

26 June 2025

Gerard Brody  
Commissioner and Chairperson,  
Essential Services Commission  
Level 8, 570 Bourke Street,  
Melbourne, Victoria 3000

Dear Mr Brody and colleagues

### **Energy Consumer Reforms Regulatory Impact Statement**

Energy Locals Pty Ltd (ACN 606 408 879) (**Energy Locals**) appreciates the opportunity to respond to the Energy Consumer Reforms Regulatory Impact Statement (**RIS**). We also thank the Essential Services Commission (**ESC**) for the opportunity to participate in the recent Operational Roundtable and the in-person workshop discussion on 12 June 2025 which was valuable in recognising that many retailers share the same concerns about the proposed reforms.

We maintain our positions as previously outlined in our submissions in July and November 2024.<sup>1</sup> In addition to those comments, we wish to highlight our concerns with two of the reforms proposed in the RIS.

#### **1. Necessity of reforms**

In the recent stakeholder sessions, the ESC reiterated its strategic approach to ensuring that its actions are proportionate to the harms being addressed. While we appreciate that the ESC has considered industry costs in its regulatory analysis, we remain concerned that the burden associated with several of the proposed reforms is disproportionate to the scale of harm being addressed.

In particular, it would have been valuable for the multi-criteria analysis (**MCA**) to be applied to the base case options as well as the preferred options to clearly illustrate the potential impact. In our previous submissions, we reiterated the importance of balancing consumer benefits with the operational costs incurred by retailers.<sup>2</sup>

Ensuring compliance with new code obligations requires significant resource allocation and often expensive and time-consuming upgrades to retailers' internal systems. These costs ultimately need to be recovered and typically end up being transferred to customers. Larger retailers with more resources may be better equipped to absorb the costs of compliance with these reforms, potentially putting small retailers at a competitive disadvantage. Small retailers may struggle to absorb these costs without passing them on to customers or compromising service quality. We, therefore, urge the ESC to consider if all of these reforms are necessary.

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<sup>1</sup> Energy Locals submission to ESC on Energy Retail Code of Practice Review, 19 July 2024 and Energy Locals submission to ESC on Energy Retail Code of Practice Review – Energy Consumer Reforms – Discussion Paper, 26 November 2025.

<sup>2</sup> Energy Locals submission to ESC on Energy Retail Code of Practice Review, 19 July 2024 and Energy Locals submission to ESC on Energy Retail Code of Practice Review – Energy Consumer Reforms – Discussion Paper, 26 November 2025.

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

Energy Locals does not support the ESC's preferred option to require a retailer to automatically switch residential customers, who are receiving tailored assistance or in arrears for at least three months and with arrears of \$1,000 or more, to the best offer.

Our preference is for the base case to remain, maintaining the current Payment Difficulty Framework and best offer provisions within the Code. It is disappointing that this base case was excluded from the MCA, despite it being listed among the reform options.

We have previously highlighted limitations with best offers, particularly the complexities in accurately calculating them and their limited effectiveness in addressing the underlying cause of high bills, which is typically high energy consumption and ongoing escalation in network and wholesale costs. We maintain that there are more appropriate mechanisms to assist hardship customers. This proposed reform does not effectively target the key driver of high energy bills for customers experiencing payment difficulties. It also effectively rewards disengagement. Crucially, we believe this proposed reform misdirects effort.

Customers receiving payment assistance are often high consumers of energy.<sup>3</sup> Switching plans without addressing this consumption will not achieve meaningful bill relief. Instead, we reiterate our prior recommendation that the ESC, with assistance from other government bodies, should consider other reforms that enable access to energy efficiency programs and distributed energy resources for customers in financial hardship. Similarly, it is essential to ensure that the responsibility for supporting hardship customers is shared and does not rest solely with retailers.

The ESC has noted that automatically switching a larger number of customers to the best offer would reduce retailer income.<sup>4</sup> Additionally, the proposed notice provisions will necessitate costly system updates and will be resource intensive. Retailers are already absorbing significant costs in supporting hardship customers, which further underlines the need for increased government support in assisting customers most at risk.

Finally, we consider that obtaining explicit informed consent is an important consumer protection that cannot be replaced by an onerous opt-out process. We urge the ESC to take into account the AEMC's recent decision which reaffirmed the importance of EIC.<sup>5</sup> While we do not support the AEMC's final rule,<sup>6</sup> we are concerned that differing rules in Victoria will further increase implementation costs and compliance complexity for retailers.

## 3. Improving access to cheaper offers

Our strong preference is for this reform agenda to retain the status quo.<sup>7</sup> We do not support the ESC's preferred option to restrict retailers from offering online-only plans or those that require payment via direct debit. In practice, this reform would likely reduce the range of available offers, undermining the broader objective of promoting affordability and keeping prices low.

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<sup>3</sup> ESC, Energy Consumer Reforms, Regulatory Impact Statement, p.58.

<sup>4</sup> Ibid, p70.

<sup>5</sup> AEMC, Final Determination, Assisting Hardship Customers, p26.

<sup>6</sup> Energy Locals submission to AEMC Consultation paper: National Energy Retail Amendment (Assisting hardship customers) Rule 2025.

<sup>7</sup> ESC, Energy Consumer Reforms, Regulatory Impact Statement, p.88.

We strongly reject the ESC's assessment that this reform would result in:

*"Improved competition between all Victorian retailers.... Retailers would compete with equal restrictions and would not be able to segment customers differently."*<sup>8</sup>

This assumption is overly simplistic. To keep prices low, the ESC should promote a competitive market that encourages innovative products, enabling retailers to pass on savings and incentivise responsible customer behaviours. Retailers structure plans to balance risk, including payment behaviours.

In its MCA cost analysis, the ESC states:

*"Payment methods such as direct debit also reduce the risk of bills not being paid on time, and this may result in an additional cost. However, we consider that customers who currently cannot access direct debit are already more likely to be missing bill payments."*<sup>9</sup>

This statement appears unsubstantiated, and we seek clarity on what data or research has informed this conclusion.

We also find it disappointing that Option B2 was selected as the preferred option, despite having a higher industry cost than Option B1.<sup>10</sup> We do not believe the scale of harm has been sufficiently demonstrated to justify a reform that could significantly affect retailer competitiveness and market share.

While we understand the reform is intended to *"increase fairness when competing for customers in the energy market"*<sup>11</sup> we believe it will have the opposite effect by reducing the variety and flexibility of competitive offers available to consumers.

Finally, we disagree with the suggestion that this is purely a matter of equity.<sup>12</sup> This presumes that all offers must be universally available, effectively ruling out any eligibility-based innovation. Such an approach undermines commercial differentiation and the ability to reward behaviours that help reduce overall cost to serve.

#### 4. Alignment with the AEMC

To the extent possible, we urge the ESC to align its reforms with the direction taken by the AEMC in its final rules announced last week.<sup>13</sup> We prefer consistency, given that regulatory differences across jurisdictions creates complexity and increases compliance costs.

In summary, Energy Locals supports the goal of improving outcomes for energy consumers. However, we encourage the ESC to ensure that it adopts a proportionate, practical approach to regulation that takes into account retailer system capabilities, cost-to-serve, and the root causes of customer hardship. It must also ensure that the proposed reform actually addresses the objective that the ESC is seeking to address.

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<sup>8</sup> Ibid, p.91.

<sup>9</sup> Ibid, p.94.

<sup>10</sup> Ibid, p.94.

<sup>11</sup> Ibid, p.86.

<sup>12</sup> As explained by the ESC in the Operational Roundtable on 5 June 2025.

<sup>13</sup> AEMC, final rules on "Improving consumer confidence in energy retail plans", "Assisting hardship customer" and a Draft Decision on "Improving the ability to switch to a better offer"

In this regard, we do not agree with the proposed reforms that:

- require automatic switching of best offers; or
- restrict retailers from offering plans which have payment or communication method requirements.

We are very happy to discuss any aspect of this submission with the ESC team.

Yours sincerely,

**Adrian Merrick**  
Chief Executive Officer  
Energy Locals Pty Ltd