ESSENTIAL SERVICES COMMISSION

Energy Consumer Reforms

Final Decision

30 September 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.

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Glossary

Term	Definition
ACCC	Australian Competition and Consumer Commission
AEMC	Australian Energy Market Commission
AER	Australian Energy Regulator
CER	Consumer Energy Resources
code of practice	Energy Retail Code of Practice
commission	Essential Services Commission Victoria
DFFH	Department of Families, Fairness and Housing Victoria
ECMC	Energy and Climate Change Ministerial Council
EWON	Energy & Water Ombudsman NSW
EWOQ	Energy and Water Ombudsman Queensland
EWOV	Energy and Water Ombudsman Victoria
NECF	National Energy Consumer Framework
NEM	National Electricity Market
NERL	National Energy Retail Law
NERR	National Energy Retail Rules
RIS	Regulatory Impact Statement

RoLR	Retailer of Last Resort
VDO	Victorian Default Offer
VPP	Virtual Power Plant
PDF	Payment Difficulty Framework

Summary

We have completed our 'Energy Consumer Reforms' review of the Energy Retail Code of Practice (the code of practice). The objectives of this review were to help households pay less for energy and enhance protections for energy consumers.

These reforms can deliver significant benefits for Victorian consumers. For example, automatically switching customers experiencing payment difficulty to the best offer may result in retailers switching up to 75,000 electricity and 60,000 gas customers to their best offer.[1] This could result in total average annual savings of up to $16.8 million for electricity and $11.0 million for gas customers. Similarly, we estimate that the reform 'Protections for customers paying higher prices' 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.[2]

While the primary objective for these reforms is to help households pay less for their energy, many of these reforms also deliver benefits for small businesses. For example, reforms to enhance protections for customers paying higher prices and improve access to cheaper offers apply to all 'small customers', including residential and small businesses customers.

The code of practice sets important protections for Victorian energy consumers, including requiring retailers to help customers in payment difficulty. It regulates the terms and conditions of energy contracts, the marketing of energy offers and billing practices, among other matters.

We began the review of the code of practice in June 2024. In July 2024, the Energy and Climate Change Ministerial Council (ECMC) decided to advance a set of energy consumer reforms.[3] In October 2024, the Victorian Minister for Energy and Resources requested that we consider how the consumer reforms advanced by ECMC could be implemented in Victoria.[4] In response, we split our review into a two-stage process. This final decision completes the first stage of the review.

This reform has been supported by over 14 months of engagement with stakeholders as well as three published papers for consultation (issues paper, discussion paper and a regulatory impact statement).

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[1] Essential Services Commission, *Energy Consumer Reforms: Regulatory Impact Statement,* 16 May 2025, p. 69.

[2] Ibid, p. 4.

[3] Energy and Climate Change Ministerial Council, *Meeting Communique*, 19 July 2024.

[4] Hon Lily D'Ambrosio MP, Minister for Energy and Resources, Victoria, letter to Gerard Brody, Chairperson, Essential Services Commission, Victoria, 3 October 2024.

The amendments to the code of practice reflect new energy consumer reforms and minor administrative updates. These changes are enforceable and we can take regulatory action against retailers and exempt persons for breaches.

Changes to Victoria's energy retail rules

Automatic best offer for customers experiencing payment difficulty

Retailers will be required to automatically switch residential customers experiencing payment difficulty who meet certain eligibility criteria to the best offer. A customer will be able to choose to remain on their current plan by opting out after receiving notice of the switch.

Residential customers will be eligible if they:

- are entering or receiving tailored assistance or
- have been in arrears for at least three months and have accumulated a debt of $1,000 or more.

This requirement applies to residential customers on standard retail contracts, market retail contracts and exempt market retail contracts. Certain plans with repayments for consumer energy resources or virtual power plant membership are excluded.

Increasing the best offer threshold

We have increased the best offer threshold from $22 to $50.

This will mean that a small customer will only receive a negative best offer message, which indicates that they could save money on a different plan, if it is estimated that they will save more than $50 per year when compared with their current plan. It also means that a customer in payment difficulty eligible for the automatic best offer will only be switched if they could save more than $50 per year on another plan.

Increasing the minimum debt amount for disconnection

We will increase the minimum amount a residential customer needs to owe their retailer or exempt person before they can be disconnected for non-payment from $300 to $1,000.

Protections for customers paying higher prices

Retailers will be required to ensure that all small customers on contracts older than four years are paying a reasonable price for their energy.

In determining a reasonable price, retailers must have regard to the:

- lowest cost plan generally available to new customers of the retailer
- median price paid by customers of the retailer

- median price of gas market offers available in that gas distribution zone
- price of the Victorian Default Offer or the retailer's standing offers
- value of benefits available to the customer under their customer retail contract, including additional services, a discount, rebate or credit (including a conditional discount).

Retailers must also have regard to any other matters specified in any guideline published by the Essential Services Commission Victoria (commission) under section 13 of the *Essential Services Commission Act 2001*.

Where a small customer is not paying a reasonable price, a retailer can choose to reduce the tariffs paid by that customer or to automatically switch the customer to a cheaper plan.

Improving access to cheaper offers

For all new plans, retailers must accept payment from small customers by all of the following methods:

- in person (including via Australia Post outlets)
- by telephone
- by mail
- by direct debit
- by electronic funds transfer

Retailers are already required to accept payment by any of these methods for standard retail contracts, such as the Victorian Default Offer. Retailers will no longer be able to use a payment method as a means to restrict access to cheaper offers.

Retailers can already impose additional retail charges[5] or offer conditional discounts based on payment methods. However, these reforms will ensure that both are capped at a reasonable estimate of the incremental cost to provide a customer with an alternative payment method.

Retailers and exempt persons will also be required to provide a small customer with at least one fee-free method of payment that is commonly used and accessible.

Improving the ability to switch to the best offer

Retailers will be required to have an effective process for customers to switch to the best offer. This must include instructions on how to switch on their website and options to switch online or via phone.

[5] Also referred to previously in the RIS and by retailers as a 'conditional fee'.

Improving the application of concessions on bills

Retailers will be required to request eligibility concession information from residential customers at all times where it is reasonable to do so, having regard to the residential customer's circumstances.

A retailer must request this information:

- when entering into a customer retail contract with a residential customer
- when a residential customer requests a switch to a new customer retail contract with the retailer
- when a residential customer initially contacts the retailer requesting standard or tailored assistance
- as soon as practicable if a residential customer may be affected by family violence.

Extending protections for customers on legacy contracts

Retailers will be required to limit all additional retail charges and conditional discounts related to a payment condition to reasonable costs that a retailer will incur if a customer fails to satisfy a payment condition. This requirement extends to all contracts entered into before or since 1 July 2020.

To determine reasonable costs for pay-on-time discounts, retailers will be required to consider guidance published by the commission.

Retailers will be required to maintain benefits until the end of a contract for contracts entered into before 1 July 2020 for benefits that haven't expired.

Improving awareness of independent dispute resolution services

Retailers will be required to include the name and telephone number to contact the Energy and Water Ombudsman (Victoria) on the front page of a bill.

Implementing changes to Victoria's energy retail rules

The energy consumer reforms will be implemented in three tranches as outlined in Table 1.

Table 1: Energy consumer reforms implementation dates

Implementation date	Reforms
1 February 2026	• Improving awareness of independent dispute resolution services

1 July 2026	• Protections for customers paying higher prices • Improving the application of concessions on bills • Extending protections for customers on legacy contracts
1 October 2026	• Automatic best offer for customers experiencing payment difficulty • Increasing the best offer threshold • Increasing the minimum debt amount for disconnection • Improving access to cheaper offers • Improving the ability to switch to the best offer

Prior to implementation of the relevant reforms, we will review and update the following related guidelines:

- Compliance and Performance Reporting Guideline
- Payment Difficulty Framework guideline
- Guideline 1 (2023): Form and content of deemed best offer messages
- Guideline 4 (2022): Explicit informed consent.

We will also revoke the maximum cap for pay-on-time discounts guideline and replace it with guidance on how retailers should determine reasonable costs for a pay-on-time discount.

Administrative updates

We have also made administrative updates to the Energy Retail Code of Practice.

These are to:

- remove outdated references to the minimum feed-in tariff
- update the definition of a Retailer of Last Resort event
- update references to the General Exemption Orders
- remove references to ‘save’ and ‘win-back’ plans
- remove references to the Electricity Customer Metering Code of Practice and the Electricity Customer Transfer Code of Practice.

All these administrative updates will take effect from the date we publish version four of the Energy Retail Code of Practice on 30 September 2025.

1. Introduction

The Essential Services Commission Victoria has made a final decision

This final decision paper presents the Essential Services Commission's amendments to the Energy Retail Code of Practice. We previously released the proposed amendments for consultation in our Energy Consumer Reforms: Regulatory Impact Statement (RIS).[6]

In this paper, we first summarise the preferred options presented in the RIS. We then consider stakeholder feedback on the draft decision and explain how it may or may not have led to a change from our draft decision. We also outline implementation timelines for each reform. The updated version of the Energy Retail Code of Practice has been published with this final decision paper.

Reviewing the Energy Retail Code of Practice

Our decision to review the Energy Retail Code of Practice is to ensure that it remains fit-for-purpose in addressing current or emerging challenges that concern the long-term interests of Victorian consumers. We identified several key challenges that we wanted to address in this review following our own analysis of the market and engagement with key stakeholders. These challenges were:

- Most Victorians are paying more for their energy than they could be, including customers experiencing payment difficulty.[7]
- Customers on legacy contracts (four years or older) are at higher risk of price shocks due to large conditional discounts or time-limited benefits, credits or rebates.
- Some customers who are eligible for energy concessions are not receiving them.
- Many consumers not being aware of the free and independent dispute resolution services provided by the Energy and Water Ombudsman (Victoria) (EWOV).

Legislative considerations and assessment framework

In developing our final decision, we considered the legal framework relevant to the supply and sale of energy by retail in Victoria, including:

[6] Essential Services Commission, *Energy Consumer Reforms: Regulatory Impact Statement*, 16 May 2025.

[7] In 2024-25, 58% of Victorian residential electricity customers and 60% of residential gas customers were not on their retailer's best offer: 'Victorian Energy Market Dashboard', Essential Services Commission, accessed 26 August 2025.

- The objectives of the commission and the matters the commission must have regard to under Part 2 of the *Essential Services Commission Act 2001.*
- The purposes of the *Electricity Industry Act 2000*, the *Gas Industry Act 2001* and the Essential Services Commission Act.
- The requirements of Part 6 of the Essential Services Commission Act for making codes of practice.
- The relevant requirements of the *Subordinate Legislation Act 1994*.

In December 2021, all our energy codes transitioned to codes of practice under the Essential Services Commission Act following the passing of the *Essential Services Commission (Compliance and Enforcement Powers) Amendment Act 2021*. This meant that the codes of practice became subordinate instruments instead of conditions of a licence or exemption.

As a subordinate instrument, the Energy Retail Code of Practice is subject to the *Subordinate Legislation Act 1994* and the Subordinate Legislation (Legislative Instruments) Regulations 2021. This means that a Regulatory Impact Statement (RIS) is required to review and amend the code of practice.[8]

The objectives of our energy consumer reforms align closely with the objectives of the commission and the objectives of the consumer reforms that the Energy and Climate Change Ministerial Council (ECMC) agreed to progress in July 2024.[9]

Energy consumer reform objectives

The primary objectives of our energy consumer reforms are to:

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

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

These sub-objectives are to:

- increase support for people experiencing payment difficulty
- support eligible people to access concessions

[8] Section 12E of the *Subordinate Legislation Act 1994.*

[9] Energy and Climate Change Ministerial Council, *Meeting Communique*, 19 July 2024.

- improve awareness of independent dispute resolution services.

Through the RIS, we identified and assessed different options that could achieve the objectives of the reforms. We assessed our proposed options using a multi-criteria analysis, against a base case reflecting the current rules under the code of practice. The assessment criteria considered the effectiveness, cost to industry and cost to government for each option.

Our assessment used 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 also explored different regulatory approaches, including consideration of principles and outcomes-based approaches as well as more prescriptive obligations.

Stakeholder feedback has shaped our final decision

The code of practice has been reviewed and amended taking into consideration stakeholder feedback on:

- an issues paper published on 6 June 2024
- a discussion paper published on 24 October 2024
- a RIS published on 16 May 2025.

We sought stakeholder feedback via written submissions, Engage Victoria survey responses, online and in-person stakeholder workshops, direct one-on-one meetings with stakeholders and public stakeholder information sessions.

Consultation summaries for the issues and discussion papers can be found on our website.

Issues paper

On 6 June 2024, we released an issues paper to begin our review of the Energy Retail Code of Practice. The paper set out key areas of the code of practice we proposed to review.[10] We held a stakeholder information session, with a six-week consultation period ending on 19 July 2024.

We received 28 written submissions from stakeholders and 26 survey submissions from the public.

[10] Essential Services Commission, *Energy Retail Code of Practice review: Issues Paper*, 6 June 2024.

Discussion paper

In July 2024, the ECMC decided to advance a set of energy consumer reforms.[11] In October 2024, the Victorian Minister for Energy and Resources requested that we consider how these reforms could be implemented in Victoria.[12] In response, we split our review into a two-stage process.

On 24 October 2024, we released a discussion paper setting out options to implement the reforms in the first stage of our review.[13] We also prioritised some reforms identified in our initial issues paper. The nine-week consultation period closed on 26 November 2024.

We received 20 written submissions from stakeholders, including 9 retailers, 5 consumer groups, 2 individuals, Energy Consumers Australia, Australian Energy Council, EWOV and the Australian Energy Regulator (AER).

We also held an online workshop on 5 December 2024 and an in-person workshop on 12 December 2024.[14] They were attended by a mix of energy businesses, consumer groups and community organisations, other regulators, departments and EWOV.

These submissions and workshops further assisted us in identifying and assessing potential options for each proposed reform. Stakeholder feedback also contributed to assessing the effectiveness, clarity, costs and benefits of these options.

Regulatory Impact Statement (RIS)

On 16 May 2025, we released a RIS (as our draft decision paper) which identified and assessed potential options for each proposed reform.[15] The six-week consultation period closed on 26 June 2025.

We held an information session on 5 June 2025 and an in-person workshop on 12 June 2025.[16] These sessions were attended by energy businesses, consumer groups and community organisations, other regulators, departments and ombudsman.

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[11] Energy and Climate Change Ministerial Council, *Meeting Communique*, 19 July 2024.

[12] Hon Lily D'Ambrosio MP, Minister for Energy and Resources, Victoria, letter to Gerard Brody, Chairperson, Essential Services Commission, Victoria, 3 October 2024.

[13] Essential Services Commission, *Energy Consumer Reforms: Discussion Paper*, 24 October 2024.

[14] Essential Services Commission, *Workshop 1 (Online) Consultation Summary*, January 2025; Essential Services Commission, *Workshop 2 (In-person) Consultation Summary*, January 2025.

[15] Essential Services Commission, *Energy Consumer Reforms: Regulatory Impact Statement*, 16 May 2025.

[16] Essential Services Commission, *Energy Retail Code of Practice – 12 June Workshop Consultation Summary*, 25 July 2025.

We received a total of 31 submissions from thirteen industry participants (the Australian Energy Council and twelve retailers), eight consumer groups, six community and information support organisations, one individual, the AER and EWOV as well as one confidential submission. We also held a number of individual conversations with retailers, consumer groups and community support organisations to discuss specific matters raised in their submissions and how these might influence our final decision.

Feedback received through submissions, workshops and individual discussions was used to further test the design of the proposed reforms and the costs and benefits of the options. As detailed in this final decision, we refined the design of several reform options in response to feedback received on the RIS and draft code of practice. These refinements, where necessary, were largely focused on minimising undue cost and complexity of implementing the reforms, without compromising the role each plays in supporting the overall reform objectives.

Structure of this document

This final decision is structured into the key topics and obligations contained in the updated code of practice. Each chapter outlines the amendments we proposed as part of our RIS, stakeholder feedback to our proposed amendments and our final decision.

Chapter	Topic
Chapter 1	Introduction
Chapter 2	Automatic best offer for customers experiencing payment difficulty
Chapter 3	Increasing the threshold for receiving a best offer message
Chapter 4	Increasing the minimum debt disconnection amount
Chapter 5	Protections for customers paying higher prices
Chapter 6	Improving access to cheaper offers
Chapter 7	Improving the ability to switch to the best offer
Chapter 8	Improving the application of concessions on bills
Chapter 9	Extending protections for customers on legacy contracts
Chapter 10	Improving the awareness of independent dispute resolution services
Chapter 11	Administrative updates
Chapter 12	Implementation
Chapter 13	Compliance, enforcement and reporting obligations
Annex A	Legislative and regulatory framework governing energy retail in Victoria
Annex B	Public engagement summary
Annex C	Operation of the automatic best offer (flowchart)

2. Automatic best offer for customers experiencing payment difficulty

Our final decision is to require retailers to automatically switch residential customers experiencing payment difficulty to the best offer.

Eligible customers who will be automatically switched to the best offer are those who:

- are receiving tailored assistance under the Payment Difficulty Framework (PDF), or
- have been in arrears for at least three months with a debt over $1,000 at the end of those three months (not receiving tailored assistance).

Retailers will need to check all customers in arrears at least once every six months to see if they meet the time and amount in debt criteria.

Customers will have a maximum of ten business days to opt out of the switch before it takes place. Retailers will not be required to return a customer to their original plan should they miss this opt out period.

Where a customer is identified as already on their best offer and remains an eligible customer, retailers will be required to carry out another deemed best offer check for the purposes of an automatic best offer within six months.

The requirement to automatically switch to the best offer applies to residential customers on market retail contracts and standard retail contracts.

Plans that include repayments for physical energy-related assets or virtual power plant (VPP) membership where a retailer can directly control a customer's physical energy-related asset are excluded from the requirement to automatically switch.

Where a retailer reasonably believes that issuing a notice or completing the switch to the best offer may cause significant risk of harm to an affected customer[17], the retailer is not required to issue the notice of intention to switch or complete the switch to the deemed best offer for that customer. The retailer will still be required to check that customers eligibility at least once every six months and proceed with the automatic switch when it considers there is no longer the same level of risk to switching that customer.

These changes will take affect from 1 October 2026.

[17] A customer who is affected by family violence, as defined in in the Energy Retail Code of Practice.

Key code of practice clauses: 132A, 132B, 132C, 132D, 132E, 132F, 132G

Our draft decision

We proposed to require retailers to automatically switch to the best offer all customers receiving tailored assistance and customers in arrears for a least three months and with arrears of $1,000 or more.

The proposed eligibility threshold aimed to support customers experiencing payment difficulty, including those who have not or cannot engage with their retailer. We also sought to avoid including a substantial number of customers in arrears not experiencing payment difficulty. We also proposed that an eligible customer would be able to opt-out prior to the switch and reverse the switch after it occurs (post switch reversal).

We estimated that this reform would result in retailers switching up to 75,000 electricity and 60,000 gas customers to their best offer.[18] This could result in total average annual savings of up to $16.8 million for electricity and $11.0 million for gas customers.

Stakeholder feedback

Consumer groups and the ombudsman strongly supported the reform

The Council On The Ageing Victoria & Senior Rights Victoria stated that the current system places an unfair burden on customers to actively engage in order to access fair pricing.[19] The Energy and Water Ombudsman (Victoria) (EWOV) commented that the reform would help mitigate affordability challenges, address engagement issues and help prevent customer debt from increasing.[20]

There was a mix of support and opposition from industry

In contrast, many retailers supported the intent of the reform but expressed concerns that automatic switching to the best offer could undermine customer agency and reduce consumer trust in retailers.[21]

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[18] Essential Services Commission, *Energy Consumer Reforms: Regulatory Impact Statement,* 16 May 2025, p. 69.

[19] Council on the Ageing Victoria & Senior Rights Victoria, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 24 June 2025, p. 4.

[20] Energy and Water Ombudsman (Victoria), 'EWOV feedback on the *Energy Consumer Reforms: Regulatory Impact Statement* – Review of the Energy Retail Code of Practice', 26 June 2025, p. 11.

[21] Submissions to the Essential Services Commission *Energy Consumers Reforms: Regulatory Impact Statement*, 16 May 2025: Alinta Energy (30 June 2025, p. 4); AGL (26 June 2025, p. 7); OVO Energy (26 June 2025, p, 1); Australian Energy Council (3 July 2025; p. 2).

Several consumer groups challenged this concern. Brotherhood of St. Laurence and the Victorian Council of Social Service noted that retailers are already able to increase prices for customers without consent.[22]

Energy Consumers Australia considered that an exemption to explicit informed consent was necessary to remove the barriers for moving customers in payment difficulty to a better offer.[23] Most consumer groups supported the opt out and post switch reversal mechanisms as adequate consumer protections.[24] Financial Counselling Victoria also saw the automatic switch as an opportunity to improve customer engagement and trust in their retailer.[25]

Some retailers opposed any change from the current rules or suggested our reform should align with the Australian Energy Market Commission's final decision on assisting hardship customers.[26] Energy Locals argued that the key cause of high energy bills for customers experiencing payment difficulty is high network and wholesale costs and high energy usage.[27] It opposed the automatic best offer reform on the basis that it would not make a meaningful difference to consumers and would be complex and costly for retailers to implement.

Retailers suggested that some plan features require additional consideration

Origin and Tesla were particularly concerned about the impact of an automatic switch on customers with consumer energy resources (CER) such as rooftop solar or home batteries.[28] They highlighted that the automatic best offer reform could move customers away from plans with CER assets, optimisation for self-consumption, battery cycling, dynamic export incentives, feed-in tariffs, VPP participation payments or demand response compatibility. This could result in tangible and significant consumer harm. For example, if a customer is switched out of a longer-term plan that

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[22] Submissions to the Essential Services Commission *Energy Consumers Reforms: Regulatory Impact Statement*, 16 May 2025: Brotherhood of St. Laurence (4 July 2025, p. 3); Victorian Council of Social Service (26 June 2025, p. 5).

[23] Energy Consumers Australia, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 26 June 2025, p. 5.

[24] Submissions to the Essential Services Commission *Energy Consumers Reforms: Regulatory Impact Statement*, 16 May 2025: Brotherhood of St. Laurence (4 July 2025, p. 3); Consumer Action Law Centre (3 July 2025, p. 5); Energy Consumers Australia (26 June 2025, p.5); Financial Counselling Victoria (26 June 2025, p. 2); Victorian Council of Social Service (26 June 2025, p. 4–5).

[25] Financial Counselling Victoria, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 26 June 2025, p. 3.

[26] Submissions to the Essential Services Commission *Energy Consumers Reforms: Regulatory Impact Statement*, 16 May 2025: Energy Locals (26 June 2025, p. 3); Red and Lumo Energy (26 June 2025, p. 2); Alinta Energy (30 June 2025, p. 3); Australian Energy Market Commission, *Assisting hardship customers: rule determination*, 19 June 2025.

[27] Energy Locals, submission to the Essential Services Commission *Energy Consumers Reforms: Regulatory Impact Statement*, 26 June 2025, p. 2.

[28] Submissions to the Essential Services Commission *Energy Consumers Reforms: Regulatory Impact Statement*, 16 May 2025: Tesla (4 July 2025, p. 1); Origin Energy (26 June 2025, p. 3).

includes the cost of a battery, an early exit via the automatic switch would require the customer to cover the full buy-out cost of the battery.[29]

In one-on-one meetings, several retailers also expressed concerns about how the automatic best offer would work for customers affected by family violence. There were concerns that some affected customers who have requested limited or no communication from their retailer for a period of time (due to safety concerns) would be unable to opt out of the switch. They also had concerns that any unexpected change in plans and other benefits attached to the plan or billing could create risk of harm to these affected customers.

Some retailers also suggested customers may not want to lose other benefits attached to their plan.[30] For example, streaming service subscriptions or reward points. As such, these customers may not want to be automatically switched to the best offer.

The Victorian Council of Social Service strongly challenged the suggestion from retailers that customers experiencing payment difficulty would not want to be automatically switched to the best offer if it meant losing these non-energy related benefits.[31] It argued that most non-energy benefits obscure the true cost of energy and provide mediocre or dubious add-on benefits to the customer. While it acknowledges customers may value these benefits, the Victorian Council of Social Service was extremely sceptical that customers who are struggling to pay for energy or are over $1,000 in debt would object to forfeiting these benefits for reduced ongoing costs.

Consumer Action Law Centre and the Energy and Water Ombudsman (Victoria) suggested further requirements

Consumer Action Law Centre suggested that there should be an additional requirement to credit back the difference in debt that would have accrued had the customer been on their retailer's best offer earlier.[32] Its suggestion was that this would operate in addition to the automatic switch and apply to all the debt a customer had accrued while not on the best offer.

EWOV also had a number of suggestions on how to further strengthen the automatic best offer reform.[33] While we proposed to remove the tariff check obligation given the introduction of the

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[29] Origin Energy, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 26 June 2025, p. 3.

[30] Submissions to the Essential Services Commission *Energy Consumers Reforms: Regulatory Impact Statement*, 16 May 2025: Australian Energy Council (p. 2); AGL (p. 10); ENGIE (p. 3); Powershop (p. 5).

[31] Victorian Council of Social Service, 'VCOSS Submission to the Energy Retail Code of Practice Review – *Energy Consumer Reforms: Regulatory Impact Statement',* 26 June 2025, p. 5.

[32] Consumer Action Law Centre, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 3 July 2025, p. 6.

[33] Energy and Water Ombudsman (Victoria), 'EWOV feedback on the *Energy Consumer Reforms: Regulatory Impact Statement* – Review of the Energy Retail Code of Practice', 26 June 2025, p. 12–14.

automatic best offer, EWOV recommended that we retain and strengthen the tariff check provision alongside the new obligation.[34] EWOV suggested that it should be amended to explicitly require the retailer to provide practical assistance to help lower the residential customer's energy costs including providing assistance to access the best offer. It argued this would assist in capturing customers who may not have reached arrears over $1,000 and have not otherwise accessed tailored assistance.

EWOV also argued that further protection is required to ensure a customer is not switched to an unsuitable tariff structure where they have limited energy literacy or capacity to change their energy usage.

Retailers argued eligibility should be more limited

All retailers argued the reform should be limited to customers who have already contacted and engaged with their retailer or other narrower criteria.[35] They expressed concerns that including customers not receiving tailored assistance could unintentionally discourage engagement and lead to worse outcomes for those customers overall. Some retailers also challenged whether the eligibility criteria would effectively capture customers experiencing payment difficulty.[36] They also emphasised that tracking and monitoring the eligibility of non-tailored assistance customers would be costly, complex and require large system builds and upgrades.[37]

Consumer groups supported broader eligibility to address the assistance gap

In contrast, consumer groups were strongly supportive of extending eligibility beyond customers receiving tailored assistance.[38] They noted that many customers who are in arrears do not ask for assistance from their retailer and face 'invisible hardship' via a persistent assistance gap.[39] This

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[34] Tariff check obligation is outlined in clause 128(1)(f)(i) of the Energy Retail Code of Practice (version 3); Essential Services Commission, *Energy Consumer Reforms: Regulatory Impact Statement*, 16 May 2025, pp. 56, 62, 72.

[35] Submissions to the Essential Services Commission *Energy Consumers Reforms: Regulatory Impact Statement*, 16 May 2025: AGL (26 June 2025, p. 8); Australian Energy Council (3 July 2025, p. 2); EnergyAustralia (4 July 2025, p. 5); ENGIE (26 June 2025, p. 3); Origin Energy (26 June 2025, p.2); OVO Energy (26 June 2025, p. 1); Powershop (26 June 2025, p. 3); Red and Lumo Energy (26 June 2025, p. 2).

[36] Submissions to the Essential Services Commission *Energy Consumers Reforms: Regulatory Impact Statement*, 16 May 2025: OVO Energy (26 June 2025, p. 1); Red and Lumo Energy (26 June 2025, p. 2).

[37] Submissions to the Essential Services Commission *Energy Consumers Reforms: Regulatory Impact Statement*, 16 May 2025: AGL (26 June 2025, p. 9); Australian Energy Council (3 July 2025, p. 2); Powershop (26 June 2025, p. 3) Red and Lumo Energy (26 June 2025, p. 3).

[38] Submissions to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 16 May 2025: Brotherhood of St. Laurence (4 July 2025, pp. 2–3); Consumer Action Law Centre (3 July 2025, p. 5); Council on the Ageing Victoria & Senior Rights Victoria (24 June 2025, p. 4); Energy Consumers Australia (26 June 2025, p. 5); Financial Counselling Victoria (26 June 2025, p. 2); Victorian Counsel of Social Service (26 June 2025, p. 4).

[39] Submissions to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 16 May 2025: Victorian Counsel of Social Service (26 June 2025, p. 4); Consumer Action Law Centre (3 July 2025, p. 5).

can be due to structural barriers, lack of knowledge of support available and stigma attached to asking for help.

Financial Counselling Victoria disagreed with concerns expressed by retailers that including this cohort of customers could encourage disengagement. Instead, it suggested that customers who receive a message from their retailer that they are being moved to a cheaper plan could see this as an encouragement to engage and enter into tailored assistance.

Some consumer groups expressed concern about how the $1,000 eligibility threshold could interact with our proposed minimum debt disconnection amount of $500.[40] They warned that a retailer could be incentivised to disconnect customers earlier before they become eligible for the automatic best offer. To address this risk, they suggested that the amount of debt to be eligible for the automatic best offer could be lower, or the minimum debt disconnection amount could be increased.

Industry suggested some ways opt out requirements could be altered to improve customer experience

The Australian Energy Council and AGL submitted that a customer should be able to opt out of the automatic best offer before receiving the intention to switch notice.[41] AGL, ENGIE and Origin all suggested options for customers who prefer to stay on their existing plan or maintain control over their account to access longer term opt outs.[42]

Retailers indicated that the post-switch reversal could be difficult to implement

Alinta Energy commented that the process to unwind a transaction and complete a product reversal would be complex.[43] The reversal requirement would mean that retailers would need to maintain their product suite for an indefinite period of time.

Retailers also raised concerns about how the reform would interact with price change events, existing notice requirements, customer-initiated swapping and the issuing of bills.[44]

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[40] Submissions to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 16 May 2025: Financial Counselling Victoria (26 June 2025, p.3); Victorian Council of Social Service (26 June 2025, p. 4); Brotherhood of St. Laurence (26 June 2025, p. 3); AGL (26 June 2025, p. 9).

[41] Submissions to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 16 May 2025: Australian Energy Council (3 July 2025, p. 2); AGL (26 June 2025, p. 11).

[42] Submissions to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 16 May 2025: AGL (26 June 2025, p. 11); ENGIE (26 June 2025, pp. 3–4); Origin Energy (26 June 2025, p. 2).

[43] Alinta Energy, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 30 June 2025, p. 3.

[44] Submissions to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 16 May 2025: AGL (26 June 2025, pp. 10–11); EnergyAustralia (4 July 2025, p. 10).

Reform needs to be monitored post implementation

Council on the Ageing Victoria & Senior Rights Victoria and EWOV encouraged the commission to monitor the impact of these reforms to ensure customers are benefiting from the switch and retailers are not responding with inflated base rates or restrictive conditions.[45]

Our final decision

Our final decision is to proceed with the new requirement for retailers to switch customers experiencing payment difficulty to the best offer. We have made some changes to the details of the reform outlined in our draft decision to improve implementation and reduce complexity.

A flowchart illustrating the automatic switching to the best offer process and key timelines can be found in Annex C.

Customers receiving tailored assistance will be eligible

Customers receiving tailored assistance will be eligible for the automatic switch to the best offer. Tailored assistance customers are customers that are in arrears and experiencing payment difficulty that have been in contact with their retailer. We consider that the automatic best offer will deliver better outcomes for these customers than the existing tariff check obligation. This existing obligation requires retailer to identify the tariff most likely to minimise the residential customer's energy costs based on that customer's pattern of energy use and payment history. We consider the automatic best offer will be more effective in providing support to tailored assistance customers based on feedback that existing explicit informed consent processes can delay or discourage switching to a better plan.

Customers in arrears for at least three months with $1,000 or more in debt will also be eligible

We have decided to apply the automatic best offer reform to customers in arrears who are not receiving tailored assistance. We consider it is necessary to address the 'assistance gap', which refers to the situation where a significant number of energy customers are experiencing payment difficulty but are not accessing and receiving assistance from their retailer. As outlined in our RIS, we estimate that extending the automatic best offer to these customers will result in an additional total average potential annual savings of $3.3 million for electricity and $1.5 million for gas customers.

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[45] Submissions to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 16 May 2025: Council on the Ageing Victoria & Senior Rights Victoria (24 June 2025, p. 4); Energy and Water Ombudsman (Victoria) (26 June 2025, p. 15).

We acknowledge retailers' preference to limit the automatic best offer to customers who have already engaged with their retailer. In contrast, we note the strong support from consumer groups for this cohort of customers to be switched to the automatic best offer.

We consider that not all customers who could benefit from being switched to the best offer are able to engage with their retailer. There is a persistent assistance gap and extending the automatic best offer to this cohort of customers helps to ensure that customers in a significant amount of debt are not paying more than necessary for their ongoing energy use. We consider that receiving the automatic best offer from their retailer may prompt some of these customers to contact and engage with their retailer for further support.

We received feedback that the time and amount of arrears proposed may not accurately capture customers experiencing payment difficulty. Consumer groups commented that there were many other customers experiencing payment difficulty who would not be captured by these criteria. In contrast, retailers expressed concerns that customers not experiencing payment difficulty could be captured.

We consider that, given the complexity and implementation burden on retailers, eligibility needs to be sufficiently targeted towards those who have been in debt at a higher level for an extended period of time. However, future reviews of the code of practice could explore extending the automatic best offer more broadly to other customers experiencing payment difficulty.

We consider that, although these criteria may capture some customers not experiencing payment difficulty (for example, a family who has gone on holiday and missed paying their energy bills), the vast majority of customers captured will be experiencing payment difficulty. Moreover, customers not experiencing payment difficulty would still benefit from being on the best offer and would have the opportunity to opt out of the switch. We note that we did not receive any substantive feedback from retailers on how we could better identify customers in this assistance gap without significantly increasing cost and complexity for retailers.

Time in arrears should be measured from the bill pay-by date

We consider a customer has entered into arrears after the bill pay-by date is missed. Therefore, a customer has been in debt for at least three months when it has been three months or more since a bill pay-by date. We consider that this is the most consistent method to determine time in arrears for the purposes of determining eligibility.

Total arrears of customers after three months or more must be equal to or higher than $1,000

A customer not receiving tailored assistance is eligible for the automatic switch to the best offer if the total debt accumulated at the end of three months (or more) has reached $1,000. We consider that requiring a customer to sustain at least $1,000 in debt for three months would exclude many

customers that would benefit from the reform. We also note that a customer's level of debt fluctuates over time. For example, a customer's debt can fluctuate if they make partial payments towards the debt. Therefore, requiring a sustained level of debt over a specific amount would inappropriately exclude even more customers that would benefit from the automatic best offer.

The $1,000 also aligns with our proposed increase to the minimum debt disconnection amount outlined in Chapter 4. This addresses concerns from consumer groups about perverse incentives for retailers to disconnect (or threaten to disconnect) customers before they become eligible for the automatic switch to the best offer. However, given the cost of disconnection to retailers, we consider it is unlikely they would seek to pursue disconnection before the automatic switch to the best offer. We expect that where a customer is in debt of $1,000 or more, a retailer would automatically switch this customer to their best offer before commencing disconnection processes.

Retailers will need to check if their customers in arrears meet this eligibility criteria at least once every six months

We have decided that a retailer must check if a customer has been in debt for at least three months with a debt equal to or greater than $1,000 at least once every six months.

This change is in response to feedback we received on the RIS where we proposed that a retailer would need to perform a best offer check within 10 business days of a customer becoming eligible. Retailers advised us that in order to meet this requirement for eligible non-tailored assistance customers, they would need to monitor all customers in arrears daily to correctly identify the exact moment of eligibility. This would require significant and complex system upgrades which would be particularly difficulty for small and medium retailers to manage.

In our July 2025 workshop and subsequent meetings with retailers, we heard that a requirement to check customer eligibility at regular intervals would be much simpler to implement. We also considered set dates or points in time where all retailers would need to check all their customers in arrears for eligibility. However, we have decided that a set minimum frequency (not set dates) is preferable because it gives retailers flexibility to align the check with their existing process such as with the best offer calculation and message. Retailers can choose what dates they perform this eligibility check as long as it occurs within the required frequency.

We have settled on a frequency of at least once every six months because we consider this is sufficient time for a retailer to identify most customers in arrears before they spend too long in debt without assistance (in the case of non-tailored assistance customers). It also reduces the burden on retailers' systems conducting this eligibility check if retailers are only required to perform it once every six months.

We have decided to set a minimum frequency for this eligibility check so that where a retailer prefers to check eligibility more frequently, they are still able to do so. For example, a retailer may

choose to check the eligibility of all their customers once every six months. They could also choose to increase that frequency to check eligibility more often depending on what works best for their individual systems and operations. Similarly, a retailer could also choose to maintain the approach outlined in the RIS and use daily monitoring of the arrears of individual customers. We expect that the frequency at which a retailer implements the eligibility checks is likely to align with their capacity to develop an automated system or ability to perform regular manual checks of their customer base. For example, a retailer with an automated system may prefer to monitor each customer in arrears individually, and on a daily basis.

Only residential customers in market retail contracts and standard retail contracts will be eligible

During consultation, we received some queries about which types of customers and contracts this reform would apply to.

All retailers must continue to comply with the existing best offer check and message requirements for small customers on standard retail contracts and market retail contracts. In contrast, the PDF applies to only residential customers of retailers and exempt persons.

We have decided that this reform will only apply to residential customers of retailers because a key goal of this reform is to improve the operation of the existing PDF.[46] Furthermore, the primary focus of our energy consumer reforms proposed in our RIS was to help households access cheaper energy deals.

Residential customers in exempt market retail contracts are eligible for the automatic best offer because they are already entitled to assistance under the PDF and receive the best offer check and message.

Where a residential customer is currently not receiving a best offer check and message, they will not be eligible for the automatic best offer

The following customer types are not eligible for the automatic best offer:

- customers of exempt persons
- customers who receive a single bill for energy supplied at two or more premises
- customers with multiple premises where aggregate actual or estimated annual consumption exceeds a certain level.

Under the current rules, retailers or exempt persons selling energy to these customers are not required to complete the best offer check or provide the best offer message. Therefore, we

[46] The Payment Difficulty Framework, Part 6 of the Energy Retail Code of Practice is designed to provide support to residential customers facing or anticipating payment difficulty.

consider it would create too great a regulatory burden to extend the automatic best offer to these customers. This is because retailers and exempt persons would first need to perform best offer checks and messages for these customers. Moreover, the best offer calculations required for customers with multiple premises are likely more complex than those needed for existing best offer checks.

Exempt persons were excluded from the best offer reform in 2018.[47] Most customers of exempt persons have limited options for participating in the retail energy market. Therefore, it was not clear that there were sufficient alternatives to make the best offer meaningful for these customers.

We acknowledge that further protections are needed for this cohort of customers. We note that potential reforms to improve protections for customers of exempt sellers and customers in embedded networks were raised in our issues paper published in June 2024.[48] This issue has also been considered as part of the Australian Energy Regulator (AER)'s embedded networks review and will likely influence future, separate reforms.[49]

Certain plans which include repayments for physical energy assets or VPP membership are excluded from the requirement to automatically switch

Some plans will be excluded from the automatic switch requirements. We have decided to exclude plans which:

- include a physical energy-related asset (such as solar panels or a home battery) that the customer is paying off through the plan; or
- include membership to a Virtual Power Plant (VPP) where the retailer can actively control the residential customer's physical energy-related asset.

We agree with Origin and Tesla that customers on these specific types of plans are likely to face significant costs if they are automatically switched. This could include having to cover the full cost of any asset or these assets being uninstalled. In the case of VPPs, this could include the loss of membership credits or benefits and increased energy costs due to poorer energy use optimisation.

Retailers had a range of other suggestions for plans which should be excluded from the automatic best offer requirement. This included plans with other various benefits such as subscription services and rewards points. We have decided that these types of plans will be captured by the automatic best offer because we consider the risk of consumer harm from being automatically

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[47] Essential Service Commission, *Building trust through new customer entitlements in the retail energy market: Final decision*, 30 October 2018, p. 61.

[48] Essential Services Commission, *Energy Retail Code of Practice review: Issues Paper*, 6 June 2024, pp. 66–70.

[49] Australian Energy Regulator, *Review of the AER exemptions framework for embedded networks – Final decision, incorporating notice of final instruments*, 29 August 2025.

switched is much lower. We also note that customers who value these benefits are likely already engaged customers and more likely (and able) to opt out of the switch.

For tailored assistance customers with plans excluded from an automatic switch, retailers must help them identify a tariff most likely to minimise their energy cost

We have decided to retain the existing obligation to provide practical assistance of a tariff check for some tailored assistance customers. This will only apply to customers with plans excluded from an automatic switch. Our draft decision had originally proposed to revoke the entire obligation, given the introduction of an automatic best offer for tailored assistance customers. However, the automatic best offer proposed in the RIS did not include any exemptions which we are now introducing.

For example, this means that tailored assistance customers with repayments for consumer energy resources who are not automatically switched, will still benefit from a conversation about tariffs with their retailer.

Retailers will be exempt from obtaining explicit informed consent before switching a customer to the automatic best offer

We have decided that a retailer will not be required to obtain explicit informed consent before moving an eligible customer to the best offer.

We acknowledge the concerns of some retailers that want to maintain the current level of protection of customer agency. However, there will be an opt out measure in place to ensure customers who don't want to be switched, won't be switched.[50]

Moreover, where a customer is unhappy with the best offer they have been switched to, the customer retains the ability to choose to switch to a different plan using explicit informed consent and established procedures.[51] We also note support from consumer groups to proceed with this exemption given the benefits it will provide to consumers.

Retailers must perform a best offer check within 10 business days of becoming aware a customer is eligible for automatic switching

We have decided to retain the requirement to perform the best offer check within 10 business days, with some slight alterations. The start of the 10 business days will be from when a retailer becomes aware that a customer is eligible instead of when a customer becomes eligible.

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[50] The detail of this opt out provision is explained on page 23 and 24 of this final decision.

[51] Division 2 and 5 of Part 4 of the Energy Retail Code of Practice regulates the obligations and processes a retailer and exempt person must follow when a small customer is seeking to purchase energy.

This grants retailers some flexibility and helps reduce administrative burden in identifying eligible customers. They can choose to check automatic switching eligibility once every six months on a day that works best for their business. For example, a retailer could align this eligibility check with their existing cycle of best offer calculations. This would mean they do not need to perform an additional, out of cycle best offer calculation for the customer.

Customers who are receiving tailored assistance before these reforms take effect will immediately become eligible for the automatic switch. Customers who enter tailored assistance after these reforms take effect will become eligible on the day they enter assistance. Depending on when these dates align with a retailer's existing cycle of best offer calculations, a retailer may need to perform an additional, out of cycle best offer calculation for the customer. We consider that this is an acceptable requirement to impose on retailers given the customer has actively engaged and requested assistance from their retailer.

Customers will have 10 business days to opt out from being automatically switched

After receiving the notice of intention to switch, a customer will have 10 business days to opt out (orally or in writing) of the automatic switch to the best offer. This is a minor change from our draft decision, where we proposed the opt out period must be at least 10 business days.

Instead of setting a minimum, flexible time frame to opt out, we are setting the exact length of the opt-out period. Most retailers indicated they were likely to use exactly 10 business days even if they had the option to give the customer more time. This is because the longer the opt out period, the more likely the automatic best offer would interact with other processes (such as billing), which would create further complexity. Moreover, the longer the opt out period, the more likely the best offer identified in the notice of intention to switch may no longer be the best offer, if newer offers from that retailer have entered the market.

We also made this change in the context of uncertainty from retailers on how the existing cooling off period for customers that switch plans would interact with the proposed opt out provision. The new opt out provision will replace the cooling off period for automatic best offer. Therefore, matching the length of the opt out period with the existing cooling off period provides greater consistency and simplicity.

Customers can only opt out after receiving the notice of intention to switch

A customer can only opt out of the automatic switch to the best offer after they have received the notice of intention to switch.

We acknowledge feedback from retailers that some customers receiving tailored assistance who are adamant they don't want to be switched may find it frustrating to wait to receive the notice of intention to switch before they can opt out.

However, we consider this is necessary to ensure that customers are informed of the benefits of the automatic switch to the best offer and understand the detail of what they are opting out of.

A customer's opt out will last for 12 months

Where a customer chooses to opt out of the switch after receiving the notice of intention to switch, the opt out will last for 12 months. This is an increased opt out length compared to what was proposed in the RIS.[52] We have made this change based on feedback from retailers that having to regularly and repeatedly opt out of the switch could create a poor customer experience for those who never want to be automatically switched.

Many retailers advocated for us to go further and create a permanent opt out option. We consider that this is not appropriate. A customer's circumstances may change, and it is unreasonable to expect them to make a choice at a single point in time that would restrict their ability to receive this support in future. We have chosen 12 months because it accounts for price change events which might influence a customer's decision to opt out of the automatic best offer.

The opt out provision does not affect the operation of the best offer message. Retailers are still required to conduct a best offer check and include a best offer message on bills for these customers at least once every three months for electricity and once every four months for gas.[53]

The retailer must undertake another automatic best offer process within 6 months

Where a customer does not opt out of the switch and remains eligible, the process for automatic switch to the best offer should reoccur within 6 months. This frequency remains the same regardless of the result of the deemed best offer check.[54] In practice, this could mean that where a customer maintains eligibility, new better offers keep entering the market from their retailer, and the customer does not opt out, that customer could be automatically switched to a new plan every six months.

No requirement to return the customer to their original plan following the switch

We have decided to not proceed with the post switch reversal we proposed in the RIS. This means a retailer will not be required to move a customer back to their original plan (if requested) after they have been switched to the best offer.

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[52] The draft version of the Energy Retail Code of Practice we published with our Regulatory Impact Statement required the retailer to perform receive a deemed best offer check for the purpose of an automatic switch at least once every six months for electricity and once every eight months for gas, regardless of whether or not a customer opt outs from the previous cycle.

[53] Clause 110(1) of the Energy Retail Code of Practice.

[54] If the result is negative, the customer will be automatically switched to the best offer unless they opt out. If the result is positive, the customer is already on the best offer and under this reform they will not be switched.

We heard from retailers that this requirement would create a significant regulatory and operational burden. The major reason for concern was how their different plans were constructed in their operating system. Some plans may be inaccessible in their systems once a customer has been switched to the best offer because the plan has been retired in its entirety or is no longer available for customers not currently on the plan. In separate one-on-one meetings with retailers, they also argued that the opt out would serve as the main consumer protection to replace explicit informed consent.

We consider that the operational burden of requiring a post switch reversal to be too significant. We agree with retailers that opt outs are likely to be more important in protecting customer agency. We acknowledge support from consumer groups to retain the post switch reversal as a way of strengthening customer choice and agency. However, we note that customers will still have the ability to request to move to a different plan by contacting their retailer. Moreover, where an individual retailer's system allows them to move the customer back to their original plan, retailers may voluntarily choose to provide their customers with the ability to reverse back to their existing plan.

Automatic best offer provisions do not override existing best offer message obligations

The new automatic best offer obligations operate alongside the existing best offer check and message requirements. If a customer opts out of an automatic best offer, they should continue to receive the best offer message on bills in accordance with those requirements.

Consideration of significant risk of harm to affected customers

Where a retailer reasonably believes that issuing a notice or completing the switch to the best offer may cause significant risk of harm to an affected customer, the retailer is not required to issue the notice or complete the switch to the best offer.[55]

We consider that this is a necessary consideration to include based on feedback from some retailers that switching some affected customers to the automatic best offer could create a significant risk of harm for those customers.

Retailers were concerned about customers who had requested pauses on communications which would make it difficult for the retailer to send those customers notices of intention to switch. Given a retailer cannot proceed with the automatic switch to best offer without sending this notice, and they are required to switch these customers, this would put retailers in a difficult situation. In these and similar circumstances, a retailer can choose to not proceed with the notice and switching the

[55] Affected customer is defined in the Energy Retail Code of Practice as any customer, including a former customer, who is or was a small customer and who may be affected by family violence.

customer to the automatic best offer. They must keep record of how and why they have made this decision.

We have created this provision to give retailers the ability to consider each affected customer on an individual basis to address the risk of harm to that customer. It is not appropriate for a retailer to use this provision to exclude all affected customers from the automatic switch to best offer. A retailer must recognise family violence as a potential cause of payment difficulty. The automatic best offer is designed to support customers experiencing payment difficulty, to ensure they are paying no more for energy than they need to be. Therefore, it is not appropriate to unreasonably deny an affected customer this support where it would benefit them.

The definition of affected customer in the code of practice refers to customers who 'may' be affected by family violence. This acknowledges that many victim-survivors will not disclose to their retailer that they are affected by family violence but should still be provided with the same level of protection as those who have disclosed. However, for the purposes of excluding an affected customer from the automatic best offer, we consider this should be limited to customers who have explicitly disclosed or identified themselves as being affected by family violence.

Retailers should consider the risk of harm to an individual customer each time the customer becomes eligible for the automatic best offer. This means that retailers should generally apply the automatic best offer for affected customers, unless there are specific risks of harm that the individual customer would face. We also note that the circumstances of an affected customer may change over time as will the level of risk of harm.

Therefore, it is inappropriate (and a breach of the requirement) to permanently exclude or have policies to exclude affected customers from receiving an automatic best offer.

3. Increasing the threshold for receiving a 'best offer' message

Our final decision is to increase the best offer threshold from $22 to $50. This increase will take effect from 1 October 2026.

Key code of practice clause: 109

Our draft decision

We proposed to increase the threshold for receiving a 'best offer' message from $22 to $50 in estimated annual savings. This means a customer would only receive a message that they could save money on a different plan (negative best offer message) if the annual savings are greater than $50.

The proposed change aims to support the implementation of the proposed automatic best offer mechanism and improve consumer confidence in the best offer message by providing a more substantial benefit to customers who switch. This aligns with consumer testing we conducted in 2018 which found that 90 per cent of customers would need to save at least $50 in order to switch.[56]

Stakeholder feedback

All retailers who commented on this reform supported it

Industry submitted that an increase to $50 would create a best offer message which is more meaningful to consumers. Powershop and AGL stressed that retailers would need sufficient time to implement this change.

The Australian Energy Regulator also commented that it had similar research that showed that where savings are too low, customers are less likely to switch. This supports our proposal to increase the threshold to $50.

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[56] The Behavioural Insights Team, *Testing the impact of behaviourally informed energy bills and best offers*, 30 October 2018, p. 37.

Despite the results of this consumer testing, we made the decision in our *Building trust through new customer entitlements in the retail energy market: final decision* on 30 October 2018 to progress with a $22 threshold. This was on the basis of the maximum exit fee retailers could charge and the feedback from consumer groups that savings of $22 per year could make a material difference to vulnerable and/or low-income households.

Some consumer groups had concerns about the impacts on low-income households

Consumer Action Law Centre and Financial Counselling Victoria opposed the increase to $50.[57] Both organisations argued that the value of best offer savings is relative to incomes. They argued that a $22 threshold would ensure there is an early opportunity for customers to switch to a better offer.

Energy Consumers Australia argued that a lower threshold is preferable but considered the increase to be reasonable given the expanded role of the threshold in the automatic best offer reform.[58] The Energy and Water Ombudsman (Victoria) also supported the increase given it is likely to improve the salience of the best offer message, limit consumer confusion and emphasise the benefits of switching.[59]

Our final decision

We are increasing the best offer threshold

We have decided to increase the best offer threshold to $50.

We agree with the feedback from most retailers and some consumer groups that this is likely to improve the salience and effectiveness of the best offer message.

We acknowledge the arguments from the Consumer Action Law Centre and Financial Counselling Victoria. While we agree that savings of $22 can have a material impact on low-income households, evidence suggests that this threshold is not sufficient to drive engagement with the best offer and means that savings are often not being realised.

On balance, we believe that the benefits of raising the best offer threshold outweigh the potential risks. Raising the threshold should increase engagement with best offer messages for all customers. It is also an important adjustment to facilitate the implementation of reforms that will improve support for customers experiencing payment difficulty (i.e. reforms to automatically switch these customers to the best offer).

We have decided to delay the implementation of this increase to align with the implementation of the automatic best offer because we consider it will be easier for retailers to implement and less confusing for customers. This reform will take effect from 1 October 2026.

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[57] Submissions to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 16 May 2025: Consumer Action Law Centre (3 July 2025, pp. 10–11); Financial Counselling Victoria (26 June 2025, p. 8).

[58] Energy Consumers Australia, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 26 June 2025, p. 3.

[59] Energy and Water Ombudsman (Victoria), 'EWOV feedback on the *Energy Consumer Reforms: Regulatory Impact Statement* – Review of the Energy Retail Code of Practice', 26 June 2025, p. 28.

4. Increasing the minimum debt disconnection amount

Our final decision is to increase the minimum debt disconnection amount for non-payment from $300 to $1,000. This change will take effect from 1 October 2026.

Key code of practice clause: 187

Our draft decision

We proposed to increase the minimum debt amount for disconnection for non-payment from $300 to $500.[60] This proposed change aimed to better align the debt disconnection threshold with current retailer practices and adjust for the increase in the annual cost of energy bills since the $300 threshold was set in 2017.[61]

It also aligned with a proposal from the Australian Energy Regulator (AER) to increase the minimum disconnection amount it sets for jurisdictions in the National Energy Customer Framework.[62] Its threshold is currently set at $300, and it proposed to increase this to $500 in its draft decision published on 15 May 2025.[63]

Stakeholder feedback

Industry generally opposed an increase to the minimum debt disconnection amount

Alinta Energy submitted that while disconnection is an absolute last resort, many customers do not engage with their retailer until there is the possibility of disconnection.[64] Many retailers expressed concerns that this would delay a customer's engagement and access to support, and increase

[60] Essential Services Commission, *Energy Consumer Reforms: Regulatory Impact Statement*, 16 May 2025, pp. 44–46.

[61] Essential Services Commission, *Payment difficulty framework: Final decision*, 10 October 2017, pp. 55–56.

Prior to 2017, the minimum disconnection amount was increased from $100 to $120 in 2008. Essential Services Commission, *Review of Regulatory Instruments: Stage 1 – Final Decision*, October 2008, pp. 27–28.

[62] Clause 116(1)(g) of the *National Energy Retail Rules (version 42)*. The NECF jurisdictions are New South Wales, Queensland, South Australia, Tasmania and Australian Capital Territory.

[63] Australian Energy Regulator, *Review of the minimum disconnection amount: draft decision*, 15 May 2025.

[64] Alinta Energy, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 30 June 2025, p. 7.

customer and industry debt levels.[65] Nevertheless, Powershop and EnergyAustralia supported an increase in the minimum debt disconnection amount that would align with the threshold set by the AER.[66]

Origin suggested that future increases in this threshold should occur via periodic review instead of annual indexations.[67] This ensures that the threshold is a whole number which is more relevant to, and easily understood by, customers and retailer call centre staff.

The interaction with the automatic best offer could create perverse incentives

Several stakeholders expressed concerns about how the arrears eligibility of $1,000 for the automatic best offer reform would interact with the minimum debt amount for disconnection of $300.[68] It would mean that retailers can disconnect a customer for non-payment before a customer is eligible for the automatic best offer. Moreover, some retailers could be incentivised to disconnect customers earlier to avoid having to switch them to a cheaper plan. We note this issue would persist under our proposal to increase the minimum debt amount for disconnection from $300 to $500.[69]

Consumer groups supported an increase but argued more is needed to ensure disconnection is an absolute last resort

While supportive of the increase, many consumer groups questioned the efficacy of this threshold in avoiding consumer harm and ensuring disconnection is an absolute last resort.[70] For example, Council on the Ageing Victoria & Senior Rights Victoria expressed concerns that the threshold may become a permission point for retailers to disconnect rather than a protective barrier for consumers.[71] It recommended that the focus should be on maximising early intervention and

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[65] Submissions to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 16 May 2025: AGL (26 June 2025, pp. 21–22); Australian Energy Council (3 July 2025, p. 4); Alinta Energy (30 June 2025, p. 7); Origin Energy (26 June 2025, p. 3).

[66] Submissions to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 16 May 2025: Powershop (26 June 2025, p. 9); EnergyAustralia (4 July 2025, p. 24).

[67] Origin Energy, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 26 June 2025, p. 4.

[68] Submissions to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 16 May 2025: Financial Counselling Victoria (26 June 2025, p.3); Victorian Council of Social Service (26 June 2025, p. 4); Brotherhood of St. Laurence (26 June 2025, p. 3); AGL (26 June 2025, p. 9).

[69] Essential Services Commission, *Energy Consumer Reforms: Regulatory Impact Statement*, 16 May 2025, pp. 44–46.

[70] Submissions to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 16 May 2025: Financial Counselling Victoria (26 June 2025, p.7); Victorian Council of Social Service (26 June 2025, pp. 16–18); Brotherhood of St. Laurence (26 June 2025, p. 3); Consumer Action Law Centre (3 July 2025, pp. 11–13); Energy Consumers Australia (26 June 2025, p. 4); Energy and Water Ombudsman (Victoria) (26 June 2025, p. 29).

[71] Council on the Ageing Victoria & Senior Rights Victoria, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 24 June 2025, p. 6.

minimising harm. The Victorian Council of Social Service supported further action from regulators and policymakers to work to ban disconnections.[72]

Many suggested that the amount should be higher than $500.[73] For example, Consumer Action Law Centre suggested the amount should be higher than the rounded average energy debt.[74] It also suggested this amount should be reviewed annually in line with the Victorian Default Offer and consider average household income and expenses. Council on the Ageing Victoria & Senior Rights Victoria suggested the amount should be tied to meaningful indicators of financial distress.[75]

Our final decision

The minimum debt disconnection amount will increase to $1,000

Our final decision is to increase the minimum debt amount for disconnection for non-payment from $300 to $1,000.

We have made the decision to further increase the debt disconnection threshold to further ensure that disconnection is a last resort measure. The $1,000 threshold also aligns with the automatic best offer switch reform, as customers not receiving assistance but with arrears more than $1,000 are eligible for an automatic best offer. This reduces the risk of retailers having the perverse incentive to disconnect (or threaten to disconnect) a customer before they become eligible for the automatic best offer switch. However, given the cost of disconnection to retailers, we consider it is unlikely they would seek to pursue disconnection before the automatic switch to the best offer. We expect all customers in debt who are eligible for the automatic best offer would be switched before a retailer commences with any disconnection proceedings. The $1,000 amount also addresses concerns from consumer groups that $500 was too low given the average energy costs of a consumer.

We note retailers' concerns about potential increases in debt levels if retailers cannot disconnect customers. However, we note that current industry practices show the average disconnection level is $2,547 (in 2024, as shown in Figure 1). In 2024-25, around 14% of residential electricity customers disconnected for non-payment had arrears of less than $1,000 (1,559 of 11,356

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[72] Victorian Council of Social Service, 'VCOSS Submission to the Energy Retail Code of Practice Review – *Energy Consumer Reforms: Regulatory Impact Statement',* 26 June 2025, pp. 16–18.

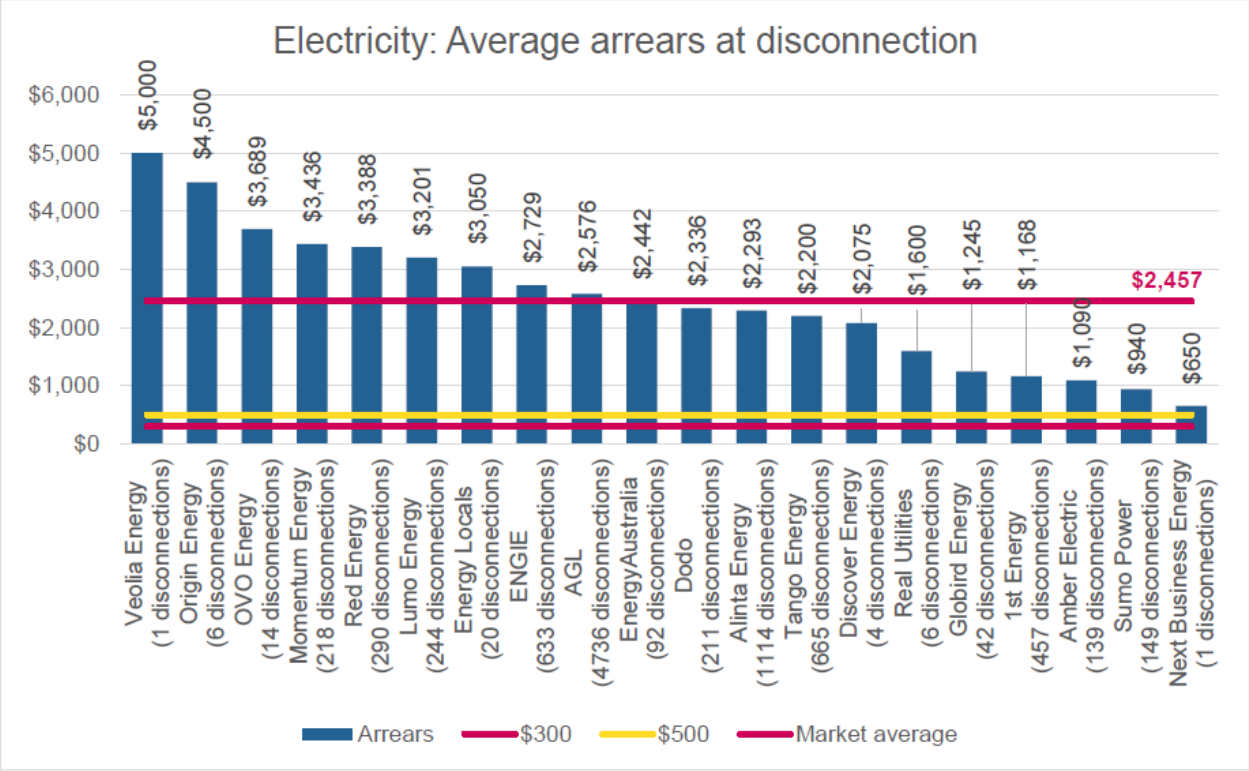
[73] Submissions to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 16 May 2025: Brotherhood of St. Laurence (26 June 2025, p. 3); Consumer Action Law Centre (3 July 2025, pp. 11–13); Victorian Council of Social Service (26 June 2025, p. 16).

[74] Consumer Action Law Centre, 'Submission: *Energy Consumer Reforms: Regulatory Impact Statement',* 3 July 2025, p. 13.

[75] Council on the Ageing Victoria & Senior Rights Victoria, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 24 June 2025, p. 4.

residential electricity customers disconnected in 2024-25).[76] Based on current practices, we believe that the increase of the debt-disconnection threshold will not lead to significant costs to retailers.

Figure 1 : Average customer arrears at disconnection, by retailer in 2024



Source: Compliance and Performance Reporting Guideline data.

We also recognise that retailers will not be able to send disconnection warning notices to customers with arrears of less than $1,000. We have heard retailers' concerns that this could reduce customer engagement and lead to increased debt levels. However, this would be counter to the principle for disconnection being a last resort measure.

The increase of this threshold should instead incentivise retailers to find other ways to connect with customers before accumulating high levels of arrears. We encourage more positive and earlier support to customers, rather than the negative approach of the threat of disconnection for customers. Our automatic best offer reform is an example of a positive approach that enables a retailer to provide immediate support to a customer, which can lead to improved trust with the retailer. Reducing arrears will be mutually beneficial for both the consumer and the retailer.

[76] Victorian Energy Market Dashboard', Essential Services Commission, accessed 29 September 2025.

The new minimum disconnection amount of $1,000 is higher than the amount decided by the Australian Energy Regulator

We have chosen to increase the minimum disconnection amount to an amount higher than the minimum disconnection amount set by the AER. Its decision to increase the minimum disconnection amount to $500 was published on 28 August 2025.[77] We acknowledge that retailers prefer consistency across jurisdictions and that this can also create a simpler customer experience.

However, we consider this difference is justified because it will better support the implementation of the automatic best offer reform and further reinforces the policy position that disconnection should be treated as an absolute last resort for non-payment. We note that the automatic best offer reform will not be implemented in other jurisdictions in the same way as in Victoria, including different eligibility requirements, which means that the $1,000 arrears threshold for automatic switch and its interaction with the debt disconnection threshold is not an issue in other jurisdictions.[78]

The Essential Services Commission Victoria will regularly consider whether the minimum disconnection amount needs to be updated

We agree with stakeholders that indexing this amount is not an appropriate solution to ensure the figure remains up to date. We support regular reviews of this amount to ensure it remains relevant and appropriate to the context of the current energy market. This will ensure that the disconnection amount remains a behaviourally relevant whole number.

We regularly collect data on customer debt levels at disconnection and publish this data each quarter. We will use this analysis to inform whether further review or reform of the minimum debt disconnection amount is needed.

We will consider whether further reforms and protections are needed, including potential changes to the Payment Difficulty Framework

We acknowledge concerns from consumer groups that the increase to the threshold alone will not sufficiently protect customers from high energy costs, high debt and disconnection. However, the reforms in this final decision paper will help address many of these concerns. We will monitor the impact of these proposed reforms and continue to assess how the payment difficultly framework is functioning to support Victorian energy consumers.

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[77] Australian Energy Regulator, *Review of the minimum disconnection amount: final decision*, 28 August 2025.

[78] For more information, see the AEMC's reforms: Assisting hardship customers | AEMC.

5. Protection for customers paying higher prices

Our final decision is to require retailers to identify customers on older contracts and ensure that they pay a 'reasonable price' for their energy from 1 July 2026.

We have added an additional factor of median prices for gas market offers according to the customer's gas distribution area to strengthen the consideration of a 'reasonable price' for gas.

We have retained the four-year contract age eligibility trigger and has refined the 'older customer retail contract' definition to provide clarity.

Key code of practice clauses: 120A, 120B, 120C & 120D

Our draft decision

We proposed to require retailers to ensure customers on contracts that are four years or older are paying a reasonable price for their energy. A retailer determines a reasonable price based on several prescribed factors, including:

- 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.

This proposed approach for determining reasonable price balances reducing the actual price paid for energy with the consideration of other factors that may affect price.

Where a retailer determines that a customer on a contract that is four years or older is not paying a reasonable price for their energy, it can remedy this by:

- lowering a customer's tariffs
- switching the customer to a cheaper plan.

These proposed reforms aim to protect customers on older contracts paying significantly higher prices than customers on newer contracts. In the Regulatory Impact Statement (RIS), we estimated 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.[79]

[79] Essential Services Commission, *Energy Consumer Reforms: Regulatory Impact Statement*, 16 May 2025, p. 4

Stakeholder feedback

This reform was strongly supported by consumer groups. They viewed it as helpful in addressing higher prices for those who are not engaged in the energy market. This may include customers who 'set and forget' their energy plans or cannot engage due to other stressors in their lives.[80]

Retailers were mixed in their support of this proposal. AGL requested an additional consultation process.[81] Origin and EnergyAustralia supported this proposal with some reservations and requests for clarity.[82] These retailers supported the flexibility contained in the proposed prescribed factors to determine a 'reasonable price' for affected customers. Whilst EnergyAustralia supported this proposal, it stressed that it needed to be flexible enough to accommodate non-standard plans.[83]

ENGIE did not fully support the proposal, noting that the reforms should address a smaller group of older contracts and would impose additional compliance costs on its business.[84] Red and Lumo Energy argued that any benefits of the proposal were small and that it assumes these consumers are familiar with and happy to accept the terms and conditions of their current contract.[85]

Retailers sought clarification on when to check for eligible customers

Some retailers requested clarity on the intended timing for checking customers' eligibility for this reform. Retailers reported a high burden for implementation if they were required to check for eligible customers on a daily or weekly basis. For example, AGL and Powershop both requested an annual check to allow alignment with their annual tariff review timing and to avoid price changes outside of this existing time.[86] AGL requested clarification on how the annual tariff review would fit in with this proposed reform. Origin also sought clarity as to whether a customer on an older contract would continue to need a review each year if they had previously been determined to be

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[80] Consumer Action Law Centre, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 3 July 2025, p. 9.

[81] AGL, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 26 June 2025, p. 16.

[82] Origin Energy, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 26 June 2025, p. 4.

[83] EnergyAustralia, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 4 July 2025, p. 17.

[84] ENGIE, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 26 June 2025, p. 8.

[85] Red and Lumo Energy, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 26 June 2025, p. 3.

[86] Powershop, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 26 June 2025, p. 8.

paying a reasonable price.[87] Council on the Ageing & Senior Rights Victoria questioned whether the age of the contracts in scope for this reform could be reduced from four years to three years.[88] ENGIE instead requested that it be increased to seven years.[89]

Retailers viewed their gas standing offers as a 'reasonable price' for gas

There was general consensus amongst retailers that the Victorian Default Offer (VDO) was a suitable deemed reasonable price for electricity. The Brotherhood of St. Laurence called for a lower deemed reasonable price for electricity than the VDO and sought a prescribed statewide reasonable price or a certain percentage below the VDO.[90]

Origin and other retailers argued that a retailer's standing offer would be a reasonable price for gas.[91] Energy Consumers Australia proposed that a deemed reasonable price for gas could be within a certain range above the average or median gas market offer for a region.[92] It also acknowledged that there would likely be complexities around setting a deemed reasonable price for gas.

Some submissions requested guidance on balancing the prescribed factors for determining a 'reasonable price' for energy

Financial Counselling Victoria recommended that the commission issue guidance for retailers in the calculation and definition of 'reasonable price', with clear examples provided.[93] Similarly, some retailers, such as ENGIE, called for a guideline to be developed, focusing on how the reform would work with 'innovative' energy offers.[94]

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[87] Origin Energy, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 26 June 2025, p. 4.

[88] Council on the Ageing Victoria & Senior Rights Victoria, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, June 2025, p. 5.

[89] ENGIE, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 26 June 2025, p. 9.

[90] Brotherhood of St. Laurence, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 26 June 2025, p. 4.

[91] Origin Energy, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 26 June 2025, p. 4.

[92] Energy Consumers Australia, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 26 June 2025, p. 6.

[93] Financial Counselling Victoria, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 26 June 2025, p. 4.

[94] ENGIE, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 26 June 2025, p. 9.

Industry called for the consideration of exemptions in certain circumstances or for particular plan types (such as plans that may last longer than 4 years).[95] This could include battery or solar bundled plans. EnergyAustralia also argued that plans that included virtual power plant (VPP) benefits may result in a customer actually paying more overall if switched to a seemingly cheaper plan without these benefits. As such, it requested the reform require that a retailer be able to consider a customer's energy use with any adjustments for expected changes in use under a plan that is at a reasonable price.[96]

Our final decision

Retailers must review prices paid by eligible customers at least once a year and have flexibility to choose when they do so

We have decided that a retailer must review the prices for a small customer on an older customer retail contract at least annually. At a minimum, this means that a retailer must review the 'reasonable price' for the relevant customers at least once a year. As such, a retailer is not required to continually monitor the age of a customer's contract in the event it becomes older than four years. We have not prescribed a specific date for that review to occur within each year. This allows for a retailer to have flexibility to align this review with their annual price change event each year.

We do not propose changing the age of eligible contracts

We received some comments on the age of the contracts subject to this reform. We have sought to balance the scale of a retailer's review and the effectiveness of this reform in selecting the age of a contract. With regards to reducing the age of the affected contracts to 3 years, this would increase the scope of a retailer's review. Whilst extending the age of eligible contracts for this reform would reduce retailer burden, it would also weaken the reform and make it less effective. Therefore, we have not adjusted the age of the contract from the draft proposal of contracts older than four years. We have adjusted the drafting of '*older customer retail contract*' to clarify that the reform intends to capture customers who have continued on the same plan with the same retailer for four or more years.

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[95] Australian Energy Council, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 3 July 2025, p. 3.

[96] EnergyAustralia, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 4 July 2025, p. 18.

No changes to factors for determining a 'reasonable price' for energy except for an additional consideration for determining a reasonable price for gas

We have decided to retain the VDO as the deemed reasonable price for electricity under this reform. Most stakeholders agreed with this approach. This is a relatively straightforward approach to deemed reasonable price without introducing additional complexity.

Our view remains that a reasonable price for gas should not be solely limited to each retailer's gas standing offer. As noted in our RIS, prices for standing offers are not regulated in the same way as the VDO in retail electricity markets. Gas standing offers are often more expensive than market offers.[97] We have added the 'median price of gas market offers' as an additional prescribed factor that retailers must consider when determining a reasonable price for gas. This is intended to provide clarity on the 'median price' component in the reasonable price considerations for gas. We intend to start publishing this data on our website later in September 2025.

We have decided not to develop additional 'reasonable price' guidelines

We consider that each retailer can balance the prescribed factors in determining a reasonable price for gas without additional guidance. This is a principles-based rule and a judgement will be made in the context of each retailer's portfolio of customer prices and offers. We believe guidance would not adequately and comprehensively cover this. Equally, each retailer will have to consider how plans with other aspects such as those including bundled non-energy services, consumer energy resource capabilities or VPP inclusions are considered in the 'additional benefits' part of the reasonable price review.

We note that the language of 'reasonable price' shares some similarity to the concept of 'reasonable discount' under our code of practice reform titled 'extending protections for customers on legacy contracts'. However, these two reforms apply separately. The latter reform requires conditional discounts to be reasonable. If they are not reasonable, the discount must be applied unconditionally.

This 'higher prices' reform, requires a retailer to review whether an eligible customer's price is reasonable. A retailer must consider the prescribed factors including the price the customer pays after the discounts have been applied.

'Additional benefits' may include services such as VPP plans

The inclusion of 'additional benefits' in the reasonable price review is to ensure that retailers are able to consider how plans that may have a higher price include benefits that could justify that higher price. The wide variety of bundled plans that energy retailers have developed and continue

[97] Essential Services Commission, *Energy Consumer Reforms: Regulatory Impact Statement*, 16 May 2025, p. 24.

to develop, mean that developing guidance would be challenging to cover all such plan combinations and considerations.

Therefore, our decision is not to specifically exempt certain plans from this obligation. The obligation already requires a retailer to consider whether there are any benefits in a customer's plan that justifies a higher price. We have, however, added 'additional services' as an example in the 'value of benefits' consideration of the reasonable price review. This is to provide clarity that a retailer may consider the value of additional services that are provided under the energy plan. The retailer must review and consider whether those benefits justify the higher cost of that plan overall.

6. Improving access to cheaper offers

Our final decision is to require retailers to offer payment methods other than direct debit for all new plans from 1 October 2026.

We are not proceeding with the requirement for retailers to offer paper bills on all plans. Retailers will still be able to offer plans that are restricted to electronic billing only.

Retailers can already impose additional retail charges or offer conditional discounts based on payment methods. However, these reforms ensure that both are capped to the reasonable estimate of the incremental cost to provide a customer with an alternate payment method.

These obligations will apply to plans for small customers.

Key code of practice clauses: 72, 73

Our draft decision

We proposed to prohibit retailers from offering plans restricted by electronic billing or direct debit payment methods. This sought to address an existing issue where many of the cheapest offers are only available for those who can pay via direct debit and receive electronic bills and communications.

The proposal required retailers to offer at least two payment methods, one of which must be commonly used and accessible. It also required retailers to offer paper and electronic billing for all contracts. Retailers would be able to impose an additional retail charge or offer a discount related to these payment conditions. This fee or discount needed to be limited to reasonable costs incurred to offer the alternative billing or payment method.

Stakeholder feedback

There was a strong split among stakeholders on the benefits of the proposed reform. Most consumer groups and public entities supported the proposal.[98] Only one organisation, Lighter Footprints, offered some hesitation and suggested further consultation.[99]

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[98] Submissions to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 16 May 2025: Albury Wodonga Regional Foodshare (4 June 2025); Brotherhood of St. Laurence (4 July 2025, p. 3); Consumer Action Law Centre (3 July 2025, p. 5); Council on the Ageing & Seniors Rights Victoria (24June 2025, p. 4); Darebin Information, Volunteer & Resource Service (11 June 2025); Energy and Water Ombudsman (Victoria) (26 June 2025, p. 5); Energy Consumers Australia (26 June 2025, p. 7); Financial Counselling Victoria Inc. (26 June 2025, pp. 3–4); Victorian Council of Social Service (26 June 2025, p. 3).

[99] Lighter Footprints, 'Submission to the *Energy Consumer Reforms: Regulatory Impact Statement*', 25 June 2025, p. 3.

Retailers were generally opposed to the reform.[100] Some retailers were more neutral or did not comment on the reform in their submissions.

Consumers have been locked out of cheaper plans

Multiple consumer groups and public entities reported consumers being unable to access cheaper plans due to restrictions on payment methods or paper bills. The Victorian Council of Social Service noted that its frontline staff had previously reported that some supported clients had been unable to access their retailers' best offers.[101] These restrictions were often due to requirements for specific payment methods or because bills were only delivered digitally.

The Energy and Water Ombudsman (Victoria) commented that consumers in payment difficulty often prefer other payment methods to direct debit so they can better manage their own costs. It also noted that some consumers are excluded from best offers due to e-billing only restrictions on plans.[102]

Retailers are concerned about the cost of establishing paper billing systems

Almost all retailer submissions opposed to this reform mentioned the cost of paper billing as a problem.[103]

In meetings with retailers, they described paper billing as being difficult when offered to a moderate number of customers. A few bills could be handled manually in-house by office staff. Systems could also be established for delivering many bills, with costs distributed across a wide customer base to minimise impact. While an exact range was not established, feedback from multiple retailers indicated that a moderate number of customers requesting paper bills would be the most expensive and difficult to handle. Under those circumstances, costly systems would have to be established, but they could not be spread across a large enough cohort to minimise the impact on individual customers.

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[100] Submissions to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 16 May 2025: AGL (26 June 2025, pp. 12–13); Alinta Energy (30 June 2025, p. 4); Australian Energy Council (3 July 2025, p. 2); EnergyAustralia (4 July 2025, pp. 12–13); Energy Locals (26 June 2025, p. 2–3); ENGIE (26 June 2025, pp. 4–6); OVO Energy (26 June 2025, pp. 2–4); Powershop (26 June 2025, pp. 6–7).

[101] Victorian Council of Social Service, 'VCOSS Submission to the Energy Retail Code of Practice review – *Energy Customer Reforms: Regulatory Impact Statement*', 26 June 2025, p. 6.

[102] Energy and Water Ombudsman (Victoria), 'EWOV Feedback on the *Energy Consumer Reforms: Regulatory Impact Statement* – Review of the Energy Retail Code of Practice', 26 June 2025.

[103] Submissions to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 16 May 2025: AGL (26 June 2025, p. 12); Alinta Energy (30 June 2025, p. 4); EnergyAustralia (4 July 2025, p. 12); Energy Locals (26 June 2025, p. 2–3); OVO Energy (26 June 2025, p. 2); Powershop (26 June 2025, pp. 6).

Many retailers emphasised that small retailers would be hardest hit by the increased cost of paper billing.[104] They emphasised that this would potentially restrict market entrants and, by extension, competition.

Retailers are concerned about the cost of alternative payment methods

Regarding paper billing requirements, there were fewer complaints made by retailers about the proposal to ensure plans offered alternative payment methods to direct debit. Some retailers highlighted that direct debit payments reduced the likelihood of customers missing payments, which represents a saving to the business. They considered that accepting alternative methods that allow for a greater likelihood of missed payments would represent a cost to business that would ultimately be passed on to customers.[105]

ENGIE queried about some of the figures we used in the Regulatory Impact Statement (RIS). In particular, it questioned the use of the Victorian Default Offer (VDO) as a comparison point for calculating savings.[106] This is discussed further in our final decision section later in this chapter.

Increased costs to retailers may be socialised among the entire customer base

Several retailers emphasised that for both paper billing and alternative payment methods, there would likely be costs that would not easily be captured in any additional retail charges[107] or discounts.[108] They argued that any increased costs not compensated for by additional retail charges or discounts would have to be socialised among their entire customer bases. This would raise prices for all customers.[109]

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[104] Submissions to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 16 May 2025: AGL (26 June 2025, p. 13); EnergyAustralia (4 July 2025, p. 12); OVO Energy (26 June 2025, p. 2); Powershop (26 June 2025, pp. 6).

[105] Submissions to the Essential Services Commission *Energy Consumer Reforms: Discussion Paper*, 16 May 2025: AGL (26 June 2025, p. 13); ENGIE (26 June 2025, pp, 4–6); OVO Energy (26 June 2025, pp. 2–4), Powershop (26 June 2025, p. 6).

[106] Essential Services Commission, *Energy Consumer Reforms: Regulatory Impact Statement*, 16 May 2025, p. 91.

[107] Also referred to previously in the RIS and by retailers as a 'conditional fee'.

[108] Submissions to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 16 May 2025: AGL (26 June 2025, pp. 13); Alinta Energy (30 June 2025, p. 4); ENGIE (26 June 2025, pp. 4–6); OVO Energy (26 June 2025, pp. 2–4); Powershop (26 June 2025, pp. 6–7).

[109] Submissions to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 16 May 2025: AGL (26 June 2025, pp. 13); Alinta Energy (30 June 2025, p. 4); OVO Energy (26 June 2025, pp. 2–4); Powershop (26 June 2025, pp. 6–7).

Concerns around fewer market offers and restricted innovation

Some retailers submitted that there was a chance retailers might remove cheaper plans from the market, despite being permitted to recoup the additional reasonable costs to business.[110] One consumer group, Lighter Footprints, also expressed concern that retailers might remove cheaper plans from the market.[111]

Other key concerns involved the importance of rewarding cost-cutting behaviour to lower prices across the market and that the reform might lead to reduced product differentiation and innovation.[112]

Regarding paper billing, AGL noted that broad Australian policies tend to favour digital billing.[113] Powershop emphasised that there is a cohort of customers who prefer a digital experience, and they worry this reform might leave them unable to target that group.[114]

Our final decision

For all plans entered into from 1 October 2026, retailers will not be allowed to restrict plans to a specific payment method. For example, this means retailers will no longer be able to restrict plans to direct debit payment only.[115] Instead, retailers will be required to accept payment from a small customer (a residential or small business customer) by all of the following methods:

- in person (including via Australia Post outlets)
- by telephone
- by mail
- by direct debit
- by electronic funds transfer.

A retailer may accept payment in another form in addition to these methods.

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[110] Submissions to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 16 May 2025: Alinta Energy (30 June 2025, p. 4); Energy Locals (26 June 2025 pp. 2–3).

[111] Lighter Footprints, 'Submission on the *Energy Consumer Reforms: Regulatory Impact Statement'*, 25 June 2025, p. 3.

[112] Submissions to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 16 May 2025: OVO Energy (26 June 2025), p. 2; Powershop (26 June 2025, p. 6).

[113] AGL, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 26 June 2025, p.12.

[114] Powershop, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 26 June 2025, p. 6.

[115] This reform applies subclause 72(1) to both standard and market retail contracts (where it previously only applied to standard retail contracts).

Retailers and exempt persons will also be required to provide a small customer with at least one fee-free method of payment that is commonly used and accessible.

Retailers are already required to accept payment by any of these methods for standard retail contracts, such as the VDO.

Retailers can already set an additional retail charge or offer a conditional discount for market retail contracts to cover a reasonable estimate of the incremental cost of a payment method. For example, a retailer could charge a fee for payment at Australia Post that covered the difference in cost to the business of that payment method, relative to whatever fee-free method they offer. Many retailers already do this.

We are not proceeding with the requirement for retailers to offer paper bills on all plans.

Cost of establishing new paper billing systems outweighs benefits to consumers

While the commission acknowledges the proposed reform could potentially improve accessibility for some consumers, on balance, we consider that the costs to retailers would be too great.

The costs of establishing paper billing systems, especially for a moderate number of customers, would likely be disproportionately prohibitive for small retailers and market entrants. As highlighted by Powershop, this cost would likely be further heightened, as retailers would potentially need to have processes available for paper billing for compliance purposes, regardless of take up by customers. Having the cost burden fall higher on small retailers and market entrants runs the risk of undermining competition.

Furthermore, retailers would not be able to recoup establishment costs through additional retail charges or conditional discounts. Therefore, there is a substantial risk that prices would rise for all customers of affected retailers, not only those requiring paper billing.

Finally, most retailers (especially the largest ones) already offer plans with paper billing options, so customers should be able to access paper bills, should they desire.

There will be some costs for retailers in accepting more payment methods for plans

We recognise that direct debit payments can help self-select customers who reliably pay on time, which minimises the risk of unpaid bills. This can reduce the cost of late payments or the added administrative effort to contact customers.

However, as discussed in the following sections, we consider that the consumer benefits of paying with other payment methods outweigh the costs to retailers.

We also note that retailers must already offer all payment methods for standard retail contracts, so they should already have existing systems to handle those payment methods. Furthermore, most

retailers accept multiple payment methods for all their plans. Only five retailers (including small, medium and large retailers) have currently available plans that restrict payment to direct debit.

Fees and discounts for payment methods must be capped to reasonable costs

We consider that clause 77 of the code of practice, which allows retailers to impose additional fair and reasonable retail charges having regard to related costs incurred by the retailer, is sufficient for retailers to recoup costs.[116] Retailers may alternatively offer conditional discounts to help cover the costs of alternative payment methods. To be fair and reasonable, any fees or discounts based on payment methods must be set at a 'reasonable cost' to the retailer.

We expect retailers to only charge the incremental cost to administer a payment method for a customer. Additional retail charges or conditional discounts should not include costs of establishing new payment systems. However, they may include the costs of administering said systems. The total sum of fees or discounts cannot exceed a reasonable estimate of the costs incurred to the business for that payment method.

We acknowledge there may be other indirect costs associated with alternative payment methods that are difficult to capture within 'reasonable costs'. However, there are few plans on the market that offer substantial savings for direct debit or charge substantial fees for alternative payment methods.

Potential savings for customers switching to cheaper plans are meaningful

The commission acknowledges ENGIE's critique that the VDO was not an appropriate comparison to calculate potential savings of the reform. We have re-assessed the estimated customer savings using internal data by comparing direct debit only plans to the next best offer across the market. We have found that although the savings are less than estimated in the RIS, they are still meaningful, with estimated savings between $64 and $250 per year. This is especially important because, as we highlighted in the RIS, we expect these savings to particularly benefit customers experiencing vulnerability.[117]

There are additional harms for customers forced onto direct debit plans

The commission is concerned about potential harms to consumers from direct debit only plans. We consider that direct debit can function in practice as a form of uncapped pay-on-time discount, unlike pay-on-time discounts that are capped due to adverse outcomes for consumers.[118]

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[116] Clause 77 of the Energy Retail Code of Practice.

[117] Essential Services Commission, *Energy Consumer Reforms: Regulatory Impact Statement*, 16 May 2025, pp. 85, 87.

[118] Essential Services Commission, *Ensuring energy contracts are clear and fair: final decision*, 28 February 2020, pp. 55–56.

As seen in other industries, many vulnerable consumers on direct debit plans end up being charged more fees.[119] This is often due to customers' lack of control regarding the timing of making direct debit payments, which can result in more late fees if they cannot afford payment at a specific time.[120] This offers consumers a risky dilemma. They can either sign up to cheaper direct debit plans but potentially get hit with unexpected fees or they must stick to more expensive plans. We find the balance of protections versus costs weighs in favour of improving consumer protections.

Limited incentives for retailers to remove plans from the market

Our internal analysis shows that direct debit only plans are among the cheapest on the market and are generally the cheapest for their respective retailers.[121] However, they are not the actual cheapest on the market. The cheapest plans at the time of our analysis allowed for alternative payment methods. This indicates that there is likely sufficient competitive pressure to reduce incentives for retailers to remove these plans from the market.

This reform is not expected to impact innovation

No specific examples were provided in any submissions regarding how direct debit only plans help retailers to offer innovative products. This indicates that obliging retailers to offer alternative payment options is unlikely to hinder innovation.

Similarly, there is nothing in this decision that prevents retailers from offering customers an entirely online experience. They simply must provide an additional avenue for paying bills, should a customer choose.

Retailers and exempt persons to offer fee-free payment method

To ensure cheaper offers are easily comparable, the commission is requiring retailers and exempt persons to offer at least one commonly used and accessible payment method that is free from both retailer and merchant fees.

This reform is being extended to exempt person arrangements to ensure these customers enjoy the same protections as those with retailers.

This is the only part of this reform that affects exempt person arrangements.

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[119] Australian Communications Consumer Action Network 2023, *ACCAN Research Snapshot: Direct Debit in Telecommunications*, Sydney South, pp. 6–7.

[120] Ibid, p. 6.

[121] Essential Services Commission, *Energy Consumer Reforms: Regulatory Impact Statement*, 16 May 2025, p. 86.

7. Improving the ability to switch to the best offer

Our final decision is to introduce a principles-based obligation that requires retailers to have an effective process for customers to switch to the best offer from 1 October 2026.

There will be two minimum requirements:

- Retailers must have instructions on how to switch on their website.
- Retailers must have online and phone options for switching plans.

We have decided not to proceed with the minimum requirement for retailers to have a process to compare a customer's current plan to other available plans.

Key code of practice clause: 111A

Our draft decision

We proposed to require retailers to have effective processes for a small customer to switch to the best offer. We further proposed requiring that the processes to switch be simple and accessible. To support this outcomes-based requirement, we proposed additional minimum standards that retailers would have to satisfy. Retailers were to be required to have:

- clear and simple instructions on their website on how customers can switch to the best offer
- a process through its website and a process by telephone for a customer to switch to the best offer
- a simple and accessible process for a customer to compare their current plan to other plans available to them, including the best offer.

Switching to the best offer can deliver significant savings for Victorian energy consumers. For customers not currently on their best offer, making the switch could potentially deliver annual savings of $199 for residential electricity customers and $159 for residential gas customers.[122]

This reform aims to reduce the transaction costs of switching to the best offer and enable more customers to be able to switch to cheaper plans. As an outcomes-based approach with additional minimum requirements, it sought to balance providing retailers with flexibility to implement the reform and the need to address specific pain points in the switching process.

[122] 'Victorian Energy Market Dashboard', Essential Services Commission, accessed 26 August 2025.

Stakeholder feedback

There was broad support for the principle that customers should be able to easily switch to their best offer. However, stakeholders were divided on the need for this specific reform. Consumer groups and other public entities universally supported the proposal. Retailers broadly opposed the proposed reform.[123] Three retailers supported the reform.[124]

Many consumers face difficulties switching plans

Several retailers rejected the need for this reform at all.[125] Alinta Energy and OVO Energy highlighted a recent decision by the Australian Energy Market Commission (AEMC) that found there was little evidence that, once a customer had decided to switch, switching was difficult.[126]

In contrast, public entities offered evidence that there are many consumers who do face difficulties switching.[127] The Victorian Council of Social Service highlighted a recent report by Energy Consumers Australia that showed 40 per cent of households check their energy plan less than once a year and that 11 per cent say they never do.[128] The Energy and Water Ombudsman (Victoria) (EWOV) reported that their case insights indicate that consumers face challenges when trying to switch. This included being unable to contact their retailer or not being provided with sufficient information.[129] EWOV particularly supported the requirement for both phone and online switching, noting that it will reduce digital exclusion.[130]

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[123] Submissions to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 16 May 2025: Alinta Energy (30 June 2025, pp. 4–5); EnergyAustralia (4 July 2025, pp. 14–16); ENGIE (26 June, pp. 6–7); OVO Energy (26 June 2025, pp. 4–5); Powershop (26 June 2025, pp. 7–8); Shell Energy (26 June 2025, pp. 3–4); Tesla (4 July 2025, pp. 3–4).

[124] Submissions to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 16 May 2025: AGL (26 June 2025, pp. 13–15); Red Energy and Lumo Energy (26 June 2025, p. 4).

[125] Submissions to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 16 May 2025: Alinta Energy (30 June 2025, p. 4); EnergyAustralia (4 July 2025, p. 14); OVO Energy (26 June 2025, p. 4).

[126] Australian Energy Market Commission, *Rule determination: National Energy Retail Amendment (Assisting hardship customers) Rule 2025*, 19 June 2025; submissions to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 16 May 2025: Alinta Energy (30 June 2025, p. 4); OVO Energy (26 June 2025, p. 4).

[127] Energy and Water Ombudsman (Victoria), 'EWOV Feedback on the *Energy Consumer Reforms: Regulatory Impact Statement* – Review of the Energy Retail Code of Practice', 26 June 2025, p. 16; Victorian Council of Social Service, 'VCOSS Submission to the Energy Retail Code of Practice review – *Energy Consumer Reforms: Regulatory Impact Statement'*, 26 June 2025, p. 7.

[128] Victorian Council of Social Service, 'VCOSS Submission to the Energy Retail Code of Practice review – *Energy Consumer Reforms: Regulatory Impact Statement'*, 26 June 2025, p. 7; Energy Consumers Australia, *Dec 2024 Residential topline data tables*, accessed 31 July 2025, https://energyconsumersaustralia.com.au/our-work/surveys/consumer-energy-report-card-data#heading-1612.

[129] Energy and Water Ombudsman (Victoria), *'EWOV Feedback on the Energy Consumer Reforms: Regulatory Impact Statement* – Review of the Energy Retail Code of Practice', 26 June 2025, p. 16.

[130] Ibid, p. 16.

Importance of monitoring retailers' performance

Both consumer groups and public entities emphasised the importance of assessing the effectiveness of a retailer's switching processes against appropriate metrics.[131] Energy Consumers Australia considered that the potential metrics mentioned in the Regulatory Impact Statement seemed appropriate.[132] The Consumer Action Law Centre also suggested other measures, such as:

- the number of customers receiving their best offer each month
- the number of customers who have chosen to switch each month
- average call times
- website click rates for information on best offer switching, and
- suggested we publish retailers' performance against these measures.[133]

Powershop expressed concerns that what could be considered effective is subjective. Furthermore, they argued that a principles-based objective requiring an effective process could only be assessed against a theoretical alternative or after it's been implemented.[134]

Some stakeholders sought further guidance or clarity

Several retailers, consumer groups and public entities suggested that more specific guidance would be needed to implement these reforms, to both help retailers comply with the new requirements and to help other organisations advocate on behalf of consumers.[135]

Some retailers also sought clarity on whether the obligation would apply to business and multi-site customers.[136]

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[131] Submissions to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 16 May 2025: Energy and Water Ombudsman (Victoria) (26 June 2025, p. 16); Financial Counselling Victoria (26 June 2025, p. 6).

[132] Energy Consumers Australia, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 26 June 2025, p. 6.

[133] Consumer Action Law Centre, 'Submission – *Energy Consumer Reforms: Regulatory Impact Statement'*, 3 July 2025, p. 8.

[134] Powershop, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 26 June 2025, p. 4.

[135] Energy and Water Ombudsman (Victoria), 'EWOV Feedback on the *Energy Consumer Reforms: Regulatory Impact Statement* – Review of the Energy Retail Code of Practice', 26 June 2025, p. 16.

[136] Submissions to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 16 May 2025: Origin Energy (26 June 2025, p. 4); Powershop (26 June 2025, p. 4); Shell Energy (26 June 2025, pp. 3–4).

Retailers were concerned of the cost to develop digital processes to compare plans

Retailers were concerned that the proposed obligation would require them to develop a digital tool for customers to compare their energy offers.

Almost all retailers were concerned about the cost to develop digital systems that are tailored for customers to compare energy plans. ENGIE estimated it would be especially costly to program and develop digital interfaces and apps to compare a customer's current plan to other available plans.[137] Powershop highlighted that this cost and complexity could potentially be further heightened if such a tool had to specifically highlight both the customer's current plan and their deemed best offer.[138]

EWOV provided further suggestions to improving the switching experience

EWOV suggested additional reforms that could improve the switching experience, and the best offer message. This included improving the prominence of best offer messages on bills, requiring best offer notices to be included in bill summaries (such as in billing emails), and mandating clearer messaging for when a best offer plan has the same name as a customer's current plan.[139]

Our final decision

The commission will proceed with the proposed principles-based obligation and two of the three proposed minimum requirements. Retailers must have instructions on how to switch on their website, and retailers must have online and phone options for switching plans. The commission has decided not to proceed with the third minimum requirement for retailers to have a process to compare a customer's current plan to other available plans.

Switching to a deemed best offer is easy with some but not all retailers

Feedback from consumer groups, other public entities and the commission's own internal research indicates that while switching to the best offer is easy under some retailers, it is far from universally the case.

Alinta Energy highlighted a recent AEMC final decision, in which they found no evidence that switching plans is difficult. However, it is worth highlighting that in a separate decision, the AEMC

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[137] ENGIE, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 26 June 2025, p. 7.

[138] Powershop, submission to the Essential Services Commission draft decision *Energy Consumer Reforms: Regulatory Impact Statement*, 26 June 2025, p. 4.

[139] Energy and Water Ombudsman (Victoria), 'EWOV Feedback on the *Energy Consumer Reforms: Regulatory Impact Statement* –: Review of the Energy Retail Code of Practice', 26 June 2025, pp.16–18.

highlighted independent research showing that many consumers, especially those experiencing financial hardship, do find the process difficult and confusing.[140]

An outcomes-based approach

Some retailers were concerned about the potential subjectivity of the terms 'effective' and 'accessible' in the obligation. Some retailers sought further guidance from the commission, to specify how to comply with the obligation.

The commission has decided to continue with a principles-based approach and an outcomes-based obligation. The commission will not provide further compliance guidance on this new rule.

Research consistently shows that consumers lack confidence to switch, especially those experiencing financial hardship.[141] We have drafted an outcomes-based obligation to put the onus on retailers to have systems that lead to better customer experiences. This can also help reduce the barriers for customers to switch. It will also give retailers the flexibility to innovate, to better attract new customers and build market share.

Retailers will be required to provide clear instructions on websites and switching process both by phone and website

No objections were raised to the first two minimum requirements of this reform. The commission will therefore proceed with its implementation. Retailers will need clear instructions on how to switch on their website. They will also need to have switching processes both on their website and over the phone.

Retailers must have a process for switching on their website, but they may also offer switching processes through an application (app) in addition to this. Not all consumers have smartphones. Others may have old phones no longer supported by newer versions of apps. Additionally, websites generally function better with automatic translation services. To maximise accessibility to diverse cohorts, retailers must have a switching process on their website.

Retailers are not required to have digital systems that can compare a customer's current plan with other plans

We acknowledge retailers' concerns of the cost to have systems or digital platforms that can offer a tailored comparison of offers for customers. We have decided not to include an obligation for

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[140] Australian Energy Market Commission, *Rule determination: National Energy Retail Amendment (Assisting hardship customers) Rule 2025*, 19 June 2025, p. 16; Energy Consumers Australia, *Energy Consumer Sentiment Survey*, 14 June 2024, p. 10.

[141] 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.

retailers to have a process to compare their current plan to other plans. Instead, the obligation focuses on retailers to have systems that make it easy for a customer to understand and switch.

We will consider retailers' performance against a range of data and feedback

The commission currently has access to a range of data to monitor the performance of retailers, such as:

- percentage of a retailer's customers on their best offer
- switching rates among retailers
- call waiting times of retailers.

This data can give us an indication of which retailers are performing particularly poorly compared to others. Retailers can also compare their own performance against other retailers.

We can also consider further data sources, such as complaints or feedback received by EWOV, Victorian Energy Compare or the commission directly. This will provide us with direct consumer experiences, which we think will be the best indicator of retailer performance and compliance.

We want retailers to actively assess and improve their systems to better support customers. Our compliance actions will focus on noticeably poor performance. We can also highlight better practice to lift performance across the sector.

We understand that retailers have direct access to feedback on consumer experience, through their own systems (such as their complaints and feedback channels). Some retailers also conduct consumer testing when developing new offers, products or advertising. Retailers could consider these consumer experiences to satisfy themselves of complying with the obligation.

Retailers that have multiple plans with the same name

We recognise the confusion that customers can face when retailers offer multiple plans with the same name. This is particularly confusing when receiving a best offer message for a different plan with the same name as the customer's current plan.

In August 2025, CHOICE submitted a designated complaint to the Australian Competition and Consumer Commission (ACCC) on this issue. The ACCC has since acknowledged the problems that identical plan names raise. While it will investigate this issue and will continue to engage with the commission and the AER, the ACCC considers current reform processes are

the best avenue to deal with the issue.[142] We note that in response to our proposed reforms, EWOV raised that this issue could be an additional barrier for customers to switch.[143]

We consider our new principles-based obligation can address some of the underlying concerns of this issue. We expect retailers to design systems and publish new offers to clearly identify different plans – this will make it easier for customers to switch.

Improved switching reform to apply to small customers

This reform will apply to small customers, as we originally proposed. We note that best offer obligations apply to all small customers, not only residential customers. Therefore, the new obligation that improves switching will apply to both residential and small business customers.

However, we note that multi-site contracts are targeted for larger businesses and are already exempt from best offer obligations.[144] The obligation will not apply to multi-site customers (or offers).

[142] Australian Competition and Consumer Commission, 'ACCC to investigate energy plans that potentially mislead consumers about savings', Australian Competition and Consumer Commission, Canberra, 19 August 2025.

[143] Energy and Water Ombudsman (Victoria), 'EWOV Feedback on the *Energy Consumer Reforms: Regulatory Impact Statement* – Review of the Energy Retail Code of Practice', 26 June 2025, p.16.

[144] Subclause 106(10) of the Energy Retail Code of Practice.

8. Improving the application of concessions on bills

To improve the application of concessions on bills, we are introducing a new obligation that combines principles-based and prescriptive regulation. We have updated the wording of the proposed rules in response to stakeholder feedback.

Retailers will be required to request information to confirm if a residential customer is eligible for a concession at all times where it is reasonable to do so, having consideration to the residential customer's circumstances. This is in addition to the prescribed circumstances where a retailer must request this information. Where a retailer becomes aware that a residential customer holds or is eligible for a concession, it will also be required to take all reasonable steps to ensure the customer receives that concession.

Retailers will also have to contact customers and advise if they lose eligibility to their concession entitlement. We have not retained the proposed requirement for retailers to contact customers a second time if the customer fails to respond to the first attempt to contact them about their loss of eligibility.

These changes will come into effect from 1 July 2026.

Key code of practice clause: 16A

Our draft decision

We proposed to require retailers 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 a retailer requesting payment difficulty assistance
- as soon as practicable, if a customer may be affected by family violence.

We also proposed to require a retailer to contact customers twice when it becomes aware that a customer is no longer eligible for an energy concession.

These reforms aim to increase the proportion of eligible Victorian households who receive energy concessions on their bills. In the Regulatory Impact Statement (RIS), we highlighted figures from the Consumer Policy Research Centre that estimate 7 per cent and 12 per cent of eligible

Victorians did not receive concessions on their electricity and gas bills, respectively.[145] This amounts to approximately 69,000 eligible Victorian households that may be missing their concessions on electricity bills and 90,000 on their gas bills.

We estimate consumers who apply for a concession on their electricity bills could save around $260 per year, highlighting the important opportunity through this reform to provide meaningful assistance to Victorians facing vulnerability.[146]

An approach that is both principles-based and prescriptive seeks to encourage retailers to take a personalised approach to requesting energy concession information from customers. It also aims to ensure a baseline level of consistency in approach across retailers.

Our final decision is to proceed with the new obligations on retailers. In finalising the rules, we have made some adjustments based on stakeholder feedback, as outlined further in this section.

Stakeholder feedback

Stakeholders mostly supported the proposed reform

Stakeholders generally supported the objective of these proposed reforms, which aim to increase the proportion of eligible Victorian households having energy concessions applied to their bills.[147]

Financial Counselling Victoria reported that many retailers are not asking customers about concession eligibility.[148] It therefore supports both the principles-based and prescriptive parts of this reform. Energy and Water Ombudsman (Victoria) (EWOV) also supported introducing new rules to ensure more consumers are receiving concessions and advised that complaints relating to concession issues are consistently a top energy issue on its caseload.[149]

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[145] Essential Services Commission, *Energy Consumer Reforms: Regulatory Impact Statement*, 16 May 2025, p. 126; Consumer Policy Research Centre, *Mind the Gap: Identifying the gap between energy concession eligibility and concessions received*, November 2022, p. 4.

[146] Essential Services Commission, *Energy Consumer Reforms: Regulatory Impact Statement*, 16 May 2025, p. 131.

[147] Submissions to the Essential Services Commission *Energy Consumers Reforms: Regulatory Impact Statement*, 16 May 2025: Lighter Footprints (26 June 2025, p. 3); Albury Wodonga Regional FoodShare (4 June 2025, p. 1); Darebin Information, Volunteer & Resource Service (11 June 2025, p. 1); Community Information & Support Victoria (5 June 2025, p. 1); Western Port Community Support (17 June 2025, p. 1); Knox Infolink (16 June 2025, p. 1); Community Information & Support Merri-bek (5 June 2025, p. 1).

[148] Financial Counselling Victoria, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 26 June 2025, p. 5.

[149] Energy and Water Ombudsman (Victoria), 'EWOV Feedback on the *Energy Consumer Reforms: Regulatory Impact Statement* – Review of the Energy Retail Code of Practice', 26 June 2025, p. 23.

Many retailers already have processes in place to capture concession information

Some retailers challenged the benefits of this reform, noting that they have a strong financial incentive to register customers for concessions and already have robust processes in place to do so. AGL stated that it already has robust processes in place to capture and validate customers' concession information.[150] Origin noted that it checks concession information when a customer signs up and continues to check with its existing customers.[151] Red and Lumo Energy stated that they ask for concession information frequently, while ENGIE suggested that all retailers ask for concession information frequently.[152]

However, some consumer groups challenged this assertion, arguing that the fact that so many households are still missing out on energy concessions highlights the need for further reforms.[153]

Retailers and their representatives have different views on the regulatory approach and proposed concession obligations

Retailers and industry representatives had mixed views on what regulatory approach would most effectively deliver the outcomes of this reform. Some submissions indicated a preference for a purely principles-based approach that provides full flexibility for retailers to determine how best to increase the proportion of eligible Victorian households receiving energy concessions.[154] Other retailers highlighted the need for some flexibility regarding the timing of concession eligibility requests.[155]

Other retailers preferred more prescriptive approach. Origin stated that prescription provides clear and defined circumstances under which obligations to proactively seek concession eligibility information would apply.[156]

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[150] AGL, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 26 June 2025, p. 18.

[151] Origin Energy, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 26 June 2025, p. 5.

[152] Submissions to the Essential Services Commission *Energy Consumers Reforms: Regulatory Impact Statement*, 16 May 2025: Red and Lumo Energy (26 June 2025, p. 4); ENGIE (26 June 2025, p. 10).

[153] Brotherhood of St. Laurence, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 26 June, p. 3.

[154] AGL, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 26 June 2025, p.18; Australian Energy Council, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 3 July 2025, p. 3.

[155] Red and Lumo Energy, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 26 June 2025, p. 4.

[156] Origin Energy, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 26 June 2025, p. 5.

Stakeholders also provided other views on the overarching design of the reforms and the proposed circumstances in which a retailer must seek concession information. Matters covered in this feedback included:

- Noting that checking concession eligibility at the specified points may be more complicated through certain means or in certain circumstances (e.g. digitally compared to over the phone).[157]
- Challenging the ambiguity of the principles-based component of the proposed reform and how compliance will be enforced.
- The prescriptive obligations of the proposed reform not aligning with the Australian Energy Market Commission (AEMC)'s Improving the application of concessions to bills.
- The uplift of digital capabilities that would be required to implement the proposed concession obligations.[158]

Suggested changes to strengthen the reforms

In our RIS, we proposed that the principles-based part of this reform state:

> 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.

EWOV recommended that we consider strengthening the reform by including additional requirements for retailers to take action where they become aware that a customer is eligible for an energy concession. These additional requirements were proposed as an additional principles-based obligation for retailers to take reasonable steps to ensure concessions were applied to an eligible customer's account.[159]

EWOV also recommended minor changes to the circumstances in which concession eligibility must be checked. The change would require retailers to check concession eligibility information when a customer contacts them about a high bill, affordability issues or payment difficulty assistance, not when requesting standard or tailored assistance.[160]

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[157] Powershop, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 26 June 2025, p. 8.

[158] Submissions to the Essential Services Commission *Energy Consumers Reforms: Regulatory Impact Statement*, 16 May 2025: AGL (26 June 2025, p. 18); Red and Lumo Energy (26 June 2025, p. 4); Australian Energy Council (3 July 2025, p. 3); Origin Energy (26 June 2025, p. 5).

[159] Energy and Water Ombudsman (Victoria), 'EWOV Feedback on the *Energy Consumer Reforms: Regulatory Impact Statement* – Review of the Energy Retail Code of Practice', 26 June 2025, p. 23.

[160] Ibid, p. 24.

Clarifying obligations during automatic switching

Origin suggested that there needed to be specific exemptions from some of the prescriptive circumstances in which eligibility information must be sought. It highlighted that in cases of automatic best offer switching there is no direct communication with a customer as part of the process, so exemptions may be necessary.[161] The Australian Energy Council similarly asked for clarification regarding this obligation in instances when a customer automatically switches to best offer.[162]

Another retailer queried how the prescriptive requirements of the reform would interact with cases of family violence, where sensitivity and discretion are critical.[163]

The requirement for a follow-up contact for customers who have lost concession eligibility will increase costs while not improving uptake of concessions

When a customer loses concession eligibility, a retailer will be required to contact the customer and advise them of this. Several retailers and industry groups took issue with the proposed requirement for a follow-up contact attempt where a customer has not responded to the initial contact attempt. These retailers agreed that this obligation would be duplicative of existing requirements set by the Department of Families, Fairness and Housing (DFFH).[164] Other retailers indicated that requiring a follow-up contact would necessitate new systems and increase costs, while not delivering a proportionate uptake in concessions.[165]

Finally, one submission cautioned that customers are increasingly more cautious about potential fraud and scam attempts and are less likely to engage with direct calls or messages than with letters or emails which can be reviewed and actioned at a time that suits the customer.[166]

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[161] Origin Energy, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 26 June 2025, p. 5.

[162] Australian Energy Council, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 3 July, p. 3.

[163] EnergyAustralia, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 4 July 2025, p. 22.

[164] Submissions to the Essential Services Commission *Energy Consumers Reforms: Regulatory Impact Statement*, 16 May 2025: AGL (26 June 2025, p. 18); Australian Energy Council (3 July 2025, p. 3).

[165] EnergyAustralia, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 4 July 2025, p. 21.

[166] AGL, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 26 June 2025, p. 18.

Financial Counselling Victoria says improving concession applications on bills is everyone's responsibility

Financial Counselling Victoria noted that industry feedback in the consultation workshops considered whether concession reform measures need to be included in the regulatory framework, or whether this is a matter of consumer education. Financial Counselling Victoria asserts that everyone has a role to play in equipping consumers with information about their rights and eligibility for supports – retailers included.[167]

Our final decision

A consistent approach to concession information will benefit Victorians

Community advocacy groups and EWOV have told us that concessions are not being universally applied by retailers.[168] Some retailers have told us they have processes in place to capture concession information, but all of them have cited different ways of capturing the information.[169]

We consider that a consistent approach to the application of concessions on bills by retailers will decrease the number of Victorians missing out on their concession entitlements.

The combination of principles-based and prescriptive regulation will ensure eligible Victorian households have energy concessions applied to their bills

The proposed principles-based concession obligation of this reform is designed to enable retailers to use their discretion about when to ask for concession information. It has the further benefit of capturing a customer's concession eligibility information when they have become eligible for a concession after joining their retailer. We do not see this becoming a compliance issue unless a retailer continually fails to request information.

We acknowledge that our prescriptive obligations do not align with AEMC's Improving the application of concessions to bills. This is by design. The AEMC must consider a one size fits all rule for multiple jurisdictions, we have only considered Victoria in these reforms and so we are able to standardise reforms across retailers.

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[167] Financial Counselling Victoria, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 26 June 2025, p. 5.

[168] Submissions to the Essential Services Commission *Energy Consumers Reforms: Regulatory Impact Statement*, 16 May 2025: Financial Counselling Victoria (26 June 2025, p. 5); EWOV (26 June 2025, p. 23).

[169] Submissions to the Essential Services Commission *Energy Consumers Reforms: Regulatory Impact Statement*, 16 May 2025: AGL (26 Jun 2025, p.18); Origin (26 June 2025, p. 5); Red/Lumo (26 June 2025, p. 4); ENGIE (26 June 2025, p. 10).

Strengthening the reforms by requiring retailers to take reasonable steps to apply concessions

Principles-based drafting

We have made changes to the principles-based obligations in this reform in response to stakeholder feedback. Instead of a retailer needing to request energy concession eligibility information when it considers it relevant to do so, a retailer will be required to request information at all times when it is reasonable to do so, considering the customer's circumstances. This clarifies that the customer (not the retailer) is the focus when determining whether it is reasonable to seek concession information.

We have also introduced a new obligation for a retailer to take action when it becomes aware the customer is eligible for an energy concession. Where a retailer becomes aware a customer is eligible (for example, through seeking concession eligibility information under other obligations), it must take all reasonable steps to ensure the customer receives the energy concession. While we expect retailers to be already doing this, this obligation provides an additional driver for retailers to review and improve concession processes over time.

Prescriptive drafting

We have also prescribed specific circumstances where a retailer must check if a customer is eligible for a concession. This is in addition to the principles-based obligation described above.

A retailer must always check if a customer is eligible for a concession:

- when entering into a contract with a residential customer
- when a residential customer requests a switch to a new contract with the retailer
- when a residential customer initially contacts the retailer requesting standard or tailored assistance under the Payment Difficulty Framework (PDF)
- as soon as practicable if a residential customer is a customer affected by family violence.

We note that EWOV mentioned that, in some cases, when requesting support from their retailers, customers experiencing financial hardship do not necessarily explicitly request 'standard or tailored assistance'. However, we consider that a retailer would be able to identify a customer seeking support under the PDF and should check concession eligibility with that customer.

Clarifying how the concessions obligations relate to auto-switching, family violence and embedded networks

Both Origin and the Australian Energy Council asked how the proposed obligation to check for a customer's concessions eligibility would operate when the customer has been automatically

switched to their best offer.[170] In this situation, the obligation does not apply. This is because the prescribed circumstance set out in the relevant subclause (subclause 16A(1)(b)) specifically states that information must be sought when a customer *requests* a switch to a new retail contract. Automatic switching to the best offer is not triggered by a customer request.

The final prescriptive circumstance of the concession reform also specifically states that if a customer is affected by family violence, a retailer must contact them as soon as practicable.

Concessions in relation to embedded networks have not been considered in this reform package as retailers do not provide concessions to embedded network customers.

Retailers will be required to contact customers who have lost concession eligibility, but do not need to attempt a follow-up contact if initial contact is unsuccessful

As stated by AGL and the Australian Energy Council, DFFH has a requirement for retailers to inform customers when they have lost eligibility to their concession entitlement.[171] We have consulted with the department and it noted that adding the requirement to our code of practice will ensure its enforceability. We will also be working with the department to further align reforms in future as a result of this consultation.

This alignment will also reduce the burden placed on customers to spend time working out who to contact about their loss of concession eligibility.

However, we have removed the requirement for retailers to attempt a follow-up contact if a customer who has lost concession eligibility has not responded to a retailer's initial contact attempt. We have removed this obligation as submissions have raised that the prescriptive nature of this proposed clause would require costly IT system upgrades and not deliver meaningful improvements in concession uptake.[172]

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[170] Submissions to the Essential Services Commission *Energy Consumers Reforms: Regulatory Impact Statement*, 16 May 2025: Origin (26 June 2025, p. 5); Australian Energy Council (3 July 2025, p. 3).

[171] Submissions to the Essential Services Commission *Energy Consumers Reforms: Regulatory Impact Statement*, 16 May 2025: AGL (26 June 2025, p.18); Australian Energy Council (3 July, p. 3).

[172] Submissions to the Essential Services Commission *Energy Consumers Reforms: Regulatory Impact Statement*, 16 May 2025: AGL (26 June 2025, p. 18); Red and Lumo Energy (26 June 2025, p. 4); Australian Energy Council (3 July 2025, p. 3); Origin (26 June 2025, p. 5).

9. Extending protections for customers on legacy contracts

Our final decision is to limit additional retail charges and conditional discounts to reasonable costs incurred by a retailer. Where these discounts or fees exceed what is considered reasonable, retailers are required to provide these discounts unconditionally and will not be able to apply these fees respectively.

For pay-on-time discounts, retailers will be required to consider specific criteria when determining what is reasonable. These criteria will align with the criteria the commission has previously used to set the maximum pay-on-time discount cap.

Additionally, existing regulations around maintaining benefits until the end of a contract period will be extended to all contracts including those contracts entered into before 1 July 2020.

This change will take effect from 1 July 2026.

Key code of practice clauses: 77A, 95, 96

Our draft decision

We proposed to require all additional retail charges[173] and discounts related to a payment condition to be limited to the reasonable costs incurred by the retailer resulting from the customer's failure to satisfy that payment condition.

This proposal aimed to grant 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.

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 Essential Services Commission Victoria (commission) annually.[174] These changes only apply to contracts entered into from 1 July 2020.

[173] Also referred to previously in the RIS and by retailers as a 'conditional fee'.

[174] 'Ensuring contracts are clear and fair 2019', Essential Services Commission, accessed 21 February 2025.

We proposed that where an existing conditional discount exceeds what is considered reasonable, retailers would be required to apply these discounts unconditionally. Where an additional retail charge exceeds what is considered reasonable, retailers would not be able to apply the fee at all.

We also proposed to require all existing active benefits (such as discounts, rebates or credits) on legacy contracts to remain for the duration of the contract. This also aligns with existing reforms in place for newer contracts.

Stakeholder feedback

This reform received minor feedback from consumer groups and industry. Both consumer groups and industry were broadly supportive of the 'extending protections for customers on legacy contracts reform' with some confusion around overlap with the higher prices reform outlined in Chapter 5.

Consumer groups supported extending protections for contracts entered into before 1 July 2020

Consumer groups were broadly supportive of this reform. Financial Counselling Victoria highlighted that the reform would protect disengaged customers.[175] Consumer Action Law Centre reiterated the point around disengaged customers and also supported the reform on the basis that it would promote transparency and fairness in legacy contracts.[176] The Brotherhood of St. Laurence supported the reform while expressing concern that it would only be effective as long as retailers could not increase the underlying rate to counteract the change.[177]

Overlap with reforms to protect customers on higher priced contracts

ENGIE claimed that there was significant overlap with the reforms outlined in the higher priced contracts reform.[178] They claimed some customers who could benefit from the legacy contracts reform could overlap with those who could benefit from the higher priced contracts reform, and that this would reduce the expected benefits of this reform outlined in the Regulatory Impact Statement.

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[175] Financial Counselling Victoria, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 26 June 2025, p. 6.

[176] Consumer Action Law Centre, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 26 June 2025, p. 10.

[177] Brotherhood of St. Laurence, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 26 June 2025, p. 4.

[178] ENGIE, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 26 June 2025, pp. 10–12.

Miscellaneous items

ENGIE proposed that there should be a consistent application of the rules for contracts entered into before and after 1 July 2020. It suggested a contract discount could be split into a conditional and an unconditional portion.[179]

AGL highlighted that there would be some overlap between one of the proposed new clauses and an existing clause in the code of practice.[180] The existing clause 95 caps pay-on-time discounts to a limit set in guidelines published by the commission. The proposed clause 77A would cap all additional retailer charges and conditional discounts to a reasonable estimate of the costs incurred or likely to be incurred by the retailer from the customer's failure to satisfy the relevant conditions.[181] AGL noted that these two rules, while not mutually exclusive, do contain overlap and the potential for confusion for retailers regarding compliance.

Our final decision

The commission's final decision requires retailers to limit all additional retail charges and conditional discounts related to a payment condition to reasonable costs that a retailer would incur if a customer failed to satisfy a payment condition.

Where an existing conditional discount exceeds what is considered reasonable, retailers would be required to apply these discounts unconditionally. Where an additional retail charge exceeds what is considered reasonable, retailers would not be able to apply the fee.

This reform will apply to energy contracts entered into both before and since 1 July 2020. All pay-on-time discounts will be limited to reasonable costs, which should be calculated based on the criteria previously used by the commission to set the pay-on-time discount cap. To support retailers to calculate reasonable costs for pay-on-time discounts, the commission will provide guidance before the new rule comes into effect.

Retailers would not be required to amend legacy contracts to reduce large conditional discounts. Additionally, existing rules around maintaining benefits until the end of a contract period will be extended to all contracts including legacy contracts.

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[179] Ibid.

[180] AGL, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 26 June 2025, pp. 19–20.

[181] Essential Services Commission, *Energy Consumer Reforms: Draft Energy Retail Code of Practice*, 16 May 2025, pp. 66, 77.

Our final decision is aligned with the proposed intended outcome outlined in our draft decision. We note that there was limited feedback on the reform and our ongoing analysis has not changed our policy position on legacy contracts.

Retailers will be required to set reasonable pay-on-time discounts considering current criteria

Using the methodology set in the maximum cap for pay-on-time discounts guideline, the commission has previously set a cap for pay-on-time discounts for contracts after 1 July 2020.[182] This cap has been reviewed yearly since 2020. We have assessed the interaction of the new rules on conditional discounts with the existing cap for pay-on-time discounts that applies to contracts entered into after 1 July 2020.

The new rules will regulate conditional discounts for all contracts, limiting the costs to reasonable costs incurred, or likely to be incurred, by a retailer resulting from a customer's failure to satisfy the relevant payment condition. To avoid confusion, the commission will no longer set the maximum pay-on-time discount cap.

Retailers will instead be required to set the level of pay-on-time discounts at a reasonable level. However, retailers must set reasonable discounts considering specific inputs and factors to be considered, as determined by the commission. We will issue new guidance that sets out what factors we consider as reasonable for this type of conditional discount.[183] These factors will be based on the methodology currently set out in the maximum cap for pay-on-time discounts guideline, as follows:

- The 10-year Australian Commonwealth Government Bond Rate using a 40-day trailing average (a proxy for the risk-free rate).
- A debt risk premium derived based on the difference between the yield on 10-year BBB-corporate bonds and the risk-free rate.
- An allowance for debt raising costs based on information from Treasury Corporation of Victoria.[184]

[182] Clause 95 of the Energy Retail of Code of Practice.

[183] We will replace the current "Guideline: maximum cap for pay-on-time discounts" with new guidance.

[184] Clause 3 of the Guideline: maximum cap for pay-on-time discounts.

The recent pay-on-time discount caps set by the commission have been around five or six per cent.[185] Based on our experience, we expect that future pay-on-time discounts should not significantly vary from this range.

If we identify a need to update these factors, we may update our guidance in the future.

Clarifying how the 'higher prices' and 'legacy contracts' reforms interact

There is a significant difference in the application of the protections for customers paying higher prices reform and the extending protections for customers on legacy contracts reform.

We note that the use of the term 'reasonable price' in respect to the higher priced contracts reform (Chapter 5) shares some similarity with the concept of 'reasonable discount' that is being introduced as part of the reform presented in this chapter. However, these two reforms have a different purpose and scope.

The protections for customers on legacy contracts focus on determining whether a discount for contracts entered into before 1 July 2020 is reasonable and requires action from retailers when this discount rate is not deemed reasonable.

The protections for customers on higher priced contracts that are older than four years require a retailer to review a customer's contract when a tariff is deemed unreasonable. This definition of reasonable takes into account the prescribed factors set out in the protections for customers paying higher prices chapter (Chapter 5) and the final price that a customer pays after applying any discounts.

Consistent treatment of conditional discounts

We note that ENGIE has suggested that the commission could apply a consistent rule to govern conditional discounts for contracts before and after 1 July 2020. They suggested splitting the discount portion into a conditional portion and an unconditional portion.[186] We consider that our rule change would provide a simpler solution for dealing with conditional discounting.

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[185] The maximum pay-on-discount cap for contracts entered into from 1 July 2025 to 30 June is 5.93 per cent. For contracts entered into from 1 July 2024 to 30 June 2025 it was 6.62 per cent, 'Guideline: maximum cap for pay-on-time discounts', Essential Services Commission, accessed 26 August 2025.

[186] ENGIE, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 26 June 2025, pp. 10–12.

Maintaining benefits until the end of a contract period

Given there was no contention around this topic, the commission has retained its draft position on this reform. We will extend the obligation to maintain benefits until the end of a contract to contracts entered into before 1 July 2020 for benefits that haven't expired.

10. Improving the awareness of independent dispute resolution services

To increase consumers' awareness of access to independent and free dispute resolution services, we will require retailers to include a telephone number to contact the 'Energy and Water Ombudsman (Victoria)' on the front page of an energy bill from 1 February 2026.

Key code of practice clause: 63

Our draft decision

We proposed to require retailers to include the telephone number of the Energy and Water Ombudsman (Victoria) (EWOV) on the front page of bills.

This reform aims to increase consumer awareness of EWOV and provide better protections and support for energy consumers. It aligns with a similar requirement in the Australian Energy Regulator (AER)'s Better Bills Guideline which applies in other states and territories.[187] It seeks to balance empowering consumers with more information about their rights without overwhelming them with too much information and inadvertently leading to disengagement.

Stakeholder feedback

Additional reforms were recommended to improve consumer outcomes

EWOV strongly supported this reform, emphasising that many consumers remain unaware of their right to access free, independent dispute resolution services. EWOV indicated that from 1 July 2024 to 31 May 2025 it received 356 cases where concessions was the primary issue, the sixth highest energy-related complaint issue during the period.[188] EWOV consider that increasing the visibility of its services is essential to ensuring fair outcomes for consumers, particularly those experiencing vulnerability or hardship.

EWOV also proposed the following additional reform recommendations:

- prescribe the inclusion of the full words 'Energy and Water Ombudsman (Victoria)'

[187] Australian Energy Regulator, *Better Bills Guideline Version 2*, 30 January 2023, p. 15.

[188] Energy and Water Ombudsman (Victoria), 'EWOV Feedback on the *Energy Consumer Reforms: Regulatory Impact Statement* – Review of the Energy Retail Code of Practice', 26 June 2025, p. 23.

- require retailers to also include EWOV's website details alongside the phone number on the front page of a bill
- require retailers to include EWOV's contact details in the transmittal of the bill
- strengthen retailer obligations regarding internal dispute resolution procedures and requirements to notify consumers of the ability to escalate unresolved complaints to EWOV.

Strong consumer group support

The Consumer Action Law Centre expressed strong support for the reform, noting that many consumers are unaware of their rights or how to escalate a complaint. It emphasised that consumers facing payment difficulty often feel overwhelmed and disempowered, and that clear, accessible information about EWOV on bills could help them seek timely assistance.[189]

Similarly, Financial Counselling Victoria agreed that EWOV's telephone number should be included on the front page of every energy bill.[190] Its submission further stressed that many of its clients are unaware of EWOV until they are referred by a financial counsellor. Including EWOV's contact details on bills would reduce barriers to access dispute resolution services and empower consumers to resolve disputes earlier and more effectively.

Consumer group submissions confirmed that awareness of EWOV remains too low, particularly among vulnerable groups, and energy bills are a critical communication channel that can be leveraged to address this consumer protection gap. Stakeholders argued that the reform would not only improve consumer outcomes but also reduce the burden on other support services by enabling earlier resolution of disputes.

Industry supported this reform but warned of unintended consequences

Industry stakeholders, including retailers and the Australian Energy Council, generally acknowledged the importance of ensuring consumers are aware of their rights and the availability of independent dispute resolution services. However, their submissions reflected a more cautious and pragmatic view compared to consumer advocacy groups.

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[189] Consumer Action Law Centre, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 3 July 2025, p. 10.

[190] Financial Counselling Victoria, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 26 June 2025, p. 7.

Whilst some retailers already include EWOV's contact details on bills, they consider that bills are already dense with important energy consumption and billing information, and adding more content could lead to information overload, which would undermine readability for consumers.[191]

Most retailers supported including EWOV's contact details on bills but noted that doing so could lead customers to contact EWOV before attempting to resolve issues with their retailer directly.[192] In this event, retailers claimed that the result would lead to negative customer experiences, as complaints would be redirected back to the retailer.

Some industry stakeholders supported the policy intent of the reform but raised concerns about implementation timeframes and requested that retailers have sufficient time to change their billing systems and processes.[193]

EnergyAustralia also warned about the risk of a significant increase in customer calls to EWOV, which might not always be appropriate or necessary, especially if the customer could have resolved their complaint with their retailer first.[194] Such feedback emphasised the need for flexibility in how the reform is implemented and suggested that the Essential Services Commission Victoria (commission) could provide clear guidance to ensure consistency across the industry.

Our final decision

We will require retailers to include the telephone number of EWOV on the front page of a bill from 1 February 2026.

We have also adopted EWOV's recommendation to prescribe the inclusion of the full words 'Energy and Water Ombudsman (Victoria)' alongside the telephone number on the front page of a bill. We consider that this will provide the consumer with greater clarity where retailers in other jurisdictions have adopted diverse references to the ombudsman which can lack specificity (for example, 'the ombudsman') or be difficult to understand (for example, acronyms such as EWON for the Energy & Water Ombudsman NSW, or EWOQ for the Energy and Water Ombudsman Queensland).

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[191] Red and Lumo Energy, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 26 June 2025, p. 5.

[192] Origin Energy, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement,* 26 June 2025, p. 5.

[193] Australian Energy Council, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement,* 3 July 2025, p. 4; Tesla, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement,* 4 July 2025, p. 5.

[194] EnergyAustralia, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 4 July 2025, p. 24.

The commission has assessed EWOV's additional reform recommendations and has decided not to make additional adjustments to this reform. The commission acknowledges the intent behind EWOV's suggestion to include its website on the front page of bills. However, we consider there is value in maintaining partial alignment with the AER's Better Bills Guideline, which does not currently require the inclusion of ombudsman website details on bills. We also understand that adding more information on the front page of bills could compromise the readability of bills, and there was limited evidence that this change would significantly improve consumer outcomes.

Similarly, we have assessed the effectiveness of requiring EWOV's contact details on emails communicating bills. We consider it is uncertain whether imposing such an obligation would lead to increased benefits for consumers. Our analysis is based on the assumption that if a customer would like to raise a complaint with their retailers, the first step they would take would be to open their energy bill attached to an email. We also note that change would go beyond what is currently prescribed in the Better Bills Guideline, potentially creating regulatory inconsistencies.

Finally, whilst EWOV's recommendation to strengthen retailer obligations regarding internal dispute resolution procedures and requirements in a future stage of the review is supported in principle, this suggestion is not within the scope of this review.

We have taken a balanced approach that prioritises regulatory consistency, clarity in consumer communications and alignment with existing requirements across jurisdictions where possible.

11. Administrative updates

Our final decision makes administrative updates to the code of practice to:

- remove outdated references to the minimum feed-in tariff
- update the definition of a Retailer of Last Resort (RoLR) event
- update references to the General Exemption Orders
- remove references to the Electricity Customer Metering Code of Practice and the Electricity Customer Transfer Code of Practice.

Key code of practice clauses: 3 (various definitions), 63, 69, 107, 115

Removing references to the minimum feed-in tariff

Since 1 July 2025, the Essential Services Commission Victoria (commission) is no longer required to set a minimum feed-in tariff. This follows changes to the *Electricity Industry Act 2000,* made by the *Energy and Land Legislation Amendment (Energy Safety) Act 2025*.

Retailers may now set their own minimum feed-in tariff rates. We note that section 40G(1A) of the *Electricity Industry Act 2000* specifies that these rates must not be less than $0.00 per kilowatt-hour.

Clarification of obligations on feed-in tariffs alert to customers

Clause 107(3)(e) of the code of practice expressly states that a feed-in tariff alert must include the words 'the minimum feed-in tariff rate set by the Essential Services Commission is…', immediately followed by the minimum rate set by the commission.

As the commission no longer sets the minimum feed-in tariff, we have amended subclause 107(3)(e) to reflect this change.

The definition of 'feed-in tariff change' in clause 3 of the code of practice refers to a change in the rate a retailer pays a small customer for electricity from a small renewable energy generation facility, 'including a rate determined by the commission'. The reference to a rate determined by the commission is now redundant and it has also been removed. Instead, we have replaced it with a reference to the relevant sections in the *Electricity Industry Act*.

All other subclauses under 107(3) must continue to be complied with by a retailer. For example, retailers must notify customers if they decide to make any changes to feed-in tariffs.

Updating the definition of a Retailer of Last Resort event

Since 30 July 2024, Victoria adopted the national RoLR scheme following the passing of the *National Energy Retail Law (Victoria) Act 2024,* and the making of the National Energy Retail Law (Victoria) Regulations 2024.

This has meant that some functions previously attributed to the commission in relation to the administration of the Retailer of Last Resort scheme were assumed by the Australian Energy Regulator.

Schedule 2 of the code of practice (Model terms and conditions for standard retail contracts) contains a definition of 'RoLR event' which includes a 'Note for Victorian customers' clarifying that 'in Victoria, the Retailer of Last Resort scheme is under the Electricity Industry Act or the Gas Industry Act'.

Given the adoption of the national RoLR scheme, we consider that the 'Note for Victorian customers' is outdated and has therefore been removed.

Updating references to the General Exemption Orders

Schedules 5 and 6 of the code of practice refer to the General Exemption Order 2017. This Order has been superseded by the General Exemption Order 2022.[195]

In addition, in February 2025, the Victoria Government made the Gas Embedded Networks General Exemption Order 2025.[196] This Order exempts persons who provide services by means of a gas distribution pipeline within an embedded network from the requirement to hold a licence.

We have updated the following provisions in the code of practice, to align them with the General Exemption Order 2022 and the Gas Embedded Networks General Exemption Order 2025:

- The definition of 'exempt distributor' has been updated to include exempt gas distributors (as set out in clause 4 of the Gas Embedded Networks General Exemption Order 2025).
- The definition of 'General Exemption Order' in clause 3 has been updated to refer to the General Exemption Order 2022.
- The definition of 'Gas Embedded Networks General Exemption Order' has been added.
- Schedule 5 has been updated to refer to the General Exemption Order 2022. This includes updating the tables of retail activity deemed exemptions and registration exemptions.

[195] *Victorian Government Gazette* No. G 39 Thursday 29 September 2022.

[196] *Victorian Government Gazette* No. S 69 Tuesday 25 February 2025.

- Schedule 6 has been updated to reflect the provisions related to explicit informed consent in the General Exemption Order 2022.

While these amendments required some drafting changes to align provisions in the code of practice with the latest General Exemption Order 2022 and the Gas Embedded Networks General Exemption Order 2025, we consider they do not materially affect the obligations in the code of practice.

Removing references to 'save' and 'win-back' plans

In 2021, the Victorian Government banned 'save' and 'win back' energy offers through the *Energy Legislation Amendment (Energy Fairness) Act 2021*.

'Save' plans are offered by retailers in response to a customer signalling they intend to switch to another retailer. 'Win-back' plans are offered by retailers after a customer has switched to a new retailer to persuade the customer to return.

The definition of a 'restricted plan' in clause 3 of the code of practice included in subclauses (i) and (j) references to 'save' and 'win-back' plans. These references are now redundant. We have therefore deleted subclauses (i) and (j) from the definition of 'restricted plan'.

Removing references to the Customer Metering and Transfer Codes

We have recently published our decision to revoke the Electricity Customer Metering Code of Practice and the Electricity Customer Transfer Code of Practice.[197] The revocation of these codes will take effect on 12 September 2025.

Given this decision, we have made the following updates to the code of practice:

- The definition of 'Electricity Customer Transfer Code' has been deleted.
- The definition of 'Electricity Metering Code' has been deleted.
- The reference to the 'Electricity Metering Code' in the note under clause 63(1) has been deleted.
- The reference to the 'Electricity Metering Code' in the note under clause 69(5) has been deleted.
- The note under clause 115(1) referring to the 'Electricity Customer Transfer Code' has been deleted.

[197] 'Revoking the Electricity Customer Metering and Transfer Codes of Practice', Essential Services Commission, accessed 27 August 2025.

12. Implementation

Our final implementation timelines provide additional time for retailers to implement the reforms, while also ensuring important consumer protections are implemented as soon as practicable.

Our final decision is to implement the reforms in three tranches. The first reform will come into effect from 1 February. Additional reforms will come into effect from 1 July and 1 October, respectively.

Table 2 outlines the three-tranche implementation approach and specifies which reforms will commence at which date.

Our draft decision

We proposed a two-stage commencement process for the reforms to give retailers sufficient time to prepare their systems and processes for the more complex reforms. These two commencement dates were 1 January 2026 and 1 July 2026. Table 1 outlines the proposed commencement timings and the relevant reforms.

Table 1: Proposed implementation timelines from Regulatory Impact Statement, May 2025

Proposed (RIS) commencement date	Reforms
1 January 2026 **(Tranche 1)**	• Increasing the threshold for receiving a 'best offer' message • Increasing the minimum debt amount for disconnection • Protections for customers paying higher prices • Improving the application of concessions on bills • Extending protections for customers on legacy contracts • Including the Energy and Water Ombudsman (Victoria) (EWOV)'s phone number on bills
1 July 2026 **(Tranche 2)**	• Automatic switch to the best offer for customers experiencing payment difficulty • Improving access to cheaper offers • Improving the ability to switch to the best offer

Stakeholder feedback

The majority of comments received on the implementation dates for this package of reforms were from energy retailers. The common view expressed was that the proposed implementation timelines would be too short to be practical.

Retailers such as AGL pointed out that complex reforms such as 'Customers paying higher prices' should have a later implementation date such as 1 December 2026 whilst less complex reforms could align to 1st July 2026.[198] OVO identified the 'automatic best offer' as complex and suggested that it should be delayed until 31 December 2026.[199] ENGIE also noted these two reforms as requiring the most significant updates to their systems.[200]

EnergyAustralia identified similar implementation as being suitable as 1 July 2026 and 1 January 2027.[201] Similarly, Origin also suggested delaying the proposed implementation dates, but to a slightly shorter implementation period of 1 March 2026 for tranche 1 and 1 October 2026 for tranche 2.[202]

Powershop raised concerns on the complexity of IT changes and suggested extending Tranche 2 as far as 30 September 2027 and extending tranche 1 reforms to 30 September 2026.[203] It also suggested a staged approach and suggested partially implementing the 'auto-switch' reform whilst system changes are made for customers to identify customers in arrears.[204]

ENGIE highlighted the related (though not identical) Australian Energy Market Commission (AEMC) reform packages and noted that they have an additional 2–3 months to implement compared with the Essential Services Commission Victoria (commission)'s proposed implementation dates. It also draws attention to the need to ensure that the 'customers paying higher prices' reform would be implemented to align and not clash with annual price changes.[205]

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[198] AGL, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 26 June 2025, p. 5.

[199] OVO Energy, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 26 June 2025, p. 2

[200] ENGIE, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 26 June 2025, p. 1.

[201] EnergyAustralia, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 4 July 2025, p.4.

[202] Origin Energy, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 26 June 2025, p. 6.

[203] Powershop, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 26 June 2025, p. 2.

[204] Ibid, p. 6.

[205] ENGIE, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 26 June 2025, p. 2.

Other retailers gave ranges of implementation periods such as Alinta Energy's recommendation for 10–12 months for implementation.[206] Australian Energy Council requested 12–18 months for implementation to be successful and also highlighted a need to align with the AEMC's implementation timelines.[207]

Our final decision

We agree with the feedback received that the proposed draft implementation timelines would make implementation more difficult and challenging for retailers. In determining our final implementation timelines, we considered the range of timelines suggested, as well as the potential benefits of broadly aligning with the implementation timelines of AEMC's related reforms package. Our final timelines balance providing additional implementation time for retailers while ensuring the important protections from these reforms deliver benefits for consumers as soon as practicable. To achieve this, we have decided to move to a three-tranche implementation timetable, as outlined in Table 2.

Our position is that implementing the reform requiring retailers to include EWOV's phone number and name on bills is easier to implement and will commence on 1 February 2026. This represents a minor extension from the 1 January 2026 implementation timeline for this reform proposed in the RIS. Most other reforms previously proposed to commence on 1 January 2026 will instead commence on 1 July 2026 as part of 'tranche 2'. The remaining reforms that were previously proposed to commence on 1 July 2026 will instead commence on 1 October 2026 as part of 'tranche 3'.

One of the key reforms that will commence on 1 October 2026 is the reform relating to automatic switching of customers experiencing payment difficulty onto the best offer. As the reforms to increase the best offer and minimum debt disconnection threshold either directly interact with or have implications for the automatic switch to best offer reform, we have decided these three reforms will commence at the same time. This means the reforms to increase the best offer and minimum debt disconnection threshold are included in 'tranche 3' for implementation.

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[206] Alinta Energy, Powershop, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 30 June 2025, p. 8.

[207] Australian Energy Council, submission to the Essential Services Commission *Energy Consumer Reforms: Regulatory Impact Statement*, 3 July 2025, p. 4.

Table 2: Implementation dates for tranche 1, 2 and 3 reforms

Final decision commencement date	Reforms
1 February 2026 (Tranche 1)	• Including EWOV's phone number and name on bills
1 July 2026 (Tranche 2)	• Protections for customers paying higher prices • Improving the application of concessions on bills • Extending protections for customers on legacy contracts
1 October 2026 (Tranche 3)	• Increasing the threshold for receiving a 'best offer' message to $50 • Increasing the minimum debt amount for disconnection to $1,000 • Automatic switch to the best offer for customers experiencing payment difficulty • Improving access to cheaper offers • Improving the ability to switch to the best offer

13. Compliance, enforcement and reporting obligations

The new obligations in the code of practice will be specified as civil penalty requirements.

We will review and update the following guidelines as necessary to align them with the new obligations:

- Compliance and Performance Reporting Guideline
- Payment Difficulty Framework guideline
- Guideline 1 (2023): Form and content of deemed best offer messages
- Guideline 4 (2022): Explicit informed consent

We will revoke the maximum cap for pay-on-time discounts guideline.

Civil penalty requirements

Our Regulatory Impact Statement proposed that all new obligations would be civil penalty requirements. The exceptions are obligations that merely signpost obligations in other instruments or are non-operative provisions (such as those that inform the meaning of obligations contained in other provisions). Our final decision maintains this approach.

Among other potential tools for a breach of the new provisions, issuing a civil penalty notice will be a potential enforcement option, and a court may impose civil penalties for the contravention of a civil penalty requirement. This will ensure we can take strong enforcement action for non-compliance with the new provisions. Our regulatory priorities signal the type of harms that we will focus our enforcement action on.[208]

Reporting obligations

We use information provided by energy retailers to monitor and provide public information on their performance and compliance with regulatory obligations. The Compliance and Performance Reporting Guideline sets out what retailers need to report to us. We publish a summary and key trends in the energy market and the performance of retailers on our Energy market dashboard.

[208] Essential Services Commission, *Essential Services Commission Regulatory Priorities 2025–26*, 1 July 2025.

The new obligations will require us to update the Compliance and Performance Reporting Guideline. We will review the current reporting requirements following this final decision. This will allow us to consider how to classify any new reportable obligations and whether new performance metrics are necessary to align them with the new obligations.

Reportable obligations are classified as type 1 obligations, type 2 obligations or material adverse breaches. These classifications address differences between customer impacts and how impacts of non-compliance increase over time. Breach classifications also have different reporting requirements.

When determining which obligations are reportable as type 1 or type 2 breaches, we will consider a range of factors. These include the risks of customer harm, retailer reporting frameworks, resourcing, compliance priorities and the ease of verifying compliance.

Type 1 reporting obligations under the Compliance and Performance Reporting Guideline

Type 1 reporting obligations are those where non-compliance may or could potentially have a critical impact on customers. The impact of type 1 breaches potentially increases over time if not rectified. A retailer must report potential or actual type 1 breaches within two business days of detecting the breach. This provides the Essential Services Commission Victoria (commission) with timely visibility of the matter, including any remediation actions. Where an incomplete type 1 report is submitted because the matter is still under investigation, the retailer must submit an updated report within 20 business days of its initial report.

Type 2 reporting obligations under the Compliance and Performance Reporting Guideline

Type 2 reporting obligations are those where non-compliance may or could potentially have a significant or moderate impact on customers. The impact of type 2 breaches may potentially increase over time. A retailer must report potential or actual type 2 breaches within 30 calendar days of detection.

Breaches that may give rise to a material adverse impact

Retailers must, as soon as practicable, report potential breaches of any other regulatory obligations that may give rise to a material adverse impact on consumers or the Victorian energy market. The reporting obligation arises when a retailer has reasonable grounds to believe that a potential breach may have occurred and may have a material adverse impact on consumers or the market. The retailer should not wait until confirmation of either the breach or the materiality of harm before reporting.

Annual compliance breach report

A retailer must submit an annual summary of all type 1 and 2 breaches, and any other breaches identified during the financial year. The Chief Executive Officer or Managing Director of the retailer must sign these annual reports. A retailer must submit a nil compliance report in instances where the retailer has no breaches to report for a relevant annual reporting period.

Annual compliance breach reports must be submitted to the commission by 31 August.

Retailers' performance indicators

In addition to reporting breaches, retailers must report quarterly on their performance regarding:

- **background indicators** (such as the number of customers that are on the retailer's best offer)
- **assistance indicators** (such as the number of customers receiving standard or tailored assistance)
- **arrears indicators** (such as the average total arrears of customers receiving tailored assistance)
- **disconnection indicators** (such as the number of customers disconnected for non-payment)
- **call centre indicators** (such as average waiting times)
- **complaints indicators** (such as the number and type of complaints).

We may review these indicators so that we can better track the implementation of new obligations and monitor the performance of retailers. We will provide stakeholders with more information on the process, if we proceed with a review.

Updating other guidelines

Given the amendments made to the code of practice, we may need to make consequential amendments to the following guidelines:

- Payment Difficulty Framework guideline
- Guideline 1 (2023): Form and content of deemed best offer messages
- Guideline 4 (2022): Explicit informed consent.

We do not intend to conduct broader reviews of these guidelines or provide further guidance for the new obligations. However, if we identify any consequential amendments, we will update these guidelines before the new obligations take effect.

Replacement of the maximum cap for pay-on-time discounts guideline

As a consequence of our final decision related to conditional discounts (Chapter 9), we will replace the maximum pay-on-time discount cap guideline. We will replace this with guidance for retailers on determining what is a reasonable level for these types of conditional discounts.

The previous guideline has set a maximum cap for pay-on-time discounts for contracts from 1 July 2020. With our final decision, all conditional discounts (including pay-on-time discounts) will 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 relevant payment condition. This broader rule will apply to all contracts, including those before and after 1 July 2020.

Given the overlap between the new rules on conditional discounts and the cap for pay-on-time discounts, we consider the latter is no longer necessary. Retailers will instead be required to set the level of pay-on-time discounts at reasonable levels.

We will continue to monitor the scale of pay-on-time discounts in the market, and to verify compliance with what we consider to reflect reasonable costs. We will do so taking into account the same factors that have previously been used since 2020 to calculate the pay-on-time discount cap. These factors are:

- The 10-year Australian Commonwealth Government Bond Rate using a 40-day trailing average (a proxy for the risk-free rate)
- A debt risk premium derived based on the difference between the yield on 10-year BBB- corporate bonds and the risk-free rate
- An allowance for debt raising costs based on information from Treasury Corporation of Victoria.[209]

We consider that the caps calculated in the previous six years based on the factors above give retailers sufficient guidance on how we will monitor compliance with the new rules. As the criteria retailers must take into account is the same as the criteria the commission has previously used to set the cap, we expect that future pay-on-time discounts should not significantly vary from the current range (approximately 5 to 6 per cent).

[209] Clause 3 of the Guideline: maximum cap for pay-on-time discounts.

Annex A. Legislative and regulatory framework for energy retail in Victoria

The Essential Services Commission Victoria regulates electricity and gas retailers in Victoria

The Essential Services Commission was established under the *Essential Services Commission Act 2001*. In performing its functions and powers, the commission's primary objective is to promote the long-term interests of Victorian consumers. To fulfill this objective, we must have regard to the price, quality and reliability of essential services.

With respect to the regulation of the sale of electricity and gas by retail, the commission is responsible for:

- granting and revoking 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 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.

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

The National Energy Customer Framework (NECF) is a suite of legal instruments that regulate the sale and supply of electricity and gas to retail customers in the National Electricity Market (NEM). The three main NECF documents are:

- the National Energy Retail Law (NERL)
- the National Energy Retail Rules (NERR)

- the National Energy Retail Regulations.

Unlike other states who are part of the NEM, the NECF only has limited application to Victoria. Instead, the Energy Retail Code of Practice is the main instrument governing the sale and supply of energy by retail in Victoria and is administered by the commission.

The Energy Retail Code of Practice sets out the rules electricity and gas retailers must follow when selling energy to Victorian customers. 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 of practice aims to protect consumers by ensuring transparency, fairness and accountability in the retail market.

Annex B. Public engagement summary

Issues paper

On 6 June 2024, we released an issues paper which asked stakeholders questions about the key areas we proposed to review of the Energy Retail Code of Practice. We also held a stakeholder information session on 4 July 2024 during which we summarised the content of the issues paper and encouraged stakeholder submissions. The six-week consultation period ended on 19 July 2024.

We received twenty-eight written submissions from stakeholders and twenty-six survey submissions completed by members of the public. Written submissions were received from:

- **fourteen from industry**

  AGL
  Alinta Energy
  Australian Energy Council
  EnergyAustralia
  Energy Locals
  ENGIE
  Flow Power
  GloBird
  Momentum
  Origin Energy
  Pacific Blue
  Red and Lumo Energy
  Shell
  Solstice

- **two distribution businesses**

  AusNet
  CitiPower, Powercor and United Energy

- **three individuals**

  Alan Pears
  Anonymous
  Jim Crosthwait

- **eight consumer groups**

  Brotherhood of St. Laurence
  Consumer Action Law Centre
  Energy Consumers Australia
  Financial Counselling Victoria
  Friends of the Earth Melbourne
  Safe and Equal
  Uniting Vic.Tas
  Victorian Council of Social Service

- **the Energy and Water Ombudsman (Victoria) (EWOV).**

We used these responses to decide which reform areas to progress in stage one or two of our review of the code of practice.

Discussion paper

On 24 October 2024, we released a discussion paper which outlined the new two-staged approach to the code of practice review and proposed options for implementing the energy consumer reforms announced by the Energy and Climate Change Ministerial Council. The nine-week consultation period closed on 26 November 2024.

We received twenty written submissions from stakeholders including:

- **ten from industry**

  AGL
  Alinta Energy
  Australian Energy Council
  EnergyAustralia
  Energy Locals
  ENGIE
  Next Business Energy
  Origin Energy
  Red and Lumo Energy
  Shell

- **two individuals**

  Damian Tillig
  Ian Murphy

- **six consumer groups**

  Brotherhood of St. Laurence
  Consumer Action Law Centre
  Council on the Ageing Victoria
  Energy Consumers Australia
  Financial Counselling Victoria
  Victorian Council of Social Service

- **the Energy and Water Ombudsman (Victoria) (EWOV)**
- **the Australian Energy Regulatory (AER).**

We also held two workshops on 5 (online) and 12 (in-person) December 2025. They were attended by a mix of energy businesses, consumer groups and community organisations, other regulators, departments and ombudsman.

We used these submissions and workshops to further define and refine the potential options for each proposed reform and to gain stakeholder feedback on the effectiveness, clarity, costs and benefits of these options.

Regulatory Impact Statement

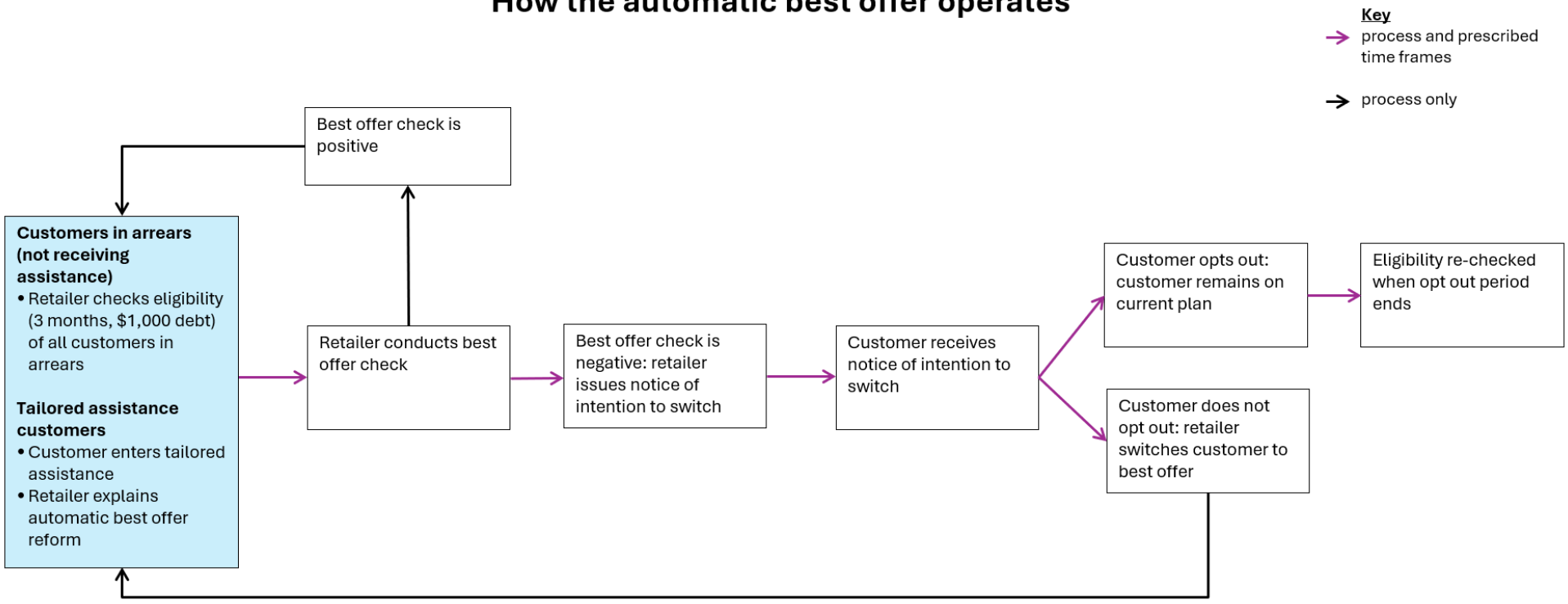
On 16 May 2025, we released a Regulatory Impact Statement (in place of a draft decision) which identified and assessed potential options for each proposed reform. The six-week consultation period closed on 26 June 2025.

We received a total of 31 submissions from:

- **thirteen from industry**
  AGL
  Alinta Energy
  Australian Energy Council
  Energy Locals
  EnergyAustralia
  ENGIE
  Flow Power
  Origin Energy
  OVO Energy
  Powershop
  Red and Lumo Energy
  Shell Energy
  Tesla
- **one individual**
  Errol Muir
- **one confidential**
- **six community and information support organisations**
  Albury Wodonga Regional FoodShare
  Community Information & Support Victoria
  Community Information & Support Merri-bek
  Darebin Information Volunteer Resource Service
  Knox Infolink
  Western Port Community Support
- **eight consumer groups**
  Brotherhood of St. Laurence
  Consumer Action Law Centre
  Council on the Ageing Victoria & Senior Rights Victoria
  Energy Consumers Australia
  Financial Counselling Victoria
  First Nations Clean Energy Network
  Lighter Footprints
  Victorian Council of Social Service
- **the Energy and Water Ombudsman (Victoria) (EWOV)**
- **the Australian Energy Regulatory (AER).**

Annex C. Operation of the automatic best offer

How the automatic best offer operates



Time to conduct eligibility for auto-switch
At least once every 6 months

Time to conduct best offer check
10 business days (maximum) from when customer is identified as eligible

Time to send notice of intention to switch
Max 5 business days from best offer check

Time to opt-out
10 business days (min) or
10 business days (max) (TBD)

Time to re-check eligibility after opt out
If customer opts out, eligibility must be rechecked 12 months from date of previous best offer check