retailer to decide how they can achieve this outcome.

This approach provides flexibility for retailers to design processes that cater to diverse customer cohorts or future technologies.

Under this option, metrics might need to be developed and incorporated into our Compliance and Performance Reporting Guideline to assess retailer performance and to demonstrate that processes meet desired outcomes. These could be developed by the commission, industry or co-designed by a combination of stakeholders. Input from retailers and consumer groups would be essential to inform the development of these metrics, regardless of the process.

While the final metrics could be designed with input from relevant stakeholders, there are diverse forms of data that could be incorporated. For example:

- the percentage of customers who start a switching process but do not complete it
- call times and call waiting times for customers seeking to switch
- the percentage of customers switching to a cheaper plan with the same retailer (considering the percentage of customers already on their retailer's best offer).

Using such reporting metrics, the commission would be able to produce analysis of a retailer's performance and compare that with other retailers. The commission could then focus compliance and enforcement efforts on the worst performers.

### **7.3.3. Option C.2 – Outcomes-based with minimum standards**

Option C.2 supplements the outcomes-based approach by introducing a set of specific minimum requirements. Retailers must comply with these minimum requirements in addition to and in support of achieving the stated outcome.

Under this option, retailers would have the same overarching outcomes-based obligation as under option C.1. Namely, retailers would be required to have an effective process to support customers switching to their best offer. Additionally, retailers would be required to comply with a targeted set of minimum standards relating to the design and components of processes for switching plans.

The key difference between this option and option C.1 is that the minimum requirements would not be negotiable or flexible. Retailers would be required to meet these minimum standards.

Retailers would still have flexibility on how to achieve the broad objective of a streamlined switching process. However, their process would, at a minimum, need to include the relevant standards set out in the code. This option may also necessitate the development of suitable metrics as described in option C.1 above – via consultation on changes to our Compliance and Performance Reporting Guideline.

To avoid these minimum standards negating the flexibility of an outcomes-based approach, they are intended to be limited in number and scope. The proposed minimum standards target measures we consider are required as part of a streamlined and effective process. These requirements will provide greater clarity for consumers and reduce the transaction costs associated with switching to the best offer.

Under the proposed minimum requirements a retailer would need to:

- provide clear information on its website about how a customer can switch to their best offer
- have, at a minimum, a process through its website and a process by telephone for a customer to switch to their best offer

- provide a simple and accessible process for a customer to compare their current plan to other plans available, including the best offer.

We consider that some of these requirements may require relatively more costly system upgrades for small retailers. This may be particularly the case for upgrading website functionalities and for providing a process for a customer to compare their current plan to other plans available.

#### **7.3.4. Option C.3 – Prescriptive approach**

Option C.3 involves a prescriptive approach to improve processes for switching to a customer's best offer.

Requirements would be developed in conjunction with retailers and consumer groups and set out in the code. These requirements would include similar requirements as the minimum requirements from option C.2 but would be more extensive and specific as to what actions retailers would need to take, in order to comply. This option would require further detailed consultation with industry.

For example, instead of broadly requiring retailers to have clear information on their website instructing customers how to switch to the best offer, under this option, retailers would be required to have a clear hyperlink in bold size 16 font near the top of their webpage that reads 'How to switch to your best offer'. This hyperlink would take the user to a page that had clear mandatory information on how to switch to a best offer.

This would also relate to the second requirement presented under option C.2. Retailers would be required to have an online method of switching and provide a standard online form to initiate the switching process for all existing customers. All retailers would be required to use the same form.

This option would also require retailers to create an online platform for comparing electricity plans side-by-side. All retailers would be required to develop this platform, which could be similar to the comparison tables used for health insurance (where plans are classified as basic, bronze, silver or gold). The platform would require 'like for like' plan comparisons, considering things such as green energy, additional benefits and conditions of each plan.

To ensure positive customer experiences, we would mandate retailers to have a dedicated phone line for switching, with maximum wait times (for example, no more than ten minutes).

Retailers would be required to comply with the requirements as prescribed in the code. If retailers are identified as not having met the requirements in relation to their customer switching process, it would represent a contravention of the code. Metrics may need to be developed to support compliance and performance monitoring under this option, but these would likely be more limited than under the outcomes-based approaches outlined in options C.2 and C.3.

## 7.4. Analysis

### 7.4.1. MCA assessment – Options C.1, C.2 and C.3

As noted in Section 4.5.3, regulatory options available to the commission involve less interventionist and cheaper options (for example, outcomes-based approaches, voluntary codes) moving towards more coercive and costly measures (for example, legislative instruments with penalties attached for non-compliance). Lighter touch regulatory measures are generally less costly to implement and enforce but can also be less effective in achieving government objectives.

Given the difficulty in quantifying consumer benefits (including switching rates) and industry costs (owing to a lack of data), an MCA assessment was undertaken to compare the costs and benefits of these options. However, we have previously found that twenty-eight per cent of Victorian residential electricity consumers could have saved over \$100 per year from being on their retailer's current best offer. While 17 per cent of Victorian gas consumers could have saved \$100 or more.<sup>194</sup>

The tables below show these results, broken down by assessment criteria.

**Table 49: MCA Assessment of Options C.1, C.2 and C.3: Effectiveness**

| Option | Criteria<br>(weighting 50%)  | Assessment  | Score<br>(-10 to 10) | Weighted<br>score |
|--------|--|---|----------------------|-------------------|
| C.1    | Effectiveness<br><br>Reform objectives: <ul style="list-style-type: none"><li>• help households pay less for energy.</li></ul> | <p>Retailers already have systems in place to support customers switching to the best offer. This approach would build upon the existing systems and processes retailers already have in place but would seek to further lower barriers for customers to switch to the best offer.</p> <p>Practically, this option would require retailers to reassess their existing switching mechanisms and consider whether they are effective in supporting customers to the best offer. This would likely require a retailer to develop metrics and systems for determining whether processes are effective and tracking progress. Where systems are determined not to be effective in supporting customers to switch to the best offer, a retailer would be required to make improvements.</p> <p>Retailers would be required to perform this assessment on an ongoing basis to determine whether systems continue to meet the changing needs and expectations of their customers into the future.</p> | 1.5                  | 0.75              |

<sup>194</sup> Essential Services Commission, [Victorian Energy Market Report: September 2023](#), September 2023, p 6.

Although retailers would be responsible for delivering the general outcome of ensuring systems for switching customers to the best offer are effective, retailers would have complete flexibility in how to deliver this outcome. This could result in certain key elements of an effective system not being developed, based on retailer discretion and differing incentives. For example, a retailer may choose not to provide a switching method via their website or by phone.

Without a set of minimum standards, compliance against this option would be solely based on whether a retailer's system meets the standard of being 'effective'. This would require a case-by-case interpretation of effectiveness and whether or not the standard has been met, including in cases where generally agreed minimum expectations have not been met (such as not having clear information for customers on how to switch). While this is possible, enforcement of this option is expected to be slightly more difficult compared to an option which includes a set of more specific minimum requirements that clearly describe compliance expectations for key elements of an effective switching process.

|     |   |   |   |      |
|-----|---|---|---|------|
| C.2 | <p>Effectiveness</p> <p>Reform objectives:</p> <ul style="list-style-type: none"> <li>• help households pay less for energy.</li> </ul> | <p>As per Option C.1, under this option retailers would also be required to deliver the outcome of ensuring that systems for switching customers to the best offer are effective. However, retailers would also be required to ensure their system meets specified minimum requirements. These minimum requirements have been designed to address key issues we have heard about in relation to best offer switching processes. They are designed to provide greater clarity for consumers and reduce the transaction costs associated with switching to the best offer.</p> <p>Retailers may deliver systems which meet the minimum requirements simply by complying with the general requirement to ensure systems are 'effective', as under Option C.1. However, setting these as specified minimum requirements provides greater assurance that these specific outcomes will be delivered. In doing so, it makes it more likely that key barriers to switching are eliminated or reduced and that consumers will have access to similarly effective systems for switching, irrespective of their retailer.</p> <p>For example, consumer groups highlighted the importance of having multiple channels (phone, website) for customers to contact retailers and switch plans. This was described as necessary to reduce barriers to switching resulting from differing customer needs, language skills, digital literacy, and work schedules, as well to account for customers who may have disabilities. While a</p> | 3 | 1.50 |
|-----|---|---|---|------|

retailer may develop multiple channels for switching customers as part of the broad requirements under Option C.1 of having an effective switching process, they would not be explicitly required to do so. This option provides greater assurance that this specific barrier to switching will be resolved across all retailers in a consistent manner.

Compared to Option C.1, the establishment of a set of specified minimum requirements should also support ease of compliance and enforcement (at least where minimum requirements have not been met). Improved ease of compliance and enforcement helps to improve the effectiveness of this option by better allowing poor performers to be held to account and supporting consistent customer experience across all retailers.

|     |   |  |     |      |
|-----|---|--|-----|------|
| C.3 | <p>Effectiveness</p> <p>Reform objectives:</p> <ul style="list-style-type: none"> <li>• help households pay less for energy.</li> </ul> | <p>This option would prescribe a more specific and broader set of requirements than under Option C.2. It would also require energy companies to participate in a rating scheme to allow consumers to compare the effectiveness of systems and process to facilitate switching contracts.</p> <p>Setting clear, uniform requirements can provide simplified enforcement against any new rules, which can support high levels of technical compliance across industry.</p> <p>However, while prescriptive rules can effectively set baseline standards across the sector, they can create some issues. In setting detailed, prescriptive rules that retailers must comply with, little room is provided for flexibility and innovation. This could prevent retailers designing their systems to better meet the needs of their specific context and customer base. In many cases, retailers are better placed to make design decisions of this nature than the regulator. Wide-ranging, highly prescriptive requirements may also prevent retailers updating customer switching systems and processes to better respond to changing technologies and customer expectations.</p> <p>Furthermore, there is a risk that compliance with prescriptive requirements could become a 'tick-box' exercise. Retailers may comply with precise specifications while failing to ensure that customers actually find it easier to switch.</p> <p>We consider that prescriptive rules covering broad requirements for switching processes are likely to result in improved customer switching experiences. However, there are substantive</p> | 1.5 | 0.75 |
|-----|---|--|-----|------|

risks around technical compliance at the expense of ensuring positive outcomes for customers.

Although compliance with these prescriptive rules would conceptually be simpler for retailers and the regulator, these benefits are diminished by other elements of this option. The inflexibility of prescriptive rules, risk that requirements do not keep pace with technological advances or changing customer expectations and focus under this option on meeting specific requirements rather than actual customer outcomes results in a lower effectiveness score compared to Option C.3 and a score that is assessed as equivalent to Option C.1.

**Table 20: MCA Assessment of Options C.1, C.2 and C.3: Cost to industry**

| Option | Criteria<br>(weighting 40%) | Assessment  | Score<br>(-10 to 10) | Weighted<br>score |
|--------|-----------------------------|---|----------------------|-------------------|
| C.1    | Cost to industry            | <p><u>Compliance costs</u></p> <p>This option is relatively ‘light touch’ leaving most of the responsibility and flexibility on energy retailers to design the outcomes-based system that meets their needs and the needs of their customers (i.e., more efficient and effective processes to support customers switching to their best offer).</p> <p>We released a ‘Best Offer Guideline’ in November 2023, which sets out our expectations that retailers must include information about how customers can switch and indicating offering multiple methods for switching is better practice.<sup>195</sup> Retailers have had some time to reflect on this guideline and consider whether changes to their own systems are necessary, which should reduce implementation costs.</p> <p>Nevertheless, industry would incur relatively minor compliance costs associated with designing systems, staff training and implementing this option.</p> <p><u>Cost transfers</u></p> <p>If effective, this option would result in more customers moving from higher-priced plans to the best available offer. We note that some retailers may already have effective processes in place and wouldn’t bear any additional costs. However, this would reduce revenue for some retailers, particularly where previous pricing strategies relied</p> | -1                   | -0.4              |

<sup>195</sup> Essential Services Commission, [Guideline 1 \(2023\): Form and content of deemed best offer messages](#), 23 November 2023, p. 7.

on customers not switching to cheaper plans due to complex switching processes and disengagement..

For the purposes of this assessment, we recognise this foregone revenue as a cost. However, it is not necessarily an economic cost, as it reflects a shift away from excess margins rather than an increase in the underlying cost of service delivery. To the extent that retailers are unable to recover this revenue due to competitive pressures, it reflects a normal feature of efficient market functioning.

|     |                  |   |    |      |
|-----|------------------|---|----|------|
| C.2 | Cost to industry | <p><u>Compliance costs</u></p> <p>As for Option C.1, industry would incur compliance costs associated with designing systems, staff training and implementing this option. This includes developing processes for determining whether their systems continue to meet the effectiveness standard on an ongoing basis. Compared to Option C.1., mandating a minimum set of minimum requirements would be expected to increase compliance costs for industry. Retailers would be required to meet the minimum requirements when designing their systems. For some retailers, this is likely to include elements of a system that they might not include if not required to do so, for example, designing both phone and website processes for switching.</p> <p>The additional cost to retailers from this option will be highly dependent on the nature of each retailers' existing process for switching customers. Retailers who have systems that include less elements that address the minimum requirements will incur higher implementation costs. For the purpose of this analysis, it is assumed the additional minimum requirements of Option C.2 will impose additional low to moderate costs for retailers compared to Option C.1.</p> <p><u>Cost transfers</u></p> <p>Increased effectiveness would also result in a greater amount of forgone revenue as a result of customers switching to the best offer from higher-priced plans, noting the comments on Option C.1 above.</p> <p>A lower MCA score is assigned to this criterion to reflect higher compliance costs and forgone revenue of this option compared to Option C.1.</p> | -2 | -0.8 |
| C.3 | Cost to industry | <p><u>Compliance costs</u></p> <p>This option would impose the highest compliance costs for industry. A more extensive and specific range of mandatory requirements would mean retailers have less flexibility to determine the design of their systems for switching customers. Retailers would therefore have less ability to determine the</p>   | -3 | -1.2 |

most cost-effective means of meeting the requirements.

As retailers currently design their own systems for switching customers to the best offer, it is expected that adjusting current systems to meet a set of standardised, prescriptive requirements would necessitate more retailers to make more significant changes, leading to higher implementation costs.

Retailers would also have increased compliance costs under this option. Although it can be simpler to demonstrate compliance against clear, prescriptive requirements, the lack of flexibility in complying with these requirements would increase costs. For example, retailers may need to hire additional staff to support customers being switched to the best offer within prescribed maximum timeframes. Retailers may also need to spend significant resources to support customers in using a standardised form for switching that may not be compatible with the retailer's other systems or the specific needs of their customer base.

While prescriptive regulations can be quite effective in achieving outcomes and setting a consistent level of practice across a sector, it generally imposes a higher regulatory burden on industry.

#### Cost transfers

In addition, a higher number of customers moving to the best offer will also reduce industry income. We note that if retailers are unable to recover this revenue due to competitive pressures, this reflects a normal feature of an efficient market functioning. Because we expect the effectiveness score for this option to be roughly equivalent to Option C.1, the cost transfer is also estimated to be roughly the same under this option.

Principally as a result of higher expected compliance costs, this option scores higher under this criterion compared to options C.1 and C.2.

**Table 21: MCA Assessment of Options C.1, C.2 and C.3: Cost to government**

| Option | Criteria<br>(weighting 10%) | Assessment   | Score<br>(-10 to 10) | Weighted<br>score |
|--------|-----------------------------|--|----------------------|-------------------|
| C.1    | Cost to government          | Under this option, government would need to design, or support the design of, metrics to provide support and direction for industry to design its outcomes-based approach. Government would also monitor energy retailer performance against these metrics. Aside from these activities, there | -0.25                | -0.025            |

would be minimal government involvement under this option and costs would be relatively low.

|     |                    |   |      |       |
|-----|--------------------|---|------|-------|
| C.2 | Cost to government | <p>This option would present similar costs to government in relation to designing or supporting the design of metrics, as under Option C.1. Metrics would also need to be designed or confirmed in relation to the specified minimum requirements (noting there is likely to be crossover between metrics that measure 'effectiveness' and those that measure achievement against the minimum requirements).</p> <p>Although not significantly higher, monitoring compliance against this expected wider range of metrics is anticipated to require more effort than Option C.1 and marginally increase costs to government.</p>                                  | -0.3 | -0.03 |
| C.3 | Cost to government | <p>This option would require the most government resources. Monitoring retailer performance and compliance against the increased number of requirements under this option would also increase related costs for government. Government would also incur costs relating to regularly reviewing and monitoring the prescribed requirements to assess if they are still appropriate given changing technologies and consumer expectations. These costs would principally be borne by industry under Options C.1 and C.2. If changes needed to be made to alter prescribed requirements, government would also incur costs relating to updating prescribed rules.</p> | -0.5 | -0.05 |

## 7.5. Summary and preferred option

The MCA assessment of these options suggests that all are an improvement over the base case. Unlike the automatic best offer reforms assessed in Chapter 5, these options require clearer switching processes, which will allow customers to switch to cheaper plans more easily. The decision to switch plans remains with the customer. Therefore, the behavioural response cannot be precisely known. That said, better and simpler switching processes are likely to lower current behavioural barriers and encourage customers to switch to cheaper plans.

Under Option C.1, a purely outcomes-based approach could be relatively effective by providing retailers with the flexibility to improve processes for switching to better deals. However, the design of these requirements is likely to vary between retailers and the processes provided may or may not be sufficient to effectuate changes in customer behaviour.

Option C.2 would retain the benefits of an outcomes-based approach by letting retailers design their own processes for switching plans, but would require certain minimum requirements to be

provided (namely, clear information and accessible plan comparisons on their website, along with switching processes through their website and through the phone). This option would provide a base level of requirements we consider necessary to achieve the effectiveness of this proposal to help households pay less for energy.

Option C.3 could be relatively effective but runs the risk of technical compliance by retailers at the expense of genuinely improve switching for customers relative to C.2. Furthermore, a broader scope of requirements would be required. Greater prescription would reduce retailer flexibility and the broader scope of compulsory requirements would increase costs to industry.

Option C.2 scores the highest MCA score (0.67) and is therefore preferred. The MCA scores of these options reflects the trade-off between effectiveness and costs to industry, with option C.2 capturing the benefits of effectiveness while minimising cost to industry and government.

**Table 22: Summary of MCA assessment – Improved ability to switch to best offer**

| Option | Description                                       | Weighted score              |
|--------|---|-----------------------------|
| C.1    | Outcomes-based approach, no minimum requirements  | 0.325                       |
| C.2    | Outcomes-based approach with minimum requirements | <b>0.67<br/>(preferred)</b> |
| C.3    | Prescriptive approach                             | -0.5                        |

## 7.6. Questions for stakeholders

11. What metrics do you think could help assess the effectiveness of the process to switch to the best offer?
12. Are there any implementation issues for small retailers that we should consider regarding effective processes to switch to the best offer?

## 8. Protections for customers paying higher prices

### Preferred option

A retailer would be required to ensure that customers on contracts that are four years or older are paying a reasonable price for their energy.

To achieve this outcome, a retailer would have the option of switching customers who may be paying higher prices to cheaper offers. Retailers would not be required to obtain explicit informed consent from customers. Customers would be able to opt-out or reverse the switch after receiving their first bill.

### 8.1. Scope of reform

#### 8.1.1. Purpose of reform

This proposed reform aims to protect customers on older contracts paying significantly higher prices than customers on newer contracts.

Although most Victorian customers have switched to a new, lower-priced plan in the last two years, there are many customers on older contracts with prices above standing offers (above the VDO for electricity).<sup>196</sup> This problem is commonly known as a ‘loyalty penalty’.

Customers who actively engage with the energy market can take advantage of newer contracts with better rates. However, some customers who stay with their retailer can end up paying higher prices over time. Around four per cent of residential electricity customers have not changed plans for seven years or more, and three per cent have not changed for at least 10 years.<sup>197</sup>

As discussed in Chapter 2, our analysis of customer data supports recent findings from the ACCC. There is a correlation between the age of a contract and higher median effective prices per kWh. For example, electricity customers on older contracts are more likely to be on plans with tariffs above the VDO (a regulated price, set by the commission).<sup>198</sup>

Our proposed solutions consider two key elements:

- the age of a contract (to identify when existing contracts start becoming more expensive) and

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<sup>196</sup> Essential Services Commission, ‘Customers on older plans significantly better off on their retailer’s best offer’, 16 May 2025.

<sup>197</sup> Ibid.

<sup>198</sup> Ibid.

- the price a customer pays on older contracts.

### 8.1.2. What we heard from stakeholders

Consumer advocates and community groups expressed support for greater protections for customers on older contracts from unreasonably high prices.<sup>199</sup> They recommended direct support for customers on older evergreen contracts (contracts that do not expire) paying above the VDO. These customers could not engage with a complex market, and unfortunately face higher-priced older contracts.<sup>200</sup> The Brotherhood of St. Laurence and Energy Consumer's Australia highlighted that customers who stay loyal to their retailers tend to be punished with higher prices.<sup>201</sup>

Consumer groups and energy retailers agreed that it would be useful to understand how many customers are exposed to high prices in older contracts to assess the problem.

Some retailers emphasised that encouraging consumer engagement may be a better way to deliver lower cost energy to customers as opposed to changing current obligations around conditional discounts and older contracts.<sup>202</sup> Retailers also raised that five-yearly reviews of older contracts could be used to reduce the risk of customers on older plans facing higher energy costs.<sup>203</sup>

Other public entities supported regulation that protects consumers from unreasonably high prices whilst also helping customers who are willing to engage in the market.<sup>204</sup>

### 8.1.3. Approach to options development

Our aim is to design a rule that can specifically target customers on older contracts paying unreasonably high prices. Customers on older but cheaper contracts should remain on those energy plans. We also want to design a rule that limits the regulatory burden on retailers.

#### Price of a contract

The first element of this reform is focused on the price of older contracts.

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<sup>199</sup> Essential Services Commission, [Workshop 1 \(Online\) Consultation Summary](#), January 2025, pp. 2–3.

<sup>200</sup> Ibid.

<sup>201</sup> Brotherhood of St. Laurence, [submission to the Essential Services Commission 'Energy Consumer Reforms: Discussion Paper'](#), December 2024, p. 1; Energy Consumers Australia, [submission to the Essential Services Commission 'Energy Consumer Reforms: Discussion Paper'](#), 26 November 2024, p.8.

<sup>202</sup> Red Energy & Lumo Energy, [submission to the Essential Services Commission 'Energy Consumer Reforms: Discussion Paper'](#), 26 November 2024, p. 3.

<sup>203</sup> Essential Services Commission, [Workshop 1 \(Online\) Consultation Summary](#), January 2025, pg. 3.

<sup>204</sup> Ibid.

For electricity, we analysed how much customers are paying above the VDO. Almost half of all customers on flat rate market tariffs aged 4 years or older would be better off on the flat rate VDO (two per cent of all residential electricity customers in Victoria).<sup>205</sup> These customers could typically save around \$258 each year.

For gas, in the absence of regulated standing offers, we looked at factors such as the cost of plans available to new customers, the median price paid by a retailer's customers and the price of retailers' standing offers.

### **Age of a contract**

There is a correlation between the age of a contract and the price paid by a customer. Most customers are benefitting from lower prices, with our analysis indicating 77 per cent of Victorian customers having switched plans in the last two years. However, after four years, residential customers are more likely to face higher prices (as shown in Figure 6). For the purpose of our assessment, this proposed reform considers contracts older than four years to be 'older contracts'.

We estimate that around 10 per cent of Victorian electricity customers are on contracts that are older than four years.<sup>206</sup> Only a small proportion of these customers are on higher priced contracts:

- 4 per cent are paying more than 10 per cent above the VDO
- 2 per cent of customers paying 25 per cent above the VDO and
- 0.1 per cent of customers are paying 50 per cent above the VDO.<sup>207</sup>

Most retailers have a very small proportion of customers on older contracts paying higher prices. For those retailers, this reform should not be overly burdensome or costly.

However, there are a few retailers with much larger proportions of customers on older contracts paying higher prices. We are particularly focused in providing stronger incentives for these retailers to reduce prices for its affected customers.

## **8.2. Options considered but not progressed to assessment**

One method to regulate price increases for older contracts is to ban evergreen contracts. While this option reduces significant price increases over time, it could lead to unintended significant impacts in the market. Banning evergreen contracts would only address the longevity of a plan without any pricing considerations. Another option would be to mandate retailers to move

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<sup>205</sup> Ibid.

<sup>206</sup> Essential Services Commission, 'Customers on older plans significantly better off on their retailer's best offer', 16 May 2025.

<sup>207</sup> Ibid.

customers on older plans priced above the VDO onto the VDO or cheaper offers. A further option would be a market-wide price cap on all retail contracts.

These options could all have significant impacts in the energy market and may not be commensurate with the nature and extent of problems we have identified. They could also significantly affect the pricing strategies of retailers, with retailers offering fewer cheaper energy plans.

## **8.3. Options**

### **8.3.1. Base case**

As a base case, there is currently no obligation for a retailer to lower prices for customers on older contracts. Some customers stay with their retailer for long periods of time and face cumulative price increases. While these customers can move contracts or switch retailers, they do not. This may be due to having high search costs, a preference for the status quo, or perceived losses due to switching.

Under the current rules, retailers can reduce their customers' tariffs at any time but there is no obligation to do so. This means that a retailer could choose to voluntarily reduce the tariff of a customer on an older contract that is paying significantly more than a customer on a new contract. However, in most cases retailers do not reduce tariffs. On the other hand, retailers are allowed to increase tariffs once a year. We have identified that in most cases, retailers tend to increase tariffs yearly. Under the base case affected customers may continue to experience higher prices over time when they remain on an older contract.

We have assessed three options with differing degrees of flexibility for a retailer to determine what is an 'unreasonable price' for an affected customer to pay for their energy. In all three options, the customers affected are those customers on contracts greater than four years old.

### **8.3.2. Option D.1 – Mandating retailers to ensure all customers on older contracts pay a 'reasonable price' without defining what a 'reasonable price' is**

This option would require a retailer to ensure customers on older contracts are paying a reasonable price for their energy. Under this option, the meaning of 'reasonable price' would not be defined.

This obligation would require each retailer to determine what a 'reasonable price' means for that customer. This could include a broad consideration of factors, such as the:

- Victorian Default Offer
- retailer's lowest cost generally available plans
- average price of energy in the retail market

- consumer's specific circumstances and consumption patterns.

This would provide greater flexibility to retailers, but less clarity on how to comply. Each retailer would need to individually consider its likelihood of complying. It would assess whether its definition for 'reasonable price' would align with views the commission could form and with other retailers' definitions, and weight it against the revenue it could obtain from its customers at that price. This means that some retailers will consider its prices reasonable (and therefore compliant), despite the commission having a different view. This can make the commission's enforcement approach more challenging and uncertain for retailers. We would consider enforcement on a case-by-case basis, based on the risk of harm to consumers.

We have heard that some retailers have attempted to contact customers on older high-priced contracts to switch them to cheaper plans, but had difficulty obtaining a customer's explicit informed consent. We note that these retailers did not consider lowering customers' tariffs or providing financial benefits.

To remove barriers to lower prices, this option would provide an exception to explicit informed consent requirements. This would include opt-out and post-switch reversal protections, similar to those described in Chapter 5. This exception to explicit informed consent requirements would allow (but not mandate) a retailer to move a customer on an unreasonably priced older contract to a new plan with a cheaper, reasonable price. We would also apply this to Options D.2 and D.3.

### **8.3.3. Option D.2 – Mandating retailers to ensure all customers on older contracts pay a 'reasonable price', including a flexible definition of 'reasonable price'**

In this option, the same obligations would apply to a retailer as those in the previous option. However, this option requires a retailer to determine whether a customer is on a 'reasonable price' based on several prescribed factors (or guidance) issued by the commission.

The prescribed factors would include:

- the lowest cost generally available plan available to the retailer's new customers
- the median price paid by customers of the retailer
- the price of the retailer's standing offers
- the value of any additional benefits to the customer
- any other matter specified in a guideline issued by the commission.

Note that for electricity, we would consider the VDO as a 'reasonable price'. This means that prices at or below the VDO would be deemed reasonable. Prices above the VDO could still be considered reasonable, for example, if the contract includes additional benefits to the customer.

For gas prices, as there is no regulated price for standing offers, retailers would need to consider the price of their standing offers together with the other factors listed above. This would lead to some additional flexibility for gas prices compared to electricity prices.

A retailer would need to review its customers' prices annually and consider reducing the price of customers who are not paying a 'reasonable price'. A retailer could also reconsider increasing some customers' tariffs (noting that in Victoria tariff increases are only allowed once a year).

In late 2024, we analysed a large sample of customers' energy bills. Our analysis found that most retailers would already be complying with this obligation, if it were in effect.

However, we found that a small number of retailers have high proportions of customers on older contracts paying high prices – these retailers would be at risk of non-compliance (if the rule were in place). These retailers could actively avoid compliance action by:

- lowering a customer's tariffs (noting there are no restrictions in the code for when a retailer may lower tariffs)
- providing a financial benefit such as a credit or a discount to the customer
- switching the customer to a cheaper plan.

This option would also include an exception to explicit informed consent requirements to allow (but not mandate) a retailer to move a customer on an unreasonably priced older contract to a new plan with a cheaper, reasonable price.

The commission would monitor compliance by analysing large samples of customers' billing data from retailers. The commission could identify retailers at risk of non-compliance and require these retailers to actively reduce affected customers' prices. Enforcement action could be considered for particularly egregious pricing practices, such as a retailer having large proportions of its customer base on high prices compared to the rest of the market.

#### **8.3.4. Option D.3 – Mandating retailers to ensure all customers on older contracts pay a 'reasonable price', including a prescriptive definition of 'reasonable price'**

Option D.3 is the most prescriptive option, by specifically defining a 'reasonable price'.

A 'reasonable price' would be defined as being at or below the VDO for electricity, and at or below the retailer's median price or standing offer price for gas. There would be no flexibility to consider other factors such the value of any additional benefits to the customer.

As with Options D.1 and D.2, this option would also include an exception to explicit informed consent requirements to allow (but not mandate) a retailer to move a customer on an unreasonably priced older contract to a new plan with a cheaper, reasonable price.

This option may be clearer for a retailer to comply with, but it does not provide flexibility to consider other pricing factors, plan types or customers' preferences. This is a more objective test for the commission to enforce.

## 8.4. Analysis

### 8.4.1. MCA assessment – Options D.1, D.2 and D.3

The proposed reforms will provide energy bill reductions for many affected customers. Retailers may choose to carry these costs as foregone revenue or pass the costs onto other customers. The extent of these bill reductions and costs will depend on how a 'reasonable price' is defined. We estimate the potential savings for electricity customers for each option.

While we cannot predict how each retailer would determine 'reasonable prices' under some options, we have estimated the impact of each option based on possible scenarios.<sup>208</sup> These scenarios are not intended to accurately predict customer impacts, but are used as basis for comparison between the options.

We do not have data to estimate the impacts on gas customers. Unlike for electricity, there is no baseline comparison price such as the VDO for gas prices. Retailers are free to set prices for gas standing offers every six months. Because of this comparative flexibility, we estimate that the impacts on gas customers would be lower than on electricity customers. This is also due to the larger gap between gas standing offers and market offers (see Figure 4) when compared to electricity. This larger gap means that it is likely that fewer gas customers are paying above their retailer's standing offer than electricity customers.

There may also be additional compliance costs under all options to set up systems and processes to switch eligible customers. However, retailers could pre-emptively reduce the tariffs for potentially affected customers earlier than the four-year threshold as there are no restrictions to reducing energy tariffs at any time. To the extent retailers take pre-emptive action, for example during

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<sup>208</sup> Based on historical data, we estimated the extent consumers are currently paying above the VDO across the following possible scenarios for what a 'reasonable price':

- **50% above the VDO.** 1,373 affected electricity customers (or 0.17% of customers) could save on average \$613 annually (midpoint between \$383 to \$842) by switching to the VDO. Total savings estimated at \$0.84m per year (midpoint between \$0.52 to \$1.15m).
- **25% above the VDO.** 27,729 affected electricity customers (or 2% of electricity customers) could save on average \$365 annually (midpoint between \$178 to \$551) by switching to the VDO. Total estimated at \$10.1m per year (midpoint between \$4.9m and \$15.2m).
- **10% above the VDO.** 53,391 affected electricity customers (or 3% of electricity customers) could save on average \$229 annually (midpoint between \$82 to \$379) by switching to the VDO. Total savings estimated at \$12.2m per year (midpoint between \$4.4m and \$20.2m).

annual tariff reviews, compliance costs would be reduced. This would be relevant under any reform option.

**Table 235: MCA Assessment of Options D.1, D.2 and D.3: Effectiveness**

| Option | Criteria<br>(weighting 50%)   | Assessment  | Score<br>(-10 to 10) | Weighted<br>score |
|--------|---|---|----------------------|-------------------|
| D.1    | <p>Effectiveness</p> <p>Reform objectives:</p> <ul style="list-style-type: none"> <li>• help households pay less for energy.</li> </ul> | <p>This option allows a retailer to determine what a 'reasonable price' would be for a customer.</p> <p>Retailers have strong economic incentives to set a 'reasonable price' that limits any impact on their revenue. Given the wider flexibility provided by this option, retailers are likely to determine that only a very small proportion of customers would be considered as paying unreasonable prices.</p> <p>As this option would provide the highest degree of flexibility for retailers, we assume that the number of customers who would benefit from this option would be in the range between those currently paying 25% above the VDO (at the higher end) to those paying 50% above the VDO (at the lower end). A range has been considered to assess potential impacts as it is uncertain how retailers would respond to this option.</p> <p>In summary, the estimated overall benefits for electricity customers from this option range from around \$0.8m to \$10.1m per year (benefitting between one thousand and 27 thousand customers).</p> <p>We have no data to make similar estimates for gas customers. However, we expect the overall benefits for gas customers would be lower than for electricity customers. This is because only 73% of Victorian electricity customers also use gas (lower overall customer numbers) and due to the absence of a regulated standing offer such as the VDO that could be used as a baseline to assess gas prices (so retailers could define reasonable prices with a higher margin of uncertainty).</p> <p>The estimated customer savings for this option are significantly lower than options D.2 and D.3.</p> | 2                    | 1.0               |
| D.2    | <p>Effectiveness</p> <p>Reform objectives:</p> <ul style="list-style-type: none"> <li>• help households pay less for energy.</li> </ul> | <p>This option would provide greater clarity for energy retailers, with less difference between retailers' interpretations. It would establish a range of factors retailers must consider to determine a 'reasonable price'.</p> <p>This option is estimated to deliver significantly more savings to customers compared to Option</p>  | 6.5                  | 3.25              |

D.1 and will be more effective in lowering household energy costs. Retailers will have some flexibility to determine whether a customer should be switched to a price below the VDO (for example, some existing contracts may have non-monetary benefits).

This range assumes that some retailers may determine this as being between a range of 10% and 25% (a conservative assumption) above the VDO. A range has been considered to assess potential impacts as it is uncertain how retailers would respond to this option.

In summary, the estimated overall benefits for electricity customers from this option range from around \$10.1m to \$12.2m per year (benefitting between 27 and 53 thousand customers).

The higher end estimate is similar to the impact expected for option D.3, but is less likely to materialise under this option given the flexibility retailers will have to keep some customers paying prices above the VDO.

We have no data to make similar estimates for gas customers. However, we expect the overall benefits for gas customers would be lower than for electricity customers (for the same reasons explained in Option D.1).

The estimated customer savings for this option are significantly higher than Option D.1, but lower than Option D.3.

|     |   |  |   |     |
|-----|---|--|---|-----|
| D.3 | Effectiveness<br>Reform objectives:<br><ul style="list-style-type: none"><li>• help households pay less for energy.</li></ul> | <p>This option would require prescribing the definition of 'reasonable price' in the code.</p> <p>Given that this option would leave no flexibility for retailers to determine whether prices above the VDO are reasonable, it would lead to higher savings for customers than Option D.2 (and significantly higher savings than Option D.1).</p> <p>We estimate the impacts of this option by assuming it would affect all customers paying above the VDO. For the purposes of assessing the impact of this option, we assume a +10% margin of uncertainty for contracts calculated as being above the VDO.</p> <p>Based on historical data, this option would benefit 53,391 electricity customers (or 3% of electricity customers). Total savings are estimated to be \$12.2m per year.</p> <p>We have no data to make similar estimates for gas customers. However, we expect the overall benefits for gas customers would be lower than</p> | 6 | 3.0 |
|-----|---|--|---|-----|

for electricity customers (for the same reasons explained in Option D.1).

Despite the highest expected savings for customers paying high prices under this option, there are potential disadvantages resulting from a prescriptive definition of 'reasonable price' in the code. Customers who may be paying above the VDO because their plans have other benefits would be potentially worse off under this option.

In addition, compared to Option D.2, this option is more likely to result in retailers making changes to pricing strategies which may result in negative impacts on customers not on older contracts (such as increased prices or reduced innovation in plan types and benefits). This increased risk slightly reduces the effectiveness score for this option compared to Option D.2.

**Table 24: MCA Assessment of Option D.1, D.2 and D.3: Cost to industry**

| Option | Criteria<br>(weighting 40%) | Assessment  | Score<br>(-10 to 10) | Weighted<br>score |
|--------|-----------------------------|---|----------------------|-------------------|
| D.1    | Cost to industry            | <p><u>Compliance costs</u></p> <p>To implement this option, retailers would update systems and processes to identify affected customers and take action (such as switching customers to cheaper plans) when necessary.</p> <p>However, this option gives retailers the greatest flexibility on determining what is a 'reasonable price'. We anticipate retailers would consider only a small proportion of customers as paying unreasonable prices (between one to 27 thousand customers, based on historical data). This would lead to lower compliance costs compared to other options.</p> <p>It is also likely that most retailers would be largely compliant under this option. Therefore, only a small number of retailers would need to take action. This means that overall compliance costs across the industry would be the lowest for this option, and against the base case.</p> <p><u>Cost transfers</u></p> <p>This option will also result in potential cost transfers between customers on older and newer contracts, or foregone revenue from energy retailers (depending on whether retailers absorb this cost due to competitive pressures or pass</p> | -1.5                 | -0.6              |

them on to other customers). Based on historical data, the estimated potential impact for electricity retailers from this option range from around \$0.8m to \$10.1m per year. We have no data to make similar estimates for gas retailers. However, we expect that potential cost transfers or foregone revenue for gas retailers would be lower than for electricity retailers.

For the purposes of this assessment, we recognise this as a cost. However, it reflects the erosion of excess margins from disengaged customers rather than an increase in the underlying cost of service provision.

#### Comparison with other options

The compliance costs for this option are low compared to the base case and significantly lower than for Options D.2 and D.3. The estimated potential cost transfers are also significantly lower than for Options D.2 and D.3.

|  |                  |                         |      |      |
|--|------------------|-------------------------|------|------|
| D.2  | Cost to industry | <u>Compliance costs</u> | -5.5 | -2.2 |
| <p>This option reduces a retailer's discretion in determining what is a reasonable price. This would result in higher implementation and compliance costs than Option D.1 as retailers would assess specific factors when determining whether customers are paying a reasonable price.</p> <p>Retailers would need to design and update its systems to assess how much customers on older contracts are paying compared to: i) the median prices paid by the retailer's customers; ii) the lowest cost generally available plans offered by the retailer; and iii) the retailer's standing offers. Retailers would also need to consider if any benefits attached to customers' plans may justify these customers paying prices above what would otherwise be considered unreasonable.</p> <p>Unlike option D.1, most retailers would be affected, and more customers would be affected overall.</p> <p>Based on historical data, retailers would identify around 27 to 53 thousand customers under this option. This would need more retailers to switch customers to cheaper plans or provide them with a financial benefit (such as discounts or credits) to ensure compliance.</p> <p><u>Cost transfers</u></p> <p>This option will also result in potential cost transfers between customers on older and newer contracts, or foregone revenue from energy retailers (depending on whether retailers absorb</p> |                  |                         |      |      |

this cost due to competitive pressures or pass them on to other customers). Based on historical data, the estimated potential impact for electricity retailers from this option range from around \$10.1m to \$12.2m per year. We have no data to make similar estimates for gas retailers. However, we expect that potential cost transfers or foregone revenue for gas retailers would be lower than for electricity retailers.

While this is recorded as a cost in our assessment, the extent to which retailers can pass on these losses is limited by competitive pressure. Revenue that cannot be recovered reflects the normal operation of effective market competition.

#### Comparison with other options

The compliance costs for this option are higher than for Option D.1 as retailers would not be able to leverage existing systems and practices as easily. However, they are lower than for Option D.3, as explained below. The estimated potential cost transfers are significantly higher than for Option D.1 and slightly lower than for Option D.3.

|     |                  |                         |    |      |
|-----|------------------|-------------------------|----|------|
| D.3 | Cost to industry | <u>Compliance costs</u> | -7 | -2.8 |
|-----|------------------|-------------------------|----|------|

A prescriptive definition of reasonable price would be easier to follow and would provide more certainty for retailers to identify affected customers. Unlike Option D.2, retailers would not need to consider other factors to determine whether customers are paying a reasonable price. This would be limited to determining whether customers on older contracts are paying above the VDO, for example. This means retailers would incur less costs than Option D.2 related to updating systems and practices to identify customers who may be paying unreasonable prices.

However, this option would in practice establish a cap for customers on older contracts. This would require retailers to reconsider more extensively their offers and approaches to repricing customers on newer contracts. This would involve reviewing plans that may have additional benefits and would no longer be sustainable under a prescriptive cap for older contracts. For this reason, this option is more likely to require retailers to incur additional costs compared to Options D.1 and D.2 to reconsider their pricing strategies. This could also result in additional cost transfers, beyond those estimated below.

Based on historical data, we estimate that retailers would identify at least 53 thousand customers (and potentially more) under this option. This option would lead to highest number of customers

affected compared to Options D.1 and D.2, and also requires retailers to switch more customers or provide them with a financial benefit to ensure compliance. This would lead to higher compliance costs than Options D.1 and D.2.

#### Cost transfers

This option will result in potential cost transfers between customers on older and newer contracts, or foregone revenue from energy retailers (depending on whether retailers absorb this cost due to competitive pressures or pass them on to other customers). Based on historical data, the estimated potential impact for electricity retailers from this option would be around \$12.2m (and potentially up to \$20.2m) per year. We have no data to make similar estimates for gas retailers. However, we expect that potential cost transfers or foregone revenue for gas retailers would be lower than for electricity retailers.

As noted above, this option would also lead to more substantial changes in retailers' pricing strategies, which would increase the cost transfers between customers on older and newer contracts. While we cannot estimate this additional potential cost transfer, it would result in overall higher cost transfers than Option D.2.

As with the other options, this is treated as a cost in our assessment, but it reflects reduced reliance on disengaged customers for excess margins rather than a fundamental cost increase. Where recovery is constrained by competition, this lost revenue represents a redistribution of value, not an economic inefficiency.

#### Comparison with other options

The compliance costs for this option are higher than for Option D.2 and significantly higher than for Option D.1. This is mostly due to the wider effects that a cap for older contracts would have – more retailers would be affected, and retailers would incur more costs in reviewing pricing strategies and moving customers to cheaper plans despite any additional benefits customers may have in their contracts. The estimated potential cost transfers are significantly higher than for Option D.1 and higher than for Option D.2.

**Table 25:** MCA Assessment of Options D.1, D.2 and D.3: Cost to government

| Option | Criteria<br>(weighting 10%) | Assessment  | Score<br>(-10 to 10) | Weighted<br>score |
|--------|-----------------------------|---|----------------------|-------------------|
| D.1    | Cost to government          | <p>This option would require the commission to actively monitor retailers' pricing behaviours. However, it would not involve the commission prescribing standards or giving guidance for retailers.</p> <p>Given the flexibility for retailers, compliance and enforcement action would be more complex. It would involve comparing the approaches of different retailers, considering various factors that retailers may refer to when determining prices, and the commission forming its own views as to which retailers may be at risk of non-compliance. This would require more time and effort than would be necessary with a prescribed list of factors that retailers must have regard to (Option D.2) or a prescriptive definition of reasonable prices (Option D.3)..</p> | -0.5                 | -0.05             |
| D.2    | Cost to government          | <p>Similarly to Option D.1, this option would require the commission to actively monitor retailers' pricing behaviours. However, compliance and enforcement action would be less demanding as retailers would be required to have regard to a prescribed list of factors when justifying their pricing behaviour. This would facilitate comparisons between retailers and the commission's assessment of any potential non-compliance. The commission would be able to leverage existing data reporting requirements to assess pricing behaviour, including by analysing prices that are paid by samples of each retailers' customers.</p>  | -0.3                 | -0.03             |
| D.3    | Cost to government          | <p>The prescriptive nature of this option would provide greater certainty for compliance and enforcement activities. The commission would be able to assess potential non-compliance more easily by referring to only one factor (the prescribed reasonable price – for example, the VDO). This would lead to slightly lower costs compared to Option D.2. Similarly to Option D.2, the commission would be able to leverage existing data reporting requirements to assess pricing behaviour.</p>  | -0.25                | -0.025            |

## 8.5. Summary and preferred option

All options are likely to provide benefits for consumers compared to the base case, but also lead to increased compliance costs for retailers (and the commission in enforcing the rules).

Option D.1 provides the greatest flexibility for retailers, and may be the least effective option. It will lead to the lowest benefits to consumers, despite lower regulatory costs. Option D.3 would remove

uncertainty for compliance – resulting in the highest benefits for consumers, at the risk of higher costs to retailers (in the form of foregone revenue).

Option D.2 strikes a balance in terms of consumer benefits and industry costs. However, if option D.2 does not achieve its objective, the commission could consider a more prescriptive approach in the future.

**Table 66:** Summary of MCA assessment – Protections for customers

| Option | Description  | Weighted score              |
|--------|--|-----------------------------|
| D.1    | Mandating retailers to ensure all customers on older contracts pay a 'reasonable price' without defining what a 'reasonable price' is              | 0.35                        |
| D.2    | Mandating retailers to ensure all customers on older contracts pay a 'reasonable price', including a flexible definition of 'reasonable price'     | <b>1.02<br/>(preferred)</b> |
| D.3    | Mandating retailers to ensure all customers on older contracts pay a 'reasonable price', including a prescriptive definition of 'reasonable price' | 0.175                       |

## 8.6. Question for stakeholders

13. What would you consider to be a suitable benchmark to determine a reasonable price for gas?

## 9. Improving the application of concessions on bills

### Preferred option

A retailer would be required to request concession eligibility information from residential customers at all times when a retailer considers it relevant to do so. In addition, a retailer would be required to request this information:

- when entering into a new contract with a customer
- when a customer requests to switch to another plan
- when a customer contacts the retailer requesting payment difficulty assistance
- as soon as practicable, if a customer may be affected by family violence.

### 9.1. Scope of reform

#### Purpose of reform

The purpose of this proposed reform is to increase the proportion of eligible Victorian households having energy concessions applied to their bills.

The Victorian Council of Social Service's 2023 research that suggested that 14 per cent of eligible Victorian households were missing out on government energy concessions.<sup>209</sup>

A more conservative estimate by the Consumer Policy Research Centre indicated that 7 per cent of eligible Victorians did not receive a concession on their electricity bill and 12 per cent did not receive a concession on their gas bill. This represents around 69,000 households missing concessions on electricity bills and around 90,000 households missing concessions on gas bills.<sup>210</sup>

Although Victoria has the lowest rate of eligible households not receiving concessions in the National Electricity Market, a significant number of Victorians are still missing out.

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<sup>209</sup> Victorian Council of Social Services, [The Missing 14%: why so many Victorians are missing out on energy concessions](#), 22 May 2023, p. 9.

<sup>210</sup> Consumer Policy Research Centre, [Mind the Gap: Identifying the gap between energy concession eligibility and concessions received](#), November 2022, p. 4.

Concession entitlements are designed to reduce the financial burden of energy bills for eligible households. Lack of awareness of concession entitlements is a particularly significant reason some households do not have concessions applied to their energy bills.<sup>211</sup>

Currently, retailers are required to provide customers information about concessions, including eligibility criteria and how to claim them.<sup>212</sup> However, customers may not always understand or act on this information.<sup>213</sup>

We are considering options that require retailers to proactively seek and obtain information about customers' concession eligibility when they interact with them. The goal is to increase consumer awareness of their entitlements and reduce the burden placed on customers to take the initiative to provide this information to retailers.

We consider this could also reduce the perceived stigma related to concessions by normalising the application process as part of everyday retailer and customer interactions. Retailers proactively seeking concession information could additionally reduce concession entitlement barriers related to language and complexity of forms and procedures. This is because retailers have access to interpreters and knowledge of their own concession forms and procedures.

### What we heard from stakeholders

Retailers mostly opposed new requirements to check customers' eligibility information. Many retailers stated that they already have processes for requesting concession information from customers:

- when signing up a customer for their services
- when a customer moves house
- when a customer accesses their hardship assistance programs.<sup>214</sup>

Some retailers preferred a flexible, non-prescriptive approach to improve the application of concessions to bills. For example, some retailers considered that a non-prescriptive approach

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<sup>211</sup> Victorian Council of Social Services, [The Missing 14%: why so many Victorians are missing out on energy concessions](#), 22 May 2023, p. 14.

<sup>212</sup> Clauses 30(1)(c) and 47(1)(a) of the [Energy Retail Code of Practice \(version 3\)](#). We understand retailers are also required to provide customers information about concessions eligibility under their concessions agreement with the Victorian Government.

<sup>213</sup> Victorian Council of Social Services 2023, [The Missing 14%: why so many Victorians are missing out on energy concessions](#), 22 May 2023, p. 9; Consumer Policy Research Centre, [Mind the Gap: Identifying the gap between energy concession eligibility and concessions received](#), November 2022, p. 4.

<sup>214</sup> AGL (p. 8); Alinta Energy (p. 2); EnergyAustralia (p. 3); Energy Locals (p. 3), Red Energy & Lumo Energy (p. 3), Shell (p. 4–5), Origin Energy (p. 4) [submissions to the Essential Services Commission 'Energy Consumer Reforms: Discussion Paper'](#), 24 October 2024.

could allow them to balance requesting concession information with operational needs or better support information sharing between government and retailers.<sup>215</sup>

We heard that requiring retailers to request concession information from customers on every contact would be too burdensome for retailers and frustrating for customers and frontline customer service staff.<sup>216</sup>

We also heard that initiatives such as bulk mailouts and bill inserts are ineffective and costly. Similarly, initiatives such as bulk text messages could frustrate customers that are ineligible and add pressure to frontline customer service staff.<sup>217</sup>

Consumer groups supported requiring retailers to proactively seek concession information when registering a new customer. They preferred more prescriptive regulations in relation to improving the application of concessions on bills.<sup>218</sup>

### Approach to options development

We considered the benefits of prescriptive regulation and principles-based regulation and the benefits of each in helping improve the percentage of Victorians having their concession entitlements applied to bills.

We researched what other jurisdictions are doing to improve their concession entitlement application rate. We liaised with the Department of Fairness, Families and Housing about retailers' current obligations to provide information to customers about concession eligibility and how to claim concessions.

We also engaged with the AEMC on its '[Improving the application of concessions on bills](#)' consultation. We discussed the value and potential benefits of adopting similar approaches in Victoria and in National Energy Customer Framework jurisdictions, noting the differences between energy concessions in each jurisdiction.<sup>219</sup>

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<sup>215</sup> Ibid.

<sup>216</sup> Essential Services Commission, [Workshop 1 \(online\) Consultation Summary](#), January 2025, p. 4; Australian Energy Council (p. 2), Energy Locals (p. 3), EnergyAustralia (p. 8), Shell (p. 4) [submissions to the Essential Services Commission 'Energy Consumer Reforms: Discussion Paper'](#), 24 October 2024.

<sup>217</sup> Australian Energy Council (p. 2), Energy Locals (p. 3), EnergyAustralia (p. 8), Shell (p. 4) [submissions to the Essential Services Commission 'Energy Consumer Reforms: Discussion Paper'](#), 24 October 2024.

<sup>218</sup> Brotherhood of St Laurence (p. 1); Consumer Action Law Centre (p. 10), Council for the Aging, Victoria (p. 5); Energy Consumers Australia (p. 11), Energy and Water Ombudsman Victoria (p. 16); Financial Counselling Victoria (p.3), Victorian Council of Social Service (p. 6) [submissions to the Essential Services Commission 'Energy Consumer Reforms: Discussion Paper'](#), 24 October 2024.

<sup>219</sup> Australian Energy Market Commission, [Rule change proposal: Improving the application of concessions to bills](#), 6 February, 2025.

## 9.2. Options considered but not progressed to assessment

The options we are considering to increase the application of concessions to bills involve actions in the short to medium term.<sup>220</sup>

We agree with stakeholders that the automation and portability of concession information regarding initial and ongoing eligibility is the best solution to this problem in the long term.<sup>221</sup>

Reforms relating to the automation and portability of concession eligibility information depend on information systems and agreements between Services Australia, state governments and energy retailers. They are outside the scope of this review.

We note that the Energy and Climate Change Ministerial Council has asked officials from the Commonwealth, states and territories to work with Services Australia on options for supporting Commonwealth concession card holders to access state-based energy rebates.<sup>222</sup> We support this work as it will improve access to concessions for Victorian energy customers in the long term.

We also agree with retailers' views that bulk mail outs or texts would be ineffective when engaging with customers. As such, prescriptive rules that would mandate retailers to issue regular messages to current customers who may become eligible for concession entitlements while holding an energy account are not considered viable options.<sup>223</sup>

## 9.3. Options

### 9.3.1. Base case

The base case for improving the application of concessions to bills would mean that we make no changes to the current requirements in the code. The code currently requires a retailer to provide customers with information about concessions or rebates. This involves informing a customer about the existence of concessions. It does not require the retailer to specifically ask the customer about whether they are eligible for these concessions. Currently, retailers must provide customers with information about concessions:

- before the formation of a contract
- as soon as practicable after the formation of a contract

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<sup>220</sup> Essential Services Commission, [Energy Consumer Reforms: Discussion paper](#), 24 October 2024, p. 22.

<sup>221</sup> Australian Energy Council (p.2), AGL (p.8), EnergyAustralia (p.9), Energy Consumers Australia (p.10), Engie (p.4-5), Next Business Energy (p.2), Shell (p.5) [submissions to the Essential Services Commission 'Energy Consumers Reforms: Discussion Paper'](#), 24 October 2024.

<sup>222</sup> Energy and Climate Change Ministerial Council, [Meeting Communiqué](#), 19 July 2024.

<sup>223</sup> Australian Energy Council (p. 2), AGL (p. 8), Energy Locals (p. 3), EnergyAustralia (p. 8), Shell (p. 4) [submissions to the Essential Services Commission 'Energy Consumer Reforms: Discussion Paper'](#), 24 October 2024.

- when a customer in arrears requests tailored assistance
- when a customer requests to be registered as a life support customer.<sup>224</sup>

The base case also considers the continuation of retailers' current obligations under agreements with the Victorian Government on energy concessions. We understand these agreements include requirements for retailers to:

- provide information to customers upon request on eligibility criteria and how to claim concessions
- include a link on its website to the government's website that contains information about concessions
- provide customers with concessions application forms within a reasonable time of receiving a request.

Finally, the base case also considers the feedback received from retailers in workshops and through submissions that many retailers already seek concession information from customers at certain points. These points can include at sign-up, when customers contact them with assistance requests or queries and when customers change products.

### **9.3.2. Option E.1 – Principles-based regulation to improve the application of concessions on bills**

This option would take the form of a principles-based obligation for a retailer to request concessions eligibility information from a customer at all times when a retailer considers it relevant to do so.

Retailers would be required to use their discretion to decide when it may be relevant to seek such information from a customer. For example, if a customer contacts the retailer to discuss their services, a customer service agent could check the customer's concession eligibility status if the customer does not contact the retailer regularly. In contrast, it may not be appropriate for a customer service agent to ask about concession eligibility if the customer has been asked about it on recent previous contacts.

This option would allow flexibility for retailers to consider how to best adapt the obligation with their existing operational systems and procedures. It could also be supported by the identification of best practices or by guidelines to support implementation and compliance.

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<sup>224</sup> Clauses 45(1), 47(1)(a), 128(1)(d), 163(1)(a)(ix) and 168(1)(a)(vii) of the [Energy Retail Code of Practice \(version 3\)](#).

### 9.3.3. Option E.2 – Principles-based and prescriptive regulation to improve the application of concessions on bills

The second option is a combination of a principles-based obligation as described in Option 1 and prescriptive minimum requirements for when a retailer must request concessions eligibility information from a customer. A retailer would be obligated to request concessions eligibility information from a customer at all times when relevant to do so and would also be required to comply with the prescribed minimum requirements.

The prescriptive minimum requirements are designed to ensure that all retailers have the same baseline framework for when to request concession eligibility information from customers. These minimum requirements would involve obligations for a retailer to request concessions eligibility information from a customer when:

- they register a new customer
- a customer requests to change plans with the same retailer
- a customer contacts the retailer requesting payment difficulty assistance
- a customer is identified as being affected by family violence.

In addition, a retailer would be required to contact a customer when the retailer becomes aware that the customer is no longer eligible for an energy concession. The retailer would need to explain to the customer that they will no longer have a concession applied to their bills, and how they can update their concessions eligibility information. A retailer would be required to attempt to contact the customer a second time, if the first attempt is unsuccessful.

## 9.4. Analysis

### 9.4.1. MCA assessment – Options E.1 and E.2

Current data estimates that between 7–14 per cent of eligible Victorians did not receive a concession on their energy bill. If a retailer checks whether a customer is eligible to receive a concession, we expect this would lead some of those customers to provide their retailer with the information needed to apply the concession to bills. However, there is still a behavioural aspect to this proposal, as customers would still need to apply for a concession. Customers who apply for a concession following an eligibility check from their retailer could save around \$260 per year on electricity bills.<sup>225</sup>

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<sup>225</sup> This is calculated using the average Victorian Default Offer price for domestic customers for 2024–25 (\$1,655) and applying the annual electricity concession (17.5% discount applied after the first \$171.60 of the annual bill). It is hard to estimate similar savings for gas bills as there is no reference price for gas standing offers (such as the VDO for electricity) and winter gas concessions only apply to gas usage between 1 May to 31 October each year.

Placing a greater onus on retailers to check concession eligibility will increase business costs. Industry stakeholders did not provide estimates of this cost during consultation. However, we expect new obligations would lead to a higher number of eligibility checks.

An MCA assessment was undertaken to compare the two options. The tables below show these results, broken down by assessment criteria.

**Table 77: MCA Assessment of Options E.1 and E.2: Effectiveness**

| Option | Criteria<br>(weighting 50%)  | Assessment  | Score<br>(-10 to 10) | Weighted<br>score |
|--------|--|---|----------------------|-------------------|
| E.1    | <p>Effectiveness</p> <p>Reform objectives:</p> <ul style="list-style-type: none"> <li>• help households pay less for energy</li> <li>• support eligible people to access concessions.</li> </ul> | <p>Compared to the base case, this option would require additional action from retailers to actively seek customer concession eligibility information, rather than simply provide information about the availability of concessions. This is expected to improve individual customer engagement with, and awareness of energy concessions compared to providing non-individualised general information.</p> <p>Under this option, there are no prescribed circumstances when customer concession eligibility information must be sought (it is left to the retailer to determine when it is relevant to do so). A purely principles-based approach in this context may have reduced effectiveness owing to a lack of specificity and openness to interpretation. In the absence of any prescribed circumstances, it may also be more difficult to take compliance action where retailers are not appropriately seeking concession information, as this will require case-by-case consideration of whether it was relevant to do so in the given situation.</p> <p>We anticipate that retailers would seek concession eligibility information from customers less often under this option compared to Option E.2 (and that this would be more inconsistent across retailers). This is because some retailers may come to the conclusion that it is not relevant to seek this information at certain points and different retailers may come to separate determinations. As a result, we expect this option to be less effective in increasing the number of eligible customers receiving concessions compared to Option E.2.</p> <p>It is expected that this option would increase the number of eligible households accessing concessions compared to the base case. We know that between 7-14 per cent of Victorians</p> | 1.5                  | 0.75              |

eligible for concessions are not receiving them. While we do not expect this option to fully close this gap, we consider a noticeable reduction of this gap is likely. As concession entitlements are designed to reduce the financial burden of energy bills for eligible households by reducing the price paid for energy, an increase in the number of eligible households receiving concessions will therefore result in increased savings for eligible consumers.

It is also possible that this option will result in some disbenefits for wider consumers. For example, consumers (including ineligible consumers) may become frustrated by being frequently queried about their concession eligibility status. This is not expected to be a significant disbenefit though as it would occur only at relevant touch points where there is already expected to be contact with the retailer (as opposed to, for example, bulk messages or mail outs).

|     |  |   |   |     |
|-----|--|---|---|-----|
| E.2 | <p>Effectiveness</p> <p>Reform objectives:</p> <ul style="list-style-type: none"> <li>• help households pay less for energy</li> <li>• support eligible people to access concessions.</li> </ul> | <p>This option would include a principles-based approach while also prescribing several new trigger points where customer concession information must be sought. Similar to Option E.1, actively seeking this information from individual customers rather than simply providing general concession information is expected to improve awareness of and engagement with concessions. This should help to increase the number of eligible households becoming aware of the concessions they are entitled to and accessing them.</p> <p>To comply with these requirements, retailers will be required to both consider under what circumstances it is relevant to seek concession information and (at minimum) seek this information at the prescribed trigger points. While we understand many retailers already check if customers are eligible for concessions at different contact points, there may be inconsistency in practice. This option would establish a clear minimum baseline of when a retailer would be required to seek concession eligibility information from customers at key points.</p> <p>This should reduce the variability between retailers that could arise from different retailers making different determinations of whether it is relevant to seek concession eligibility information at different points. It is also likely to support compliance activities as it will be simpler to determine if this information was not sought at the prescribed trigger points, rather than each action requiring a case-by-case</p> | 3 | 1.5 |
|-----|--|---|---|-----|

determination of whether it was relevant to seek the information at that point.

Compared to Option E.1, this option will provide greater certainty that customer concession eligibility will be checked at key points. While a principles-based approach is likely to be effective up to a point, incorporating mandatory minimum requirements is likely to be more effective in increasing the amount of eligibility checks retailers conduct and will also result in greater consistency across all retailers. Compared to Option E.1, this option also includes a requirement for a retailer to contact customers when the retailer becomes aware the customer is no longer eligible for a concession. This should help to reduce the number of customers not receiving concessions by improving customer awareness of the fact their eligibility has expired (which they may be otherwise unaware of) and the actions they must take to rectify this.

As for Option E.1, we expect that this option would result in a noticeable closing of the gap between total customers eligible for energy bill concessions and those receiving them. While we do not expect that this reform will completely close the 7-14 per cent gap, we anticipate this option would result in a greater increase in the percentage of eligible customers receiving concessions compared to Option E.1. This is largely due to the expected increase in retailer checks, greater consistency across retailers in when checks will occur and the additional requirement to contact and support customers who have had their concession eligibility expire.

Similar to Option E.2, it is also possible that this option will result in some disbenefits for wider consumers such as frustration arising from being frequently queried about their concession eligibility status. While this may be slightly more likely for this option due to the increased retailer and customer touch points, this is still not expected to be a significant disbenefit.

**Table 88: MCA Assessment of Options E.1 and E.2: Cost to industry**

| Option | Criteria<br>(weighting 40%) | Assessment  | Score<br>(-10 to 10) | Weighted<br>score |
|--------|-----------------------------|---|----------------------|-------------------|
| E.1    | Cost to industry            | The onus of implementing a principles-based approach would be on industry and this entails costs. Retailers would be required to assess their | -0.5                 | -0.2              |

existing systems and process and determine at what points it is relevant to seek customer concession eligibility information. They may also be required to update existing processes and systems (including training) if changes need to be made as a result of this assessment.

Many Victorian retailers already have systems in place to provide information to customers on concessions and check customer eligibility at points where they have determined it appropriate to do so. Many retailers also expressed that they already have systems in place to proactively seek customer concession eligibility information at certain points.

Under a solely principles-based approach we would therefore anticipate that cost to industry would be low, as many retailers will have already determined what circumstances they consider it relevant to seek this information and already have systems in place that can be adjusted to respond to and incorporate these reforms. Compared to option E.2, this option also does not require retailers to spend additional time and resources to contact and support customers who have had their concession eligibility expire.

More customers accessing concessions would not result in changes to income for energy retailers, as concessions are funded by the Victorian Government.

|     |                  |   |      |      |
|-----|------------------|---|------|------|
| E.2 | Cost to industry | <p>This option adds to the principles-based approach by mandating new points at which a retailer must request concessions eligibility information from a customer. This mandatory element would result in more costs to industry compared to Option E.1 as it is more likely retailers would need to update or alter existing concession-related procedures to comply with the new minimum requirement eligibility check points. This is because the additional prescribed check points may differ from those that retailers have currently identified as relevant points to seek concession information, even for those retailers that currently have systems in place to do this. Other retailers that currently just provide information to customers about the availability of concessions will have to update systems more significantly.</p> <p>Compliance costs would also be slightly greater under this option as retailers would have to demonstrate that they have complied with both the general principle of checking eligibility where relevant to do so as well as at the prescribed eligibility check points. These additional costs would include ensuring compliance with the</p> | -1.5 | -0.6 |
|-----|------------------|---|------|------|

minimum requirements and reporting potential breaches.

Finally, retailers would experience slightly higher costs under this option compared to Option E.1 as they would also need to contact and support customers who have had their concession eligibility expire. This is not required under Option E.1.

As under Option E.1 more customers accessing concessions would not result in changes to income for energy retailers, as concessions are funded by the Victorian Government.

**Table 99: MCA Assessment of Options E.1 and E.2: Cost to government**

| Option | Criteria<br>(weighting 10%) | Assessment  | Score<br>(-10 to 10) | Weighted<br>score |
|--------|-----------------------------|---|----------------------|-------------------|
| E.1    | Cost to government          | <p>Administrative costs to the commission would include establishing best-practice guidelines or supporting information for industry, as well as monitoring industry to confirm that the principles are adhered to. This would be a relatively minor cost, mostly incurred at the commencement of this measure, with periodic updates as required. However, ambiguity concerning enforcement of principles could lead to disputes and costs for the commission to resolve disputes.</p> <p>This reform seeks to support customers entitled to concessions to access those concessions. While the government has already allocated budget for concessions, improving access for customers entitled to receive concessions would involve additional expenditure for government.</p> | -0.5                 | -0.05             |
| E.2    | Cost to government          | <p>Administrative costs to the commission would include establishing best-practice guidelines or supporting information for industry. In addition, the commission would need to update compliance reporting obligations to monitor the mandatory obligations for a retailer to request concessions eligibility information at specific points. Nevertheless, the overall costs to the commission are expected to be relatively small (but greater than for Option E.1).</p> <p>Similar to Option E.1, greater access to concessions would increase government expenditure.</p>  | -0.75                | -0.075            |

## 9.5. Summary and preferred option

The MCA assessments suggest that both options are an improvement over the base case, with Option E.1 scoring 0.5 and Option E.2 scoring 0.825. Option E.2 essentially represents a principles-based approach but applies a minimum set of rules to deal with some of the disadvantages of a solely principles-based approach.

The benefits of both options are associated with seeking concession eligibility information from customers and therefore prompting more customers to access concessions. While Option E.2 imposed higher cost on industry (owing to the requirement of a greater number of checks), it is likely to be more effective in achieving the reform's objectives. Therefore, Option E.2 is preferred.

**Table 30: Summary of MCA assessment – Improving the application of concessions on bills**

| Option | Description   | Weighted score               |
|--------|---|------------------------------|
| E.1    | Principles-based requirement for retailers to request concession eligibility information from customers at all times where it is relevant to do so. | 0.5                          |
| E.2    | Principles-based <i>and</i> prescriptive regulation to improve the application of concessions on bills  | <b>0.825<br/>(preferred)</b> |

## 10. Extending protections for customers on legacy contracts

### Preferred option

All conditional fees and conditional discounts related to a payment condition (including pay-on-time discounts) would be limited to the reasonable costs incurred by the retailer resulting from the customer's failure to satisfy a payment condition. If the scale of these conditional discounts exceeds this reasonable estimate (for example high pay-on-time discounts on legacy contracts), retailers would be required to apply these discounts unconditionally. This protection would apply to all contracts, including those entered into before 1 July 2020.

A retailer would be required to provide any discount, rebate or credit in a contract entered into before 1 July 2020 for the entire duration of the contract, if the benefit has not already expired.

### 10.1. Scope of reform

#### 10.1.1. Purpose of this reform

This reform aims to provide the same degree of protection to customers who remain on contracts entered into before 1 July 2020 (referred to as 'legacy contracts').

In 2020, we introduced a suite of reforms to ensure that contract periods, practices (including discounting), and variations were clear and fair. This included requiring that contract monetary benefits lasted for the duration of a contract and capping the size of pay-on-time discounts to a level set by the commission annually.<sup>226</sup>

While these reforms have been effective in addressing the risk of customers facing price shock or high-cost penalties (if monetary benefits suddenly expire or if they fail to meet discount conditions), these protections currently only apply to contracts entered into after the reforms commenced on 1 July 2020.

In 2023, the ACCC found that a significant number of consumers remain on legacy contracts which are correlated with high conditional discounts.<sup>227</sup> Customers on legacy contracts therefore remain

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<sup>226</sup> '[Ensuring contracts are clear and fair 2019](#)', Essential Services Commission, accessed 21 February 2025.

The cap is set in our [Guideline: maximum cap for pay-on-time discounts](#). For contracts entered into from 1 July 2024 to 30 June 2025, the maximum pay-on-time discount cap is 6.62%.

<sup>227</sup> Australian Competition and Consumer Commission, [Inquiry into the National Electricity Market: December 2023 Report](#), 1 December 2023, p. 39.

exposed to an increased risk of price shock or cost penalties if they fail to meet discount conditions or if contract benefits expire.

We are considering expanding the same level of protections that apply to new contracts (entered into after 1 July 2020) to all contracts, including legacy contracts entered into before 1 July 2020.

### 10.1.2. What we heard from stakeholders

Consumer groups and public entities were generally supportive of extending protections to customers on legacy contracts while retailers generally did not support changes.

At workshops, consumer groups and public entities highlighted that high prices were the major driver of consumer harm around legacy contracts.<sup>228</sup> Consumer groups highlighted that the complexity of navigating the energy market is making it difficult for consumers to engage with the market. They stressed that there could be a number of barriers that prevented customers on legacy contracts from actively engaging in the market. This includes being culturally and linguistically diverse, experiencing family violence, or misunderstanding conditional discounts.<sup>229</sup>

Consumer groups supported additional protections for customers who were unable to or could not engage in the energy market. They also found that consumers often misunderstood the underlying high prices of contracts with conditional discounts, which essentially functioned as late fees.

Retailers were generally opposed to making changes to legacy contracts, arguing that changes would result in higher than necessary implementation costs to retailers.<sup>230</sup> They also emphasised that increased customer engagement would drive better outcomes for the customer than additional regulation.<sup>231</sup> They argued that many customers on legacy contracts benefitted from conditional pay-on-time discounts and could be disadvantaged if we were to introduce these caps to all contracts. Some suggested the commission should take more targeted approach to pay-on-time discounts, only extending caps on pay-on-time discounts to legacy contracts once a customer has failed to meet conditions for their discount.<sup>232</sup>

### 10.1.3. Approach to options development

As outlined above, the aim of this reform is to reduce the risk that customers on legacy contracts are exposed to the price shock of large financial penalties if contracts' benefits expire or discount

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<sup>228</sup> Essential Services Commission, [Workshop 1 \(Online\) Consultation Summary](#), January 2025, pp. 2–3.

<sup>229</sup> Ibid.

<sup>230</sup> Alinta Energy, [submission to the Essential Services Commission 'Energy Consumer Reforms: Discussion Paper'](#), 3 December 2024, p. 2.

<sup>231</sup> Essential Services Commission, [Workshop 1 \(Online\) Consultation Summary](#), January 2025, pp. 2–3.

<sup>232</sup> Ibid.

conditions are not met. This risk is reduced for customers on newer contracts by requiring contract benefits to last the duration of the contract and capping pay-on-time discounts. Given the demonstrated effectiveness of these interventions and in the interest of consistency, we are considering similar options for legacy contracts.

### **Capping pay-on-time discounts**

When we introduced the cap on pay-on-time discounts in 2019, we considered whether to apply caps on pay-on-time discounts to all contracts, including those entered into prior to the reforms. We identified that this could result in retailers reducing the size of pay-on-time discounts that legacy contract customers were currently receiving without reducing the higher underlying prices these customers pay, resulting in those customers being worse off.<sup>233</sup>

We considered this risk in development of options for this reform. We identified three approaches to mitigate this risk:

1. Requiring that retailers move customers on legacy contracts onto new contracts that have to comply with the capped conditional discount rules.
2. Allowing retailers to keep customers on existing plans but capping pay-on-time discounts for legacy contracts and requiring that retailers ensure customers are not worse off. This would require retailers to alter contract conditions (to reduce the discount to the cap) and would likely also require retailers to reduce tariffs to account for the reduced size of the discount available to the customer.
3. Allowing retailers to retain high percentage discounts on legacy contracts but requiring that retailers apply these discounts unconditionally (irrespective of whether the discount conditions are met).

### **Ensuring benefits last the length of the contract**

In considering options for this reform, we acknowledge that many, if not all, time-limited monetary benefits on contracts entered into prior to 1 July 2020 may have already expired. Despite this, we considered the benefits of providing a consistent level of protection across all customers and the potential significant benefits if any legacy contracts do include benefits that have not yet expired.

We also considered how (if at all) the proposed options would apply to contract benefits that have already expired.

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<sup>233</sup> [‘Ensuring contracts are clear and fair 2019’](#), Essential Services Commission, accessed 21 February 2025.

## 10.2. Options considered but not progressed to assessment

### Capping pay-on-time discounts

As outlined above, simply extending caps on pay-on-time discounts to legacy contracts could result in customers on these contracts being worse off (approach 1 in Section 10.1.3). If the underlying price customers on these contracts pay is not reduced but the size of the available discount is, customers would end up paying more even if meeting the discount conditions.

We also note that some customers may have made a conscious decision to keep their high pay-on-time discounts (and may not be aware or consider the underlying price). These customers may also not prefer losing these high percentage discounts, without giving their prior consent. We have also considered that requiring retailers to reduce tariffs to account for the reduced size of the discount available to the customer would impose a significant burden on retailers as likely major changes to their systems and processes would be required, as explained in chapter 5 when assessing changing tariffs to automatically switch eligible customers to the best offers. Therefore, we do not consider that allowing retailers to keep customers on existing plans but capping pay-on-time discounts for legacy contracts and requiring that retailers ensure customers are not worse off (approach 2 in section 10.1.3) to be a viable option, despite the reform protecting customers from the cost of not meeting a conditional discount.

We also note that the proposed reforms in Chapter 8 will address some of the concerns for customers on older contracts with high underlying prices.

### Ensuring benefits last the length of the contract

Some legacy contracts include time-limited monetary benefits if they were entered into (prior to 1 July 2020). In most (if not all) these cases, these time-limited benefits are likely to have expired. Although we are considering reforms to require that active benefits of these contracts last for the remaining duration of the contract, we do not consider it feasible to require retailers to reactivate already-expired benefits. This would introduce significant complexity and, in some cases, may not be feasible, for example if the benefits are no longer offered or available.

## 10.3. Options

### 10.3.1. Base case

The base case for this reform is for the current protections introduced on 1 July 2020 to continue to apply only to contracts entered into after that date. We have seen that the proportion of customers on legacy contracts with conditional discounts is steadily declining.<sup>234</sup>

From our sample of residential customer contracts, around five per cent of residential customers were still on legacy contracts with conditional pay-on-time discounts greater than five per cent in 2023. This was down from 8 per cent in 2022 and 14 per cent in 2021.<sup>235</sup>

We expect that over time, a majority of customers on legacy contracts with conditional discounts will move onto newer contracts, either through expiry or through direct intervention from the retailer.

### 10.3.2. Option F.1 – Extending protections to legacy contract benefits and making legacy discounts unconditional

This option would introduce new rules to provide legacy contracts with similar protections against price shock and high price penalties as those that exist for contracts entered into after 1 July 2020. This would include rules relating to:

- regulating conditional discounts
- maintaining contract benefits until the end of a contract period.

#### Regulating conditional discounts

We are proposing to introduce new rules which would limit conditional fees and conditional discounts related to payment conditions for all contracts, including legacy contracts. These reforms are outlined in detail in Chapter 6 but are of direct relevance to extending protections for customers on legacy contracts.

These reforms will require that any conditional fee or conditional discount (including pay-on-time discounts) does not exceed a reasonable estimate of the costs incurred by the retailer resulting from the customer's failure to meet the relevant condition. Retailers would not be required to amend legacy contracts to reduce large conditional discounts.

However, if the scale of these conditional discounts exceeds this reasonable estimate, retailers would be required to apply these discounts unconditionally. With respect to pay-on-time discounts,

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<sup>234</sup> Figure 12 in Section 2.1.2.

<sup>235</sup> Ibid.

what is considered a reasonable estimate would be any amount up to the cap on pay-on-time discounts set annually by the commission.

While these changes do operate similarly to the proposed reforms presented in Chapter 6, they are targeted at a different group of customers and intend to deliver slightly different outcomes. The Chapter 6 reforms are intended to make it easier for customers that are engaging in the market to switch to a cheaper plan by removing billing or payment restrictions (allowing retailers to recover reasonable costs). The reforms discussed in this chapter are targeted at customers that are not engaging in the market and are not moving to cheaper plans. The intended outcome is to enhance protections for these legacy customers that do not switch.

We consider that applying any conditional discount unconditionally would provide better outcomes for consumers on legacy contracts with high discounts than applying the cap on pay-on-time discounts to these contracts. The cap on pay-on-time discounts would remain in place for contracts entered into after 1 July 2020.

Customers on legacy contracts can be divided into three groups:

1. Customer pays unreasonably high costs if they fail to meet their conditional fee or discount conditions and pays an unreasonable price if they meet their conditional fee or discount conditions (due to high underlying tariffs).
2. Customer pays unreasonably high costs if they fail to meet their conditional fee or discount conditions but pays a reasonable price if they meet their conditional fee or discount conditions.
3. Customer pays a reasonable cost if they fail to meet their conditional fee or discount conditions and pays a reasonable price if they meet their conditional fee or discount conditions.

The proposed new rules would provide better outcomes for all customers in all three groups. However, it would not fully address the issue of unreasonably high underlying prices for customers in group 1. Customers in that group would have further protections under the reforms considered in Chapter 8 (Protections for customers paying higher prices) which address the 'loyalty penalty'.

We understand that there is only a small number of legacy contract customers remaining on contracts with high pay-on-time discounts and that most of those customers are already meeting those requirements and receiving the discount. For example, the ACCC estimate that in 2023, approximately 90 per cent of customers on plans with conditional discounts achieved the discount.<sup>236</sup>

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<sup>236</sup> Australian Competition and Consumer Commission, [Inquiry into the National Electricity Market](#), June 2024 Report, p. 62.

## Maintaining contract benefits until the end of a contract period

Additionally, regulations around maintaining benefits until the end of a contract period would be extended to all contracts including those contracts entered into before 1 July 2020.

Retailers would be required to extend any existing active benefits on legacy contracts for the duration of a contract. We expect that this extension on existing benefits would affect a minor number of contracts, as any benefits on existing legacy contracts which have not yet expired would likely be benefits that apply for the entire duration of the contract.

As outlined in Section 10.2, this reform would not require retailers to reactivate time-limited benefits on legacy contracts that have already expired.

## 10.4. Analysis

### 10.4.1. MCA assessment – Option F.1 against base case

This is a relatively small-impact proposal that will remove the exposure to customers on legacy contracts (pre-1 July 2020 contracts) to the price shock of large financial penalties if contract benefits expire or discount conditions are not met. Customers on contracts entered into post 1 July 2020 already have these protections. This is the vast majority of residential energy consumers in Victoria.

These reforms will benefit customers who remain on legacy contracts with conditional pay-on-time discounts greater than five per cent. Around five per cent of residential electricity customers were still on such legacy contracts as of 2023.<sup>237</sup> This would represent approximately 138,550 Victorian customers based on current customer numbers.<sup>238</sup> This figure likely over-estimates the number of customers who will remain on legacy contracts when the proposed reforms commence in 2026, as the number of customers on these contracts declines year-on-year as customers either change retailers or move to newer contracts with their same retailer.

Of the customers who remain on legacy contracts, only a smaller subset is expected to require these protections. As noted in Section 10.3.2, approximately 90 per cent of customers on plans with conditional discounts achieve the conditions for these discounts. These reforms would primarily benefit the remaining 10 per cent of customers on legacy contracts with conditional discounts who do not meet discount conditions. This represents approximately 13,855 customers,

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<sup>237</sup> Ibid (Figure 12).

<sup>238</sup> As recorded on our [Victorian Energy Market Dashboard](#), as of Q2 2024-25, there were 2.771 million residential electricity customers in Victoria. 138,550 represents five per cent of this figure.

based on current customer numbers and assuming five percent of all customers remain on legacy contracts (which, as noted above, is understood to be an over-estimate).<sup>239</sup>

Under this proposal, retailers would be required to apply discounts on legacy contracts irrespective of whether or not the customer has met the required conditions. This will result in some loss of revenue for energy providers arising from covering costs to customers on legacy contracts who do not pay on time or do not meet other conditions. It will also result in some implementation costs.

The amount of lost revenue is not expected to be significant. In 2019, we calculated that the average annual cost to a customer for not meeting part or all of their discount conditions was \$188.<sup>240</sup> Assuming the same cost of not meeting discounts for these older contracts, this reform could reduce costs for impacted customers by up to \$2.6 million annually.<sup>241</sup> As the proportion of customers who will remain on legacy contracts when the proposed reforms commence in 2026 is likely to be lower than the 2023 figure of five percent, actual cost savings (and cost transfers from customers to industry) are also likely to be lower than this maximum estimate.

As outlined in section 2.1.2, the number of customers who are still on legacy contracts with conditional discounts greater than five per cent has been declining rapidly. Since 2020, the number of customers on these contracts has declined by half roughly every two years.<sup>242</sup> We expect this broad trend to continue. Assuming this trend continues, we expect roughly one to two per cent of customers to remain on these legacy contracts within five years, representing approximately 27,710 to 55,420 residential electricity customers. We estimate that the remaining cost for not meeting discount conditions could be between \$0.5 to one million annually.<sup>243</sup>

An MCA assessment was undertaken to compare the merits of the proposed option. The table below shows the result of this analysis, as scored against the base case for all assessment criteria.

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<sup>239</sup> Assuming 10% of the 138,550 customers estimated as remaining on legacy contracts with conditional pay-on-time discounts greater than 5%.

<sup>240</sup> Essential Services Commission, '[Ensuring energy contracts are clear and fair 2019 Draft Decision](#)', 10 December 2019, p. 24.

<sup>241</sup> Assuming 13,855 customers on legacy contracts with high conditional discounts are not meeting discount conditions, which results in an average cost to these consumers of \$188 annually.

<sup>242</sup> Ibid (Figure 12). Based on analysis of a sample of residential electricity customer billing data, the proportion of customers on legacy contracts with discounts greater than 5 per cent was 26 per cent in 2020, 14 per cent in 2021, 8 per cent in 2022 and 5 per cent in 2023.

<sup>243</sup> As recorded on our [Victorian Energy Market Dashboard](#), as of Q2 2024-25, there were 2.771 million residential electricity customers in Victoria. While total customer numbers are expected to be different in five years following these reforms, this number is used as a simplified reference point. 27,710 and 55,420 represent one and two per cent of this number (respectively). 2,710 and 5,542 represent 10 per cent of these numbers to account for the proportion of customers that do not meet conditional discount conditions.

**Table 31: MCA Assessment of Option F.1 against base case**

| Option | Criteria   | Assessment   | Score<br>(-10 to 10) | Weighted<br>score |
|--------|--|--|----------------------|-------------------|
| F.1    | <p>Effectiveness</p> <p>Reform objectives:</p> <ul style="list-style-type: none"> <li>to help households pay less for energy.</li> </ul> <p><b>(weighting 50%)</b></p> | <p>Although this option does not require customers on legacy contracts to be moved to newer contracts (which would be fully covered by all current protections), it protects these customers from experiencing sudden high price penalties for failing to meet discount conditions. As retailers would be required to apply these discounts unconditionally, customers will not be exposed to sudden price penalties associated with not meeting the conditions of high percentage discounts.</p> <p>While the number of customers that will benefit from these protections is small, it is still estimated that this will result in significant annual savings for impacted customers. It is also understood that the customers who will benefit from these protections may include proportionally significant amounts of customers from groups at higher risk of experiencing vulnerability, such as culturally and linguistically diverse customers or customers experiencing family violence. The estimated savings figure is expected to continue to reduce as the number of customers on legacy contracts (entered into pre-1 July 2020) continues to decline year-by-year.</p> <p>The effectiveness score for this option is also slightly reduced because it is not considered feasible to re-activate any expired contract benefits on legacy contracts. Retailers would not be expected to do this and customers on legacy contracts would not be able to re-access any benefits that have expired prior to the commencement of these reforms.</p> | 3                    | 1.5               |
| F.1    | <p>Cost to industry</p> <p><b>(weighting 40%)</b></p>  | <p><u>Compliance costs</u></p> <p>Industry costs under this option are expected to be relatively minor. Retailers would not be required to contact customers on legacy contracts to seek consent to alter contract details or move these customers on to newer plans. Retailers are also already required to set pay-on-time discounts at the level set annually by the commission, so this does not require alteration of internal systems or process to adjust to different allowable maximum amounts. Applying discounts unconditionally also should not require significant changes to retailer systems, just minor changes to the triggers at what point discounts are applied.</p> <p><u>Cost transfers</u></p>  | -1                   | -0.4              |

This option will result in cost transfers from customers on legacy contracts who do not meet discount conditions and would previously pay retailers a cost penalty because of this. This represents a very small fraction of overall customers.

The cost transfer from this reform is also expected to rapidly decline over the next five years as the number of customers on legacy contracts continues to decline.

For the purposes of this assessment, this cost transfer is treated as a cost but, in economic terms, it reflects a modest shift away from reliance on behavioural pricing strategies rather than a structural inefficiency.

It is not anticipated that these reforms will have any significant impact on whether customers on legacy contracts with conditional pay-on-time discounts meet the conditions of these discounts. The majority of customers on legacy contracts are expected to be disengaged customers who would not change their behaviour as a result of the proposed rules.

|     |                        |   |              |               |
|-----|------------------------|---|--------------|---------------|
| F.1 | Cost to government     | As the proposed protections already apply to post-1 July 2020 contracts, systems are in place for its implementation (i.e. a yearly review of the cap on pay-on-time discounts already takes place and the commission has built capability to monitor compliance with the proposed rules). However, to monitor compliance in relation to legacy contracts, some additional costs may be incurred. This could include targeted investigations to assess compliance following the implementation of the proposed changes and may also include opportunity costs associated with focusing compliance resources on this reform at the expense of the code's other requirements. | -0.25        | -0.025        |
|     | <b>(weighting 10%)</b> |   |              |               |
|     |                        |   | <b>Total</b> | <b>+1.075</b> |

## 10.5. Summary and preferred option

Option F.1 scores a positive MCA score over the base case or current arrangements. The number of customers who will benefit from this option will be around 13,855. The experience of the 2020 reforms provides evidence that this option will be effective in helping households pay less for energy. Implementation for industry and government is not expected to be complex or costly, noting systems are already in place owing to the 2020 reforms.

Over time, the benefits of this option will reduce, as will costs to industry, as legacy contract expire or customers on these contract switch to new plans.

**Table 32:** Summary of MCA assessment – Extending protections for customers on legacy contracts

| Option | Description   | Weight score             |
|--------|---|--------------------------|
|        | Base case – current arrangements  | 0.0                      |
| F.1    | Extend protections to all contracts (extending to contracts into before 1 July 2020). | <b>1.075 (preferred)</b> |

# 11. Improving awareness of independent dispute resolution services

## Preferred option

A retailer would be required to include the telephone number of the Energy and Water Ombudsman Victoria (EWOV) on the front page of a bill.

### 11.1. Scope of reform

#### 11.1.1. Purpose of reform

Many consumers are not aware of the independent dispute resolution services provided by EWOV (see Section 2.1.4). This reform seeks to increase consumer awareness of EWOV. This would provide better protections and support for energy consumers.

As Victoria's dispute resolution service for energy customers, EWOV is independent and helps to resolve complaints between a consumer and their retailer impartially. By increasing consumer awareness of EWOV's services, complaints can be resolved more efficiently and fairly.

Research shows that many consumers rely on information from their bills to address complaints. For instance, the Australian Government has found that 26 per cent of consumers use their energy bill to find contact details for making a complaint.<sup>244</sup>

To improve awareness of EWOV and its services, we are considering changes to require retailers to include EWOV's contact details on electricity and gas bills. This initiative aims to ensure that consumers are well-informed about the dispute resolution services available and how to access them.

A similar requirement already exists in other NEM jurisdictions. The AER's Better Bills Guideline requires retailers to include a telephone number for the customer to contact the relevant energy ombudsman on the first page of bills.<sup>245</sup>

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<sup>244</sup> Behavioural Economics Team of the Australian Government, [Improving energy bills: Final report](#), October 2021, p.19.

<sup>245</sup> Section 40(l)(ii) of the Australian Energy Regulator's [Better Bills Guideline \(version 2\)](#).

### 11.1.2. What we heard from stakeholders

Feedback from stakeholders underscored the importance of making information about EWOV accessible for all consumers. Stakeholders were largely supportive of including EWOV's contact details on bills.

Consumer advocates supported measures to increase the visibility of EWOV on bills. They emphasised that clear and prominent information about EWOV would help consumers understand their rights and choices available for resolving disputes. Advocates further highlighted that consumers experiencing vulnerability are more likely to benefit from stronger awareness initiatives, as they may be less aware of their rights or how to seek help.

Some stakeholders provided additional suggestions, such as including information about tailored assistance or the National Debt Helpline on bills.<sup>246</sup>

Ombudsman in other jurisdictions have welcomed the AER requirement to include their contact details on bills, which has improved customer awareness of their services. However, they noted that there are some instances where customers contact their respective ombudsman before first contacting their retailer. In that scenario, the ombudsman would refer the customer back to their retailer.

Retailers and industry raised concerns about the practical aspects of implementing this reform. Those concerns include the potential costs associated with updating billing systems and the potential to divert customers to EWOV before first trying to resolve complaints with their retailer (similar to the concern raised by ombudsman in other jurisdictions).<sup>247</sup>

However, retailers also acknowledged the importance of improving consumer awareness, with some retailers commenting that they already provide EWOV's phone number on bills. Retailers provided feedback on specific reform options, such as including EWOV's contact details on the front page of bills, in the body of emails and through other communication channels. While there was general support for these options, retailers favoured for consistency with AER's Better Bills Guideline where possible.

### 11.1.3. Approach to options development

The approach to developing reform options is largely based on feedback received through consultation. We looked at requirements in National Energy Customer Framework jurisdictions and

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<sup>246</sup> Consumer Action Law Centre, [submission to the Essential Services Commission 'Energy Consumer Reforms: Discussion Paper'](#), 27 November 2024, p. 12; Financial Counselling Victoria, [submission to the Essential Services Commission 'Energy Consumer Reforms: Discussion Paper'](#), 26 November 2024, p. 5.

<sup>247</sup> Australian Energy Council, [submission to the Essential Services Commission 'Energy Consumer Reforms: Discussion Paper'](#), 3 December 2024, p. 2.

engaged with ombudsman schemes to understand whether the inclusion of ombudsman phone numbers on bills has led to better consumer outcomes.

We also looked at a sample of Victorian bills, to verify whether retailers voluntarily include EWOV's contact details on bills. We noted that several retailers (large, medium and small) already include this information on bills.<sup>248</sup> These retailers account for approximately 50 per cent market share of the Victorian retail energy market.

We considered a range of different options. For example:

- full alignment of bills with the AER's Better Bills guideline, including EWOV's phone number and website on the front page of bills
- requiring additional information regarding EWOV services
- including EWOV's contact details in emails.

Our approach in developing these options focused on determining what EWOV information would be more useful for consumers when receiving a bill, and how to make it easier for consumers to engage with their energy bills.

## **11.2. Options considered but not progressed to assessment**

A first option we considered was to fully align Victorian bill information requirements with the AER's Better Bills Guideline. However, stakeholders were not supportive of this option. They noted that the AER has not yet completed a post-implementation review of the guideline and of the costs and benefits of changes since it came into effect.

A second option we considered was to develop a guideline highlighting best practices for dispute resolution between customers and retailers. A guideline could provide guidance for retailers on how best to ensure their customers are made aware of the dispute resolution services available to them. We considered this option would be unlikely to achieve the outcome of increasing consumer awareness of EWOV's services without other interventions.

The third option we considered was to require retailers not only to include EWOV's phone number on the front page of bills but also EWOV's website address and additional information about EWOV, including a brief description of the role of EWOV and the services it offers. However, we considered that adding such information could make bills more complex than they already are, given the amount of information that is already required. This would make it more difficult for customers to engage with their bills.

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<sup>248</sup> For example, in our sample bills from AGL, Powershop, Red Energy, Engie, Lumo Energy, Nectra, Dodo and CovaU included EWOV's phone number (and in some cases EWOV's website).

Another option we did not progress was to require the inclusion of EWOV's contact details in the body of emails, in addition to including EWOV's contact details on bills. Under this option, when a retailer issues an electronic bill to a customer, it would have to include information about EWOV in the email (such as phone number, email address and website link).

While this approach may provide consumers with more immediate information, stakeholder feedback suggested that communicating bill information digitally is intended to be concise and focused on the most essential billing information. Stakeholders also mentioned that additional regulatory intervention in digital bill messaging (including emails) would be unlikely to improve consumer outcomes. We further considered that in most cases, complaints and disputes are more likely to arise from a customer's engagement with their energy bill rather than the email through which the bill is communicated.

### **11.3. Options**

#### **11.3.1. Base case**

Currently, the base case is:

- Retailers are required to include a telephone number for complaints on bills.<sup>249</sup>
- Some retailers also include EWOV's phone number on the front page of bills, despite there being no requirement in the code to do so.

If no action is taken, Victoria will continue to be the only NEM state where the ombudsman contact details are not required on energy bills. In addition, some Victorian customers will have access to this information on bills while others would not, depending on which retailer they buy their energy from.

#### **11.3.2. Option G.1 – Requiring the inclusion of EWOV's phone number on the front page of bills**

This option involves adding a requirement for the front page of Victorian energy bills to contain a telephone number for the customer to contact the energy ombudsman (EWOV).

This requirement would be equivalent to the one in the AER Better Bill's Guideline. It would create a consistent approach across NEM jurisdictions in relation to information on bills about dispute resolution services.

A retailer would be required to display on a bill both a telephone number for complaints and a telephone number for the customer to contact the energy ombudsman. Retailers would still have

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<sup>249</sup> Clause 63(1)(v) of the [Energy Retail Code of Practice \(version 3\)](#).

the option to include additional information, and flexibility on how this information should be presented.

We consider this flexibility would allow retailers to present information in such a way that it decreases the chances a customer would direct a complaint to the ombudsman in the first instance, rather than trying to resolve a dispute with the retailer first.

## 11.4. Analysis

### 11.4.1. MCA assessment – Option G.1 against base case

This is a relatively minor proposal requiring the inclusion of EWOV's phone number on the front page of bills, although this will be required on all energy bills (not just for consumers in specific situations, for example customers experiencing payment difficulty). It cannot be estimated how many additional customers will contact EWOV as a result of this proposal, however, the inclusion of a telephone contact number on the front page of a bill should raise awareness of the complaints avenues for customers who are experiencing issues with their energy plans or retailer. As noted in Section 2.1.4., ombudsman in other jurisdictions reported an increase in complaints received following the introduction of similar requirements through the AER's Better Bills Guideline.

The cost to industry of this proposal is expected to be relatively small. Many Victorian energy retailers already provide EWOV's contact number on their bills. Nevertheless, this proposal will require other retailers (estimated at representing roughly half the retail market share) to update their bills with this information on both electronic and paper bills.

An MCA assessment was undertaken to test the merit of the proposed option. The table below shows the result of this analysis, as scored against the base case for all assessment criteria.

**Table 33: MCA Assessment of Option G.1 against base case**

| Option | Criteria   | Assessment  | Score<br>(-10 to 10) | Weighted<br>score |
|--------|--|---|----------------------|-------------------|
| G.1    | <p>Effectiveness</p> <p>Reform objectives:</p> <ul style="list-style-type: none"> <li>to enhance protections for energy consumers</li> <li>to improve awareness of independent dispute resolution services.</li> </ul> | <p>Requiring EWOV's details to be added to bills is a relatively small-scale measure. However, information from ombudsman in other jurisdictions suggests that similar changes have significantly increased customer engagement (measured in terms of complaints received by the ombudsman). We note that some retailers already voluntarily provide EWOV details on bills, which effectively means that consumers have access to different information depending on who their retailer is.</p> <p>Though it is not possible to conclusively attribute all the increased engagement reported by other ombudsman to these similar changes,</p> | 3                    | 1.5               |

|              |   |  |      |              |
|--------------|---|--|------|--------------|
|              | (weighting 50%)                           | <p>this nonetheless suggests that the proposed option is effective in delivering the intended outcome.</p> <p>A potential negative outcome based on feedback from retailers and ombudsman in other jurisdictions, is that some customers may contact their ombudsman before raising a complaint with their retailer first. This may lead to instances of unnecessarily longer complaint handling processes.</p> <p>However, research findings and stakeholder feedback has shown that all consumers can benefit from clear and prominent information about dispute resolution services available to them. Consumers experiencing vulnerability stand to benefit the most from enhanced dispute resolution awareness, given they might not be fully informed about their consumer protections, or ways to seek assistance.</p>  |      |              |
| G.1          | Cost to industry<br><br>(weighting 40%)   | <p>Given that the industry funds EWOV, a greater level of disputes would increase the cost of funding the scheme, with businesses involved in a higher number of disputes contributing more to the scheme in the short term. The cost for industry is expected to be low. However, while acknowledging the assessment challenges, over the long term, accessible and effective external dispute resolution may be a net positive for industry. For instance, it could reduce litigation costs, improve industry reputation and uplift practices and standards over time</p> <p>Implementing this option will mostly entail a once-off change to billing templates. It is not expected to impose an ongoing cost for retailers. Many retailers also already include these details on their bills in Victoria. From our analysis, we understand that at least seven retailers are already providing this information. Some retailers may also already include this information in their bills for other jurisdictions where these requirements already exist (noting they relate to the ombudsman details of the relevant states, not EWOV). As a result, retailers are expected to incur a relatively small cost.</p> | -0.5 | -0.2         |
| G.1          | Cost to government<br><br>(weighting 10%) | <p>Industry funds the operation of EWOV so government costs will be minimal. Some costs may be incurred to ensure that energy retailers are complying with this proposal. A small negative score is assigned to the criterion.</p>   | -0.1 | -0.01        |
| <b>Total</b> |   |  |      | <b>+1.29</b> |

## 11.5. Summary and preferred option

The MCA scoring of 1.29 is positive, suggesting that this option should be adopted. Providing EWOV's telephone contact number is designed to provide additional information to customers facing payment difficulties (or who have other complaints) by lowering 'search costs'. They may also be unaware of the services offered by the ombudsman. Additional information, such as website links and information about the EWOV complaints process, is not included in order to minimise business costs, while improving accessibility to the ombudsman's services. The score is relatively small reflecting the generally small-scale nature of this proposal.

**Table 34:** Summary of MCA assessment – Improving awareness of dispute resolution services

| Option | Description                                      | Weighted score          |
|--------|--|-------------------------|
|        | Base case – current arrangements                 | 0.0                     |
| G.1    | Include EWOV phone number on front page of bills | <b>1.29 (preferred)</b> |

## 12. Impact of preferred options

### 12.1. Summary of preferred options

We evaluated all options using a multi-criteria assessment (MCA) tool, with our preferred option having the highest score. This is summarised in the table below.

The proposed changes will help customers pay less for energy and enhance consumer protections. Some customers will directly benefit from moving to lower-priced energy plans. Other customers will be better supported to switch to the best offer, to access concessions or independent dispute resolution services.

The proposed changes will also impact energy retailers. Retailers will incur implementation costs. Retailers might also face reduced revenue as customers move to more affordable plans and may seek to recover this from other customers. In economic terms, this is known as a ‘transfer’ and doesn’t result in overall net costs and benefits. Customers who may be paying higher prices (a ‘loyalty penalty’) will benefit from retailers rebalancing their revenue. In this context, it is also important to recognise that the benefits to consumers experiencing vulnerability are worth more than an extra dollar to energy retailers as explained in section 4.5.2.

Therefore, we consider that the overall benefits of the reforms outweigh the costs.

**Table 35:** Summary of MCA assessment and preferred options

| Reform topic  | Preferred option  | Weighted score |
|---|---|----------------|
| 1. Automatic best offer for customers experiencing payment difficulty | <b>Eligibility – Option AA.2</b> – Customers receiving tailored assistance and customers in arrears for at least three months and with arrears of \$1,000 or more.  | 1.025          |
|   | <b>Implementation – Option A.1</b> – Automatic switch to best offer for all customers experiencing payment difficulty who meet the chosen eligibility criteria.   | 0.7            |
| 2. Improving access to cheaper offers                                 | <b>Option B.2</b> – Require retailers to ensure plans are not restricted based on payment method (e.g. direct debit) or communication method (e.g. e-billing), and limit conditional fees and discounts to reasonable costs   | 0.665          |
| 3. Improved ability to switch to best offer                           | <b>Option C.2</b> – Outcomes-based approach requiring a retailer to have effective processes for customers to switch to the best offer, with minimum requirements for a retailer’s processes (e.g. having a website and a telephone process; allowing customers to compare plans) | 0.67           |
| 4. Protections for customers  | <b>Option D.2</b> – Principles-based approach requiring retailers to take reasonable steps to ensure customers on older contracts   | 1.02           |

|  |  |       |
|--|--|-------|
| <b>paying high prices</b>  | are paying a reasonable price, including a flexible definition of reasonable price   |       |
| <b>5. Improving the application of concessions on bills</b>              | <b>Option E.2</b> – Principles-based requirement for retailers to request concession eligibility information from customers at all times when it is relevant to do so and minimum requirements to request this information at specific contact points (for example, at sign up). | 0.825 |
| <b>6. Extending protections for customers on legacy contracts</b>        | <b>Option F.1</b> – Extend protections to all contracts (extending to contracts into before 1 July 2020).  | 1.075 |
| <b>7. Improving awareness of independent dispute resolution services</b> | <b>Option G.1</b> – Require the inclusion of EWOV's phone number on the front page of bills.   | 1.29  |
| <b>Other proposed changes</b>  |  |       |
| <b>8. Increasing the minimum disconnection amount</b>                    | Increase the minimum debt threshold for disconnections from \$300 to \$500.  | N/A   |
| <b>9. Increasing the best offer threshold</b>                            | Increase the minimum potential savings for a negative best offer check from \$22 to \$50.  | N/A   |

## 12.2. Impact on consumers

Customers experiencing payment difficulty will benefit the most from the proposed reforms. Based on our analysis of historical data, we have estimated the potential savings that these customers might receive:

- Automatic best offer for customers experiencing payment difficulty (see section 5.3.5)

These reforms could deliver total savings of \$16.8 million for electricity and \$11.0 million for gas for customers experiencing payment difficulty and not already on their retailer's best offer. This includes customers experiencing payment difficulty and already receiving tailored assistance, as well as customers not receiving assistance but in arrears for at least three months and with arrears of \$1000 or more.

The benefits for these customers are greater still, because a dollar saved by consumers facing payment difficulty is worth more than an extra dollar to a customer who is better off.

There are further wellbeing and psychological benefits for customers receiving debt relief.<sup>250</sup>

- Protections for customers paying higher prices (see section 8.4.1)

This reform could conservatively help between 27,000 and 53,000 electricity customers. Customers paying 10% above the VDO could save on average \$229 per year, while customers paying 25% above the VDO could save on average \$365 annually (depending on the retailer they are with). Collectively, this reform is estimated to deliver customer savings of between \$10.1 million and \$12.2 million in a year.

Other proposed reforms are also expected to benefit customers but will depend on how customers respond to the changes. For example, more customers who are not currently on their retailer's best offer may actively switch to the best offer. As outlined in Section 5.3.5, our analysis suggests that the average electricity customer not on the best offer could save \$225 annually from making this switch, while the average gas customer could save around \$182. More customers may also access energy concessions and receive the benefits they are entitled to.

Many Victorian customers will also benefit from being directly supported by retailers. Customers face costs when spending time engaging with the energy market. A reduction in customer transaction costs will be a genuine benefit for consumers.<sup>251</sup> This will also provide benefits due to improved consumer trust in the energy sector.

### **Small business impacts (consumers)**

Small business customers will benefit from proposed reforms, particularly from new rules on payment methods, discounting practices, and supporting customers to switch to the best offer. Small businesses will also benefit from protections for customers on older contracts paying high prices.

However, small business customers will not benefit from reforms that directly support residential consumers experiencing payment difficulty, such as automatic switches to the best offer. Existing protections for payment difficulty (including energy concessions) are only for residential customers.

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<sup>250</sup> Garforth-Bles S, Warner C and Keohane K, [‘The wellbeing effects of debt and debt-related factors’](#), *Simetrica-Jacobs*, 6 November 2020.

<sup>251</sup> For example, in 2020, the Australian Communications Consumer Action Network conducted a survey with consumers on the cost of trying to resolve issues with their telecommunication provider. The average cost of a customer for a phone call could be up to \$18.60, with additional costs for repeated contacts. [‘Still Waiting... the cost of customer service’](#), Australian Communications Consumer Action Network, 16 December 2020.

## 12.3. Impact on energy retailers

### Implementation costs

While industry data was not readily obtainable, some retailers suggested that costs to change billing systems can be substantial. Retailers may also face increased compliance costs to implement staff training, legal fees, and systems updates. These impacts will depend on each retailer's individual systems and processes, and its response to the reforms.

While the proposed changes will add to the cost of regulation and increase the cost of doing business, these costs are expected to be a small proportion of total business costs. We recognise that these costs can affect investment decisions and service and staffing levels.

The impact of some reforms will vary across energy retailers. As mentioned in section 1.2.3, there are three large retailers in Victoria (AGL, Origin Energy and EnergyAustralia) that account for the majority of residential and small business customers. Medium (between one to five per cent market share) and small (less than one per cent market share) retailers account for the remainder of Victorian customers.<sup>252</sup> Retailers who have more customers affected by the reforms (and benefit from the reforms) are likely to face greater implementation costs. Retailers could also take preventative measures to limit implementation costs.

### Potential impact on the energy retail market

Our proposed reforms aim to address key problems in the energy retail market that result in acute harm to consumers, eroding consumer trust in the energy market. This is particularly relevant when consumers experiencing payment difficulty or other vulnerabilities are impacted, including customers paying unreasonably higher prices and those receiving tailored assistance but are not on their retailer's best offer (sections 2.1.1 and 2.1.2).

In these cases, retailers are generating additional revenue from customers experiencing vulnerability who cannot engage with the energy market.

Some of our reforms (particularly those outlined in chapters 5, 6, 8 and 10) are designed to reduce consumer harm by addressing pricing practices that disadvantage disengaged or vulnerable customers. These proposed changes may reduce revenue for some retailers as affected customers move to fairer prices. Retailers may seek to recover some of this lost revenue by increasing prices for other customers, but their ability to do so is constrained by effective competition. In such cases, this represents a redistribution of revenue between customers, not an overall increase in system-wide costs.

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<sup>252</sup> A full list of large, medium and small retailers can be found in our Victorian Energy Market Dashboard. [Victorian Energy Market Dashboard](#), Essential Services Commission, accessed 2 May 2025.

It is important to note that retailers already segment their customer base and price differently across groups. To the extent that retailers absorb some of the foregone revenue, this has been treated as a cost to them in our MCA assessment. The MCA considers both foregone revenue and costs transferred to other customers. However, these costs are offset by the savings to customers benefitting from the reforms. As a result, the reforms are not expected to lead to additional overall costs, but they will ensure that vulnerable customers are protected from overpaying and that long-term customers currently paying a 'loyalty penalty' face fairer pricing.

Our analysis indicates that only a few retailers have a larger proportion of their customers impacted by these business practices. The new proposed rules will require all retailers to compete more fairly for customers, restricting cross-subsidisation and protecting existing customers. The few retailers that are more affected would need to consider whether to pass on reductions in revenue to other customers. Some retailers may choose to directly bear these costs. Other retailers may pass through some or all implementation costs to their customers. Such a cost pass-through will be spread across a larger customer base. While it's not possible to quantify the impact of passing costs through to other customers, noting that retailers' behaviour and business decisions cannot be predicted and any analysis would be highly speculative, we expect potential cost transfers to result in relatively small to moderate bill increases. For example, our analysis suggests that for the most impactful proposed reform (automatically switching eligible customers to the best offer), under Option AA.2, if costs are fully passed through to other customers, this could result in average bill increases of 0.4 per cent for electricity customers and 0.26 per cent for gas customers.<sup>253</sup> Actual cost transfers are likely to be lower as retailers may choose to limit passing costs onto other customers in response to competitive pressures.

We also note that the retail energy market is already a highly regulated sector. Some of the proposed reforms in Victoria are similar to changes in other jurisdictions that the AEMC is currently consulting on. It is unlikely that the Victorian energy market will be significantly more burdensome than other jurisdictions. While there is not enough information to assess the impact of the proposed reforms on the retail energy sector, similar reforms in the past have not resulted in structural changes to the sector.

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<sup>253</sup> Assuming the average 2024–25 VDO price for electricity of \$1,655 for annual bills and average gas annual bills of \$2,190 (based on St. Vincent de Paul's January 2025 tariff tracking report), and that estimated savings of \$18.2 million for affected electricity customers and of \$11.9 million for affected gas customers (see Section 5.3.5) are fully transferred and spread out equally among other customers. However, as some retailers would be more impacted than others, these distributional impacts would affect customers differently, depending on their retailer.

## Small business impacts (retailers)

Small businesses are generally considered those with fewer than 20 employees or turnover of less than \$10 million per year.<sup>254</sup> Noting that we do not have the data to determine how many retailers would meet this definition for a 'small business, it is unlikely that any retailers in Victoria would meet that definition. Smaller retailers may experience disproportionate effects from regulatory requirements for a range of reasons, including limited resources to comply with regulatory changes. However, the costs to implement the proposed reforms are likely to be less costly and complex for retailers with fewer customers. For example, some small retailers may have disproportionately few customers experiencing payment difficulty.<sup>255</sup>

### 12.4. Competition impacts

Victoria is party to the Competition Principles Agreement, which requires that any new primary or subordinate legislation should not restrict competition unless it can be demonstrated that the Government's objectives can only be achieved by restricting competition and that the benefits of the restriction outweigh the costs.

In some cases, regulation can affect competition by preventing or limiting the ability of businesses and individuals to enter and compete within particular markets. The primary cost of a restriction on competition is that it can reduce the incentives for businesses to act in ways that benefit consumers, which can result in lower innovation and productivity, reduced choice of products and/or higher prices.

Ways in which regulations may restrict competition include creating barriers to entry for new firms, controls on the amount, quality or price of products or services, increases in business costs for some firms but not others or otherwise advantaging some firms over others in the same market.

On the other hand, regulation may improve competition and increase incentives for businesses to act in ways that benefit consumers. This can be through rules requiring that all businesses compete on a more level playing field, or through preventing firms from unreasonably discriminating between consumer groups. For example, by reducing the ability of businesses to impose a 'loyalty penalty' on some customers, regulations may make it easier for new firms to enter the market or may benefit firms that do not overcharge loyal customers to subsidise cheaper offers to attract new customers.

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<sup>254</sup> ['Small Business in Australia'](#), Australian Bureau of Statistics, accessed 1 April 2025; ['Small business entity'](#), Australian Taxation Office, accessed 1 April 2025.

<sup>255</sup> ['Victorian Energy Market Dashboard'](#), Essential Services Commission, accessed 2 May 2025.

The relevant market subject to the competition test is the retail market for electricity and gas services, with consideration for customers of those services.

For the purposes of the competition test, a measure is likely to have an impact on competition if any of the questions in the table below can be answered in the affirmative.

**Table 36: Competition impact assessment**

| Test question  | Assessment | Reason  |
|--|------------|---|
| Is the proposed measure likely to affect the market structure of the affected sector(s) – that is, will it reduce the number of participants in the market, or increase the size of incumbent firms? | No         | The package of proposals largely builds on broad systems and processes that are already in place. Notwithstanding this, in the context of the energy market these are of a relatively limited scale. It is not anticipated that the proposals will change to market structure by reducing the number of participants in the market, or increasing the size of incumbent firms.  |
| Will it be more difficult for new firms or individuals to enter the industry after the imposition of the proposed measure?   | No         | The package of proposals should not make it more difficult for new firms or individuals to enter the industry. The additional regulatory burden imposed by the proposed changes is very small compared with other costs associated with a new business proposing to enter the market. The relatively limited scale of the reform should not impose barriers to enter the retail energy market and are not expected to modify the commission's retail licensing process. The proposals addressing the 'loyalty penalty' may benefit firms entering the market, as they would reduce incumbents' advantages which can be obtained by overcharging loyal customers to subsidise cheaper offers to attract new customers. |
| Will the costs/benefits associated with the proposed measure affect some firms or individuals substantially more than others (e.g. small firms, part-time participants in occupations etc)?          | Possible   | While energy retailers do vary in size, retailers are generally sophisticated businesses. Some smaller retailers may proportionally feel the cost impact more than others.  |

| Test question   | Assessment | Reason   |
|---|------------|--|
|   |            | The benefits of the proposals are more likely to benefit customers experiencing vulnerability or who have barriers (such as language or digital accessibility) to engage with the energy market.   |
| Will the proposed measure restrict the ability of businesses to choose the price, quality, range or location of their products? | Yes        | <p>Most of the proposed reforms are not expected to impact the price, quality, range or location of new energy plans. The proposal to eliminate restricting certain discounts by payment method will affect the ability of some retailers to choose their price. However, these reforms are targeted to a few retailers' practices.</p> <p>More broadly, the package of proposals are aimed at helping customers access retailers' <i>existing</i> energy plans and prices. Some of the proposed reforms, such as automatically switching customers to the best offer and protections for customers on older contracts paying higher prices, could impact the price of existing plans. In relation to older contracts with higher prices, the proposed reform may impact the range of products if, following a review, a retailer has to move customers to cheaper plans. Based on our analysis, only a small proportion of customers and retailers would be impacted.</p> |
| Will the proposed measure lead to higher ongoing costs for new entrants that existing firms do not have to meet?                | No         | The proposals will apply to new entrants and existing energy retailers equally. Industry incumbents will have no inherent cost advantage over new entrants.  |
| Is the ability or incentive to innovate or develop new products or services likely to be affected by the proposed measure?      | Possible   | While not stifling innovation by itself, the proposal to require payments in-person, over the telephone, or with paper bills, may cause these payments methods to last longer in the marketplace rather than be replaced by other more economically  |

| Test question | Assessment | Reason   |
|---------------|------------|--|
|               |            | efficient payment methods such as e-billing or direct debit. |

Overall, the proposals also promote fairer and more effective competition in the energy market. Retailers will be bound by the same rules that protect certain customers from facing unreasonably high prices. This should prevent the current practice of some retailers gaining more revenue from customers experiencing vulnerability. The proposed reforms will also support customers to switch to better offers and reduce transaction costs, which is expected to lower switching costs and increase competitive pressure in the retail market.

## 13. Implementation and evaluation

This chapter outlines the actions that the commission and retailers would take to undertake to implement the proposed reforms. It also outlines our approach to compliance, enforcement and evaluation of the reforms.

### 13.1. Implementation

#### 13.1.1. Consultation timelines

We propose that the reforms are implemented through amendments to the Energy Retail Code of Practice. We are working with the Victorian Government to assess if any subordinate legislation or legislative amendments are required to support the proposed reforms (or subsequent suggestions from stakeholders).

We are seeking formal feedback on the proposed draft amendments and this RIS during a six-week public consultation period. We also intend to run targeted engagements and workshops with stakeholders.

We will provide information via our website, news updates and media releases to inform stakeholders and the wider public of the changes to the code. Once the reforms are finalised, we will update information to help consumers and consumer organisations understand their new rights and support.<sup>256</sup> Table 37 outlines timings for consultation on the proposed reforms.

**Table 37:** Key steps prior to amendments to the code

| Action  | Anticipated timeframe |
|---|-----------------------|
| RIS release   | 16 May 2025           |
| Consultation period                                   | 16 May – 26 June 2025 |
| Consideration of submissions and stakeholder feedback | June – July 2025      |
| Amendments to the code and release of final decision  | August 2025           |

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<sup>256</sup> [‘Consumer information’](#), Essential Services Commission, accessed 7 April 2025.

The commission may need to update related guidelines to support retailers' compliance. We will update these guidelines after our final decision in August 2025, if required.

### 13.1.2. Implementation timeframes

We propose a two-stage commencement process to give time for retailers to prepare for the new reforms. We propose that reforms that require fewer changes to retailers' systems and processes to commence on **1 January 2026**. Reforms that are more complex to implement are proposed to commence on **1 July 2026**. Table 38 outlines the proposed commencement timings.

**Table 38: Proposed commencement approach**

| Proposed commencement date                  | Reforms <sup>257</sup>   |
|---|--|
| <b>1 January 2026</b><br><b>(Tranche 1)</b> | <ul style="list-style-type: none"> <li>• Protections for customers paying higher prices <b>(Chapter 8)</b></li> <li>• Improving the application of concessions on bills <b>(Chapter 9)</b></li> <li>• Extending protections for customers on legacy contracts (pay-on-time discounts and benefit periods) <b>(Chapter 10)</b></li> <li>• Including EWOV's phone number on bills <b>(Chapter 11)</b></li> <li>• Revised best offer check and minimum disconnection thresholds <b>(Section 4.3)</b></li> </ul> |
| <b>1 July 2026</b><br><b>(Tranche 2)</b>    | <ul style="list-style-type: none"> <li>• Automatic switch to the best offer for customers experiencing payment difficulty <b>(Chapter 5)</b></li> <li>• Improving access to cheaper offers <b>(Chapter 6)</b></li> <li>• Improving the ability to switch to the best offer <b>(Chapter 7)</b></li> </ul>   |

## 13.2. Compliance with the new rules

### The commission will support retailers to comply

The commission's primary focus is for customers to receive the benefits associated with the proposed rules. We expect Victorian retailers to comply with all the new obligations and we will

<sup>257</sup> For a complete list of the preferred option under each reform area, see Table 35.

support retailers' compliance with the new rules. However, in case of non-compliance, we have legislative powers to take strong enforcement action if necessary.

We take a risk-based approach to our compliance and enforcement actions, as outlined in our Compliance and Enforcement Policy.<sup>258</sup> We will focus our efforts on non-compliance that causes significant harm or present widespread risk to consumers. This is supported by our compliance and enforcement priorities.<sup>259</sup>

We also undertake proactive compliance programs when we identify a potential risk to Victorian energy consumers (see case studies 1 and 2). These programs help retailers improve its compliance or quickly remediate non-compliance and redress customers.

### **Case study 1: Best offer compliance program**

The best offer compliance program reviewed how well retailers were complying with their obligation to tell customers, via their bills, whether they are on their retailer's best offer. We found that some retailers could improve the way they communicated best offers to Victorian energy customers. In response, we published a best offer guideline, which provides guidance to energy retailers on how they provide information about their best energy offer with customers.

### **Case study 2: Disconnection compliance reviews**

The commission conducted compliance reviews of three retailers regarding their processes and procedures when considering the disconnection of customers in certain circumstances. The reviews required the retailers to appoint independent auditors to check their practices with respect to specific energy rules and laws.

The retailers were selected based on our analysis of performance data and compliance breaches self-reported to the commission. We published the compliance review findings in December 2023 and held an industry forum, so that all retailers could gain insights and benefits from the findings of the reviews.

*Essential Services Commission: [Annual Report 2023–24](#), p. 15.*

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<sup>258</sup> Essential Services Commission, [Compliance and enforcement policy](#), March 2024, p. 4.

<sup>259</sup> Essential Services Commission, [Compliance and enforcement priorities in energy for 2024–25](#), 25 June 2024.

## The commission will enforce the rules where necessary

It is important that we can enforce any new provision that provides protections for customers. We propose that all the proposed obligations are civil penalty requirements.<sup>260</sup> Among other potential tools for a breach of the proposed new provisions, the commission would be able to issue a civil penalty notice and a court may impose civil penalties for the contravention of a civil penalty requirement. This will allow us to take strong enforcement action on non-compliance that causes serious harm to customers. Our compliance and enforcement priorities signal the type of harms that we will focus our enforcement action on.<sup>261</sup>

### 13.3. Evaluation strategy

The commission regularly assesses the performance of the energy market and licensed entities. We regularly analyse market data to inform the commission's compliance and enforcement actions, and reforms. We also share these findings publicly on our website through written reports, articles, and a public dashboard. This information can be found at our Victorian Energy Market Reporting Hub.<sup>262</sup>

Evaluation is part of the commission's continuous improvement cycle. We consider the following matters when evaluating our regulatory actions:

- How are the existing rules benefitting consumers?
- Are current rules meeting consumer needs and expectations?
- Have these rules been implemented as intended?
- Are these rules achieving their intended outcomes? How is this reflected in the data or market operations?
- Are these rules having any unintended impacts or consequences?
- Are there better ways to achieve the desired outcomes?

We draw on a range of information sources (data reported by licensees, consumer feedback and surveys, EWOV insights, and external reports or expert advice) to inform our review and regulatory responses. We also monitor and review broader energy policy developments, and respond to reforms initiated by other governments or other regulators.

Retailers must also self-report potential non-compliance of the new rules. This helps us monitor the compliance of each licensed entity, and review the effectiveness of the new rules. The

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<sup>260</sup> We will not propose civil penalty requirements on obligations that impose obligations on customers, merely signpost obligations in other instruments, or are non-operative provisions (such as those that inform the meaning or give instructions related to obligations contained in other provisions).

<sup>261</sup> Essential Services Commission, [Compliance and enforcement priorities in energy for 2024–25](#), 25 June 2024.

<sup>262</sup> ['Victorian Energy Market Reporting Hub'](#), Essential Services Commission, accessed 10 April 2025.

commission's Compliance and Performance Reporting Guideline sets out the processes for retailers to self-report non-compliance. It also requires retailers to report on a range of performance metrics. Retailers already report on data relevant to these reforms, such as:

- Customers in debt
- Customers receiving assistance from their retailers
- Customers entering into and existing assistance
- Customers on their retailer's best offer and best offer annual saving size
- Customer complaints and call wait times.

Following the completion of these reforms, we will consult on updates to the Compliance and Performance Reporting Guideline. This helps to ensure we can monitor the effect of the reforms and update performance metrics as needed.

## 14. Review and consultation

The RIS process requires consultation with stakeholders in order to collect data, examine the effectiveness of the code, and to assist in formulating options. The RIS itself is publicly released for comment and represents another step in the consultation process. Extensive consultation was undertaken prior to the release of this RIS. Each options section above summarises what stakeholders told us. This section describes the commission's approach to consultation and the steps undertaken as part of the consultation process for this RIS.

The commission periodically reviews the code to ensure it reflects legislative and statutory requirements and that it remains fit for purpose. We work to ensure the code addresses current and emerging challenges and that it is serving the long-term interests of Victorian consumers. We began our review of the code with the release of an issues paper on 6 June 2024.

During the same period, the Energy and Climate Change Ministerial Council agreed to progress a package of consumer reforms, submitting a rule change request to the AEMC in August 2024. The request sought to amend the NERR. In Victoria, these rule changes would need to be implemented through the code, which we were already reviewing.

Consequently, we split the proposed areas of reform into two stages – the first to deal with changes that result from or intersect with the council-proposed changes. The second will deal with other potential changes. We are expecting to progress the latter in the second half of 2025.

Based on the Energy and Climate Change Ministerial Council's proposal, early stakeholder consultation and our own issues paper, we have chosen to address the following topics in the first stage of reforms:

- Making it easier for customers to switch to better offers from their retailer, including making cheaper plans available.
- Improving protections for customers on legacy plans or facing payment difficulty. This includes improving the application of concessions on bills and automatically switching customers experiencing payment difficulty to their retailer's best offer.
- Improving awareness of independent dispute resolution services.

We have consulted extensively around this first stage of proposed reforms to the code, including an issues paper, a discussion paper, and consultation workshops. Consumer groups, public entities, retailers and the general public have all had input into the process of drafting the reforms to the code.

This input has reinforced the need for further protections for consumers experiencing vulnerability, including those with significant energy debt. Stakeholders have also confirmed that customers are

continuing to find it difficult to switch to cheaper energy plans. At the same time, feedback from retailers emphasised the need to ensure any changes minimise the impact on businesses and ensure they are still able to offer innovative, low-priced plans.

#### 14.1.1. Consultation timeline

The following dates show the timelines of this consultation. Results of the consultation were published on the commission's website (see links):

- 6 June 2024: [Issues paper](#) published
- 4 July 2024: [Stakeholder information session](#) (online)
- 19 July 2024: Consultation on issues paper closes (28 written submissions received)
- 24 October 2024: Consultation on energy consumer reforms [discussion paper](#) opens
- 6 November 2024: [Public information session](#) on stage one
- 26 November 2024: Consultation on energy consumer reform closes (20 written submissions received)
- 5 December 2024: [Online consultation workshop](#) (61 attendees)
- 10 December 2024: [In-person consultation workshop](#) (32 attendees)

#### 14.1.2. Consultation process

We provided several opportunities for stakeholders to engage in this process. We released an issues paper for public consultation on 6 June 2024. The paper outlined the areas we perceived as being ripe for reform as well as our approach. We held an online stakeholder information session on 4 July 2024. Feedback from stakeholders on the issues paper was incorporated into our discussion paper on energy consumer reforms.

In response to the request for rule changes by the ECMC, and incorporating feedback from the issues paper, we released a discussion paper on 24 October 2024. The paper outlined our broad approach to the reforms and sought input from stakeholders and the public.

We held an online public information session on 6 November 2024, as well as two workshops, one online and one in person, on 5 and 10 December 2024. Retailers, consumer and community groups, and public entities were invited to attend.

We also held several meetings with specific stakeholders to discuss their submissions. These meetings were held from July 2024 to February 2025.

### 14.1.3. Submissions

The commission thanks the following organisations for providing submissions to this review:

- AGL
- Alinta Energy
- AusNet
- Australian Energy Council
- Australian Energy Regulator
- Brotherhood of St Laurence
- CitiPower, Powercor, United Energy
- Consumer Action Law Centre
- Council of the Ageing Victoria
- Energy and Water Ombudsman Victoria
- Energy Consumers Australia
- Energy Locals
- Energy Australia
- Engie
- Financial Counselling Victoria
- Flow Power
- Friends of the Earth Melbourne
- GloBird
- Momentum Energy
- Next Business Energy
- Origin Energy
- Pacific Blue
- Red Energy and Lumo Energy
- Shell Energy
- Solstice
- Uniting Vic.Tas
- Victorian Council of Social Service