



Essential Services Commission  
Level 8, 570 Bourke St  
Melbourne VIC 3000

26 June 2025

To Commissioners,

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

ENGIE Australia & New Zealand (ENGIE) appreciates the opportunity to respond to the Essential Services Commission (Commission) in response to the Draft Regulatory Impact Statement (draft RIS) on proposed reforms to the Energy Retail Code of Practice.

The ENGIE Group is a global energy operator in the businesses of electricity, natural gas and energy services. In Australia, ENGIE operates an asset fleet which includes renewables, gas-powered generation, and battery energy storage systems. ENGIE also provides electricity and gas to retail customers across Victoria, South Australia, New South Wales, Queensland, and Western Australia.

While ENGIE is supportive of targeted reforms that improve retailers' ability to provide meaningful support to their customers, ENGIE is concerned about the broad nature of several of the Commission's proposed reforms and their application beyond vulnerable customers that are experiencing payment difficulties.

In addition, the multi-criteria analysis applied in the draft RIS appears to underestimate industry implementation costs and overestimate the effectiveness of reforms, particularly those reforms that have close interactions and overlap with other reforms in this package. By not considering interactions between reforms, the draft RIS sets out some preferred options that would result in redundant requirements and create unnecessary regulatory burden on industry without any associated consumer benefit.

In this submission, ENGIE provides feedback on each of the Commission's reform proposals and the Commission's assessments of their effectiveness and impacts. ENGIE also provides feedback on the implementation of the reforms, particularly in relation to the proposed timing of the first stage of reforms on 1 January 2026.

### **Implementation of reforms**

ENGIE notes that the Australian Energy Market Commission (AEMC) has recently published final reforms to the National Energy Retail Rules on several of the same reform topics in the draft RIS, which mostly have an

implementation date of 1 July 2026.<sup>1</sup> There are inconsistencies between the AEMC's final reforms and the Commission's proposed reforms in the draft RIS, which will add complexity for retailers in managing compliance processes and system updates across jurisdictions. ENGIE urges the Commission to align with the AEMC's final reforms to the extent possible to reduce the upfront and ongoing implementation costs for industry.

In relation to the implementation date of the Commission's proposed reforms, ENGIE notes these reforms are typically more complicated than the AEMC's reforms that will go-live on 1 July 2026. In particular, the Commission's proposed 'automatic best offer for customers experiencing payment difficulty' and 'protections for customers paying higher prices' reforms will require significant updates to systems and contract execution processes. The timing of the publication of the AEMC's final reforms also provide retailers with an additional two to three months to commence scoping out and building system updates to support the reforms before the Commission's final RIS will be published. As discussed further in this submission, ENGIE urges the Commission to extend the implementation date for the particularly complex reforms in this package, to ensure these can be delivered in a compliant manner that reduces the risks of unintended consequences for consumers from a rushed implementation.

For the reforms proposed to be implemented on 1 January 2026, particularly the 'protections for customers paying higher prices' reform, ENGIE notes these reforms may increase the risk premium and costs incurred by retailers participating in the Victorian retail energy market. However, due to the timing of the implementation of these reforms, retailers will not be able to adjust their customers' pricing to reflect these additional costs for seven months (i.e. 1 August 2026). ENGIE urges the Commission to set 1 July 2026 as the earliest date for the implementation of these reforms, which would enable retailers to assess the impacts of the final reforms and reflect any increased operational costs and risk premium into their pricing.

### Automatic best offer for customers experiencing payment difficulty

While ENGIE would prefer that this reform encouraged consumers to actively engage with their retailer on tailored payment support arrangements, ENGIE is comfortable with the Commission's proposed reform option to establish an automatic best offer mechanism. As discussed in our submission to the discussion paper, ENGIE's call centre staff are already trained to check whether a customer experiencing payment difficulties is on the most affordable plan and to support the customer to switch to that plan.<sup>2</sup> The Commission's proposed reform option may help address the barriers that some customers currently face in accessing cheaper plans, due to the time and effort that can be involved in the offer switching process.

In the below sections, ENGIE provides feedback on the proposed eligibility criteria for the automatic best offer, customer opt-out mechanisms, and other implementation considerations.

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<sup>1</sup> Australian Energy Market Commission 2025, AEMC delivers enhanced consumer protections to help customers find better energy deals, Media release, 19 June, accessed at: <https://www.aemc.gov.au/news-centre/media-releases/aemc-delivers-enhanced-consumer-protections-help-customers-find-better-energy-deals>

<sup>2</sup> ENGIE 2024, Submission: Energy Consumer Reforms – Discussion Paper, 26 November, p. 2

### ***Eligibility for the automatic best offer should not include a debt threshold***

In terms of eligibility for the automatic best offer mechanism, ENGIE's preference is that eligibility is restricted to customers in arrears receiving tailored assistance from their retailer and cannot pay the full cost of their ongoing usage. This eligibility criteria would ensure the reform is targeted at the customer cohort that would most benefit. While there may be benefits in extending the eligibility criteria to customers in arrears receiving tailored assistance and can pay the full cost of their ongoing usage, this may also capture customers that are experiencing short-term payment difficulty and do not require additional assistance.

Similarly, the introduction of a debt threshold would complicate the implementation of this reform for limited additional benefit. While an eligibility criteria related to tailored assistance would be relatively simple to manage for the six-monthly check of eligibility for the automatic best offer, the debt threshold has a temporal element that adds complexity in scenarios where a customer's debt levels may fluctuate above and below the threshold over time.

Ideally, customers with significant debt levels of \$1,000 or more should be accessing payment assistance through the payment difficulty framework and be encouraged to engage with their retailer to access payment arrangements that support them to manage their ongoing usage and arrears. The Commission's analysis in the draft RIS does not present information on the proportion of customers with more than \$1,000 in arrears that are not receiving tailored assistance from their retailer. This would have been helpful context for stakeholders to understand when providing feedback on whether there is a marginal benefit in introducing a debt threshold eligibility.

### ***The customer experience related to opt-outs should be further considered in the final RIS***

ENGIE understands and supports the introduction of an opt-out period and post-switch reversal to protect customers that do not want to be switched to a different offer. However, the draft RIS does not appear to consider the potential negative customer experience for those customers that opt-out of a switch and are then required to opt-out again every six months as long as they remain eligible for the automatic best offer.

ENGIE would support the final rules providing for customers that have expressed a desire to opt-out of an automatic best offer to retain agency over the offer they receive from their retailer. As acknowledged in the draft RIS, some customers may prefer to retain the benefits attached to their existing plan, such as reward points or subscriptions.<sup>3</sup> An option to address this scenario would be to require an otherwise eligible customer to opt back in to the automatic best offer if they had previously opted-out of a switch. To ensure these customers remain aware of their entitlement to an automatic best offer, retailers could be required

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<sup>3</sup> Essential Services Commission 2025, Energy Consumer Reforms: Regulatory Impact Statement, 16 May, p. 73

to send communications once every six or 12 months that informs the customer about their entitlement to opt-in to receive an automatic best offer.

***There will be significant upfront implementation costs for industry to deliver this reform***

Although the implementation of the Commission's proposed reform option will be less costly than the alternatives outlined in the discussion paper, such as a crediting mechanism, there will still be significant implementation costs for retailers to create the new contract execution pathways and automations for the regular checks for eligibility and best offers.

ENGIE agrees with the statement in the draft RIS that the majority of costs will be one-off and incurred upfront through major IT system updates.<sup>4</sup> ENGIE considers that 1 July 2026 will be a challenging implementation date to achieve for this reform, as it will provide retailers with only around nine months to scope out, build and test a large-scale complex system change that has the potential to have significant negative impacts for consumers if it does not work correctly.

In addition to the major IT costs from this reform, there will be many other flow-on impacts for retailers to ensure ongoing compliance. This will include updates to agent training and scripting, amendments to hardship policies and processes, as well as new communications to support automatic switching and opt-out processes.

**Improving access to cheaper offers**

ENGIE does not agree with the Commission's position that the proposed reform option would achieve the desired purpose of providing customers who may be experiencing vulnerability with access to more affordable plans. While the proposed reform option may improve the transparency of how retailers value direct debit and e-billing, there is little evidence to suggest that the reform would enable customers that are unable, or unwilling, to utilise these services to access pricing equivalent to the identified cheaper offers in the market today.

While increasing the transparency of retailer pricing may be a worthwhile reform, ENGIE questions whether the multi-criteria analysis presented in the RIS would result in a positive weighted score if the 'effectiveness' criterion were more accurately assessed.

It appears that the Commission's analysis and conclusion is based on a hypothesis that some retailers are selling restricted offers with discounts that are larger than the equivalent benefit that these retailers receive from consumers' usage of direct debit and e-billing services. If this were the case, the Commission's proposed reform may benefit vulnerable consumers through these retailers selling a base offer that is cheaper than their equivalent base offer today, with additional discounts available for those consumers that choose to utilise e-billing and/or direct debit. As will be described in more detail below, ENGIE does not

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<sup>4</sup> Essential Services Commission 2025, Energy Consumer Reforms: Regulatory Impact Statement, 16 May, p. 80

agree that the Commission's analysis and conclusions presented in section 6.4.1 of the draft RIS supports this hypothesis. In its current state, the draft RIS does not present a compelling case that additional regulation would provide vulnerable customers with access to more competitively priced offers.

In relation to the Commission's calculation of the savings that a customer currently receives from accessing an offer that is restricted based on e-billing and/or direct debit, ENGIE considers the Commission has overstated these savings. Specifically, the Victorian Default Offer (VDO) is not the relevant comparison point to understand the marginal benefit that a customer is receiving from a specific retailer by accessing an offer restricted based on e-billing and/or direct debit. If the Commission were to instead compare the prices of an equivalent market offer from the same retailer that has no payment or billing restrictions, this would provide a more accurate indication as to whether these retailers are currently selling their restricted offers that have discounts larger than the equivalent benefit the retailer receives from the customers' use of e-billing and/or direct debit.

Based on ENGIE's analysis of the offers identified in the draft RIS<sup>5</sup>, customers that access electricity offers restricted by e-billing and/or direct debit would receive potential savings that are much lower than the range of \$164 to \$398 per year presented in section 6.4.1 of the draft RIS:

- A Tango Energy customer would save \$103 per year on the 'eSelect' offer relative to the 'Home Select' offer<sup>6</sup>;
- A Pacific Blue customer would save \$103 per year on the 'Blue First' offer relative to the 'Blue Home' offer<sup>7</sup>;
- An Ovo Energy customer would save \$72 per year on the pre-paid 'One Plan' relative to the post-paid 'One Plan'<sup>8</sup>; and
- An AGL customer would save \$74 per year on the 'Netflix Plan' offer relative to the 'Smart Saver' offer (excluding the annual value of the Netflix membership).<sup>9</sup>

In relation to the Commission's use of the regulated cap for pay-on-time discounts as a proxy for the value that retailers receive from direct debit, ENGIE considers this methodology underestimates the value that retailers receive from timely payment from their customers. The Commission's regulated cap for pay-on-time discounts is based solely on the cost to the retailer of borrowing money to cover the shortfall from not receiving a payment from a customer.<sup>10</sup> This methodology does not consider the avoided administrative and labour costs that retailers otherwise may incur in managing debt recovery processes, including call

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<sup>5</sup> For the purpose of this analysis, ENGIE has utilised the same parameters as the Commission – annual consumption of 4,000 kWh per year in the Jemena distribution area.

<sup>6</sup> Tango Energy, Energy Plans, <https://www.tangoenergy.com/energyplans>, accessed on 10 June 2025.

<sup>7</sup> Pacific Blue, Energy plans, <https://www.pacificblue.com.au/energyplans>, accessed on 10 June 2025.

<sup>8</sup> Ovo Energy, Get a quote, <https://switch.ovoenergy.com.au/>, accessed on 10 June 2025.

<sup>9</sup> AGL, Compare Electricity and Gas Plans, <https://www.agl.com.au/residential/energy/compare-plans>, accessed on 10 June 2025.

<sup>10</sup> Essential Services Commission 2020, Ensuring energy contracts are clear and fair: Final decision, 28 February p. 59

centre staff hours and the costs of sending out notices. Retailers would necessarily include an estimate for this additional value when estimating the ‘reasonable discounts’ associated with alternative payment methods.

Based on the above, ENGIE contends that customers that are currently on offers restricted by e-billing and/or direct debit may not be currently receiving discounts that reflect the full value that these conditions provide to a retailer. That is, the reasonable value to a retailer identified in the draft RIS of \$136 (which does not include the additional value of direct debit described above) is higher than the marginal savings of \$72 to \$103 that customers currently receive on these restricted plans. There does not appear to be a compelling case that the Commission’s proposed reform option would result in a suite of cheaper offers becoming available for customers that are unable, or unwilling, to utilise e-billing or direct debit.

ENGIE does not support the introduction of regulatory requirements where there is insufficient evidence of market failure or significant risk of consumer harm. For that reason, ENGIE does not support the Commission progressing with this reform without more compelling evidence in the final RIS, as it currently appears that this reform will result in additional regulatory burden and compliance costs for retailers with little associated benefit for consumers.

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

##### ***The proposed reform option does not address practical barriers to customers accessing the best offer***

In our submission to the discussion paper, ENGIE supported reforms that would provide practical changes to the time and effort that customers incur in switching to their retailers’ best offer. In particular, ENGIE highlighted that the stringent requirements for obtaining explicit informed consent and providing ‘clear advice’ to customers can significantly add to the length of time required to complete an offer switching process.<sup>11</sup> As the Commission’s proposed reform option does not address any of these practical barriers for customers switching between offers, ENGIE is concerned that the reform will primarily increase industry costs without significantly improving customer outcomes.

ENGIE also questions whether the Commission’s proposed reform option will directly result in an improvement in the number of customers on their retailer’s best offer. There are many reasons why customers do not switch to a cheaper offer, which may include that the customer has plan benefits that they value, the customer is comfortable with the rates they are paying, and that the sign-up process and associated explicit informed consent requirements can be time-consuming for sign-ups over the phone.

Rather than introducing new standardised processes for each retailer to implement, it may be more efficient for the Victorian Energy Compare (VEC) website to be enhanced to drive customer usage of this tool. The VEC website has the potential to enable consumers to simply and quickly compare their current

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<sup>11</sup> ENGIE 2024, Submission: Energy Consumer Reforms – Discussion Paper, 26 November, p. 4

plan to all other plans available to them, including those from their current retailer and other retailers. This approach would also have the benefit of not requiring any additional regulatory burden to be added to the Energy Retail Code of Practice and no additional costs to be borne by Victorian energy consumers.

***It would be costly and complex to enable customers to compare their current plan to all other plans***

ENGIE is particularly concerned about the proposed requirement for retailers to ‘provide a simple and accessible process for a small customer to compare their current plan to other plans available to them, including the deemed best offer’. If the Commission is expecting retailers to provide a website functionality similar to the VEC website, where a customer can input their tariffs and consumption details to receive a personalised comparison across all generally available offers, this would be a significant and costly upgrade to existing website functionality. In particular, retailers would need to build new APIs for their websites and incur significant costs in designing new user experiences in their energy offer comparison functions.

Retailers already provide information on their websites that enable consumers to compare the relative price of different available offers, through regulatory requirements to display a standardised annual price of offers and a percentage comparison to the Victorian Default Offer.<sup>12</sup> Retailers are also required to prepare energy fact sheets for each offer that show the estimated annual cost of the offer.<sup>13</sup> These existing regulatory requirements diminish the potential marginal benefits to consumers from requiring every retailer to build a bespoke price comparison tool.

In addition to the above, ENGIE notes that retailers already regularly present consumers with a best offer message, which requires a retailer to compare a customer’s current offer against its generally available offers and present the customer with the cheapest generally available offer relevant to their consumption history. The intention of the best offer reform was to help cut through energy market complexity and make it easier for customers to identify the energy offer that is most appropriate to their circumstances.<sup>14</sup> ENGIE considers it is an unnecessary reform to provide an additional tool for consumers to compare their current plan against their retailer’s generally available plans, as their retailer is already undertaking this activity on their behalf on a regular basis and presenting the results on their bill.

**Protections for customers paying higher prices**

***The chosen definition of ‘older contract’ should consider potential impacts on broader retail pricing***

ENGIE understands that it is not a positive experience for customers on older contracts to pay higher prices than are available for new contracts. While the Victorian retail energy market involves frequent customer switching between retailers and energy plans, there are some customer cohorts that are ‘sticky’ and have

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<sup>12</sup> Essential Services Commission 2024, Energy Retail Code of Practice – version 3, 1 October, Clause 49

<sup>13</sup> Essential Services Commission 2024, Energy Retail Code of Practice – version 3, 1 October, Clause 39

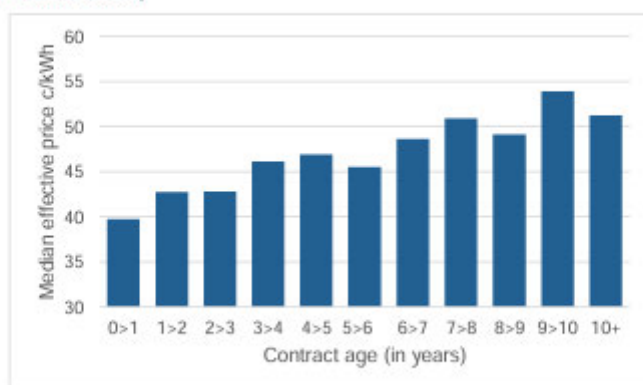
<sup>14</sup> Essential Services Commission 2018, Building trust through new customer entitlements in the retail energy market: Final Decision, 30 October, p. 31

not changed retailers or energy plans for a long period of time. As noted in the draft RIS, around four per cent of residential electricity customers have remained on the same plan for at least seven years.<sup>15</sup>

While there is an understandable rationale for this reform, ENGIE urges the Commission to ensure it is carefully targeted at the customer cohort that is particularly ‘sticky’ and would most benefit from the introduction of a price cap on market offers. There is a risk that setting the definition of ‘older contract’ too short could significantly impact on retailer revenues, which could lead to substantial changes in retailer pricing strategies and the potential reduction of available energy plans with cheaper rates. If the pricing gap between legacy offers and new offers were to significantly reduce, this may also reduce the effectiveness of other reforms being progressed in the draft RIS, such as the ‘automatic best offer for customers experiencing payment difficulty’ and ‘improving the ability to switch to the best offer’.

In relation to the Commission’s choice of year four in the definition of ‘older contract’, ENGIE notes that Figure 6 in the draft RIS presents data that suggests that the median effective price for residential customers is lower in year six than in year four, before escalating from year seven onwards. For reference, Figure 6 is displayed below.<sup>16</sup>

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



Source: Commission analysis of customer billing data.<sup>17</sup>

Based on the data presented in Figure 6, ENGIE considers it demonstrates four key stages of a customer lifecycle with their retailer:<sup>17</sup>

1. **Year 1** – involves a relatively low sign-up price that may encourage a consumer to switch to the retailer and sign-up to a contract;

<sup>15</sup> Essential Services Commission 2025, Energy Consumer Reforms: Regulatory Impact Statement, 16 May, p. 111

<sup>16</sup> Essential Services Commission 2025, Energy Consumer Reforms: Regulatory Impact Statement, 16 May, p. 26

<sup>17</sup> ENGIE notes that Figure 6 is based on data from a relatively short time series. The Commission could undertake further analysis of billing data to more fully understand the relative pricing that customers experience at each year of their contract lifecycle with their retailer. Page 8



2. **Years 2 and 3** – the retailer has marginally increased prices off the low-base of the initial first year pricing;
3. **Years 4, 5, and 6** – the retailer moves these customers onto a pricing structure that is higher than the initial few years. It may be that some retailers use these contract years to help recover some foregone margin associated with the relatively cheaper prices they offered to the customer at sign-up.
4. **Year 7 onwards** – from year seven, it appears that this customer cohort is progressively priced higher throughout their remaining time on that contract.

Based on the above assessment, ENGIE considers that customers on contracts older than six years are those that are at highest risk of experiencing a 'loyalty penalty' by remaining on their current offer. If the Commission were to use this as the definition of 'older contract', this would help ensure the reform is specifically targeted at the customer cohort that has demonstrated to be 'sticky' and would most benefit from the introduction of a price cap, while minimising the risk of unintended consequences on retailer pricing strategies.

***Determining the 'reasonable price' may be challenging for innovative energy offers***

In relation to the 'reasonable price' that would act as the price cap for 'older contracts', ENGIE notes that determining the 'reasonable price' will be relatively straightforward for the majority of electricity offers due to the Victorian Default Offer providing a useful benchmark for simple electricity plans.

While the draft rules provide some useful guidance for the treatment of gas plans, it is less clear how retailers should determine a 'reasonable price' for contracts with innovative features (such as virtual power plants, electric vehicle offers, or other emerging services) or emissions reduction features (such as GreenPower). The Commission may address these types of issues in a guideline on the definition of 'reasonable price', as provided under draft clause 121B(4) of the Energy Retail Code of Practice. However, it is challenging to comment on whether the reform option and draft rules are appropriately targeted without understanding how the Commission intends retailers to manage customer cohorts that do not have simple pricing arrangements. ENGIE's preference is that the Commission consult on an initial guideline on the 'other matters' relevant to the definition of 'reasonable price' before implementing this 'protections for customers paying higher prices' reform.

***The implementation of this reform should be aligned with the timing of the automatic best offer reform***

ENGIE notes that the Commission has proposed a 1 January 2026 implementation date for this reform option. However, ENGIE contends there are complex and significant system update changes that are required to implement this reform, particularly in relation to:

- creating an automation for checking contracts for eligibility, to understand whether the contract has met the 'older contract' definition and whether the tariffs and benefits of the contract result in a price higher than the internally defined 'reasonable price' threshold; and

- creating a new contract execution pathway for scenarios where a customer is moved to a new plan with a 'reasonable price'.

ENGIE considers that the system changes required to support this reform are interlinked with the system changes required to implement the 'automatic best offer for customers experiencing payment difficulty' and are just as complicated. The proposed implementation period of around three months is far too short for retailers to accurately scope out, build and test this large-scale complex system change. ENGIE contends that aligning the implementation date to the 'automatic best offer for customers experiencing payment difficulty' reform, noting our earlier feedback on 1 July 2026 being an insufficient timeframe, would ensure that the updated systems can be fully tested to work as intended and avoid significant negative impacts for consumers on older contracts.

### Improving the application of concessions on bills

As noted in our submission to the discussion paper, ENGIE prefers that the Commission work with the Victorian and Australian Governments on meaningful long-term reforms rather than focusing on minor amendments that are likely to have minimal impact on the proportion of Victorian consumers receiving energy concessions.<sup>18</sup> This could include new mechanisms to enable government-held concession data to be automatically shared with, and applied by, a customer's new retailer, which would avoid a customer needing to re-apply for concessions when transferring between retailers.

In general, retailers are incentivised to ensure all their customers receive their concession entitlements, as this provides retailers with guaranteed payments against energy costs and can reduce the proportion of customers that require payment assistance from the retailer. ENGIE expects that all retailers would already be asking customers to provide concession details at many times during the customer journey, including during sign-up, when the customer seeks assistance with a bill, and when a customer enters a hardship program. For that reason, ENGIE questions whether the multi-criteria analysis has accurately assessed the effectiveness of the proposed reform relative to the base case.

While the Commission's proposed reform option will not significantly change retailers' existing processes, it will create additional upfront and ongoing administrative costs for retailers to ensure that they have auditable processes that are compliant with the new rules.

### Extending protections for customers on legacy contracts

***This reform is likely to be redundant in the context of the proposed protections for customers on 'older contract'***

The Commission's 2020 decision to regulate conditional discounts set out a prospective approach that was intended to reduce administrative burden of the reform.<sup>19</sup> This has been a successful approach, as

<sup>18</sup> ENGIE 2024, Submission: Energy Consumer Reforms – Discussion Paper, 26 November, p. 4

<sup>19</sup> Essential Services Commission 2020, Ensuring energy contracts are clear and fair: Final decision, 28 February pp.55 – 59.

demonstrated by the small proportion of customers that remain on pre-1 July 2020 contracts with conditional discounts, which was at around five per cent of residential electricity customers in 2023.<sup>20</sup> Without any reforms, ENGIE considers this percentage would continue to decline as customers transfer to new energy offers and between energy retailers.

More broadly, ENGIE questions whether a new reform specific to conditional discounts is beneficial to consumers in the context of the ‘protections for customers paying higher prices’ reform (in clauses 121A to 121G of the draft Energy Retail Code of Practice) also being proposed in the draft RIS. As all of the legacy contracts captured by this reform would also be captured under the obligations in the ‘protections for customers paying higher prices’ reform, as these contracts were all entered into more than four years ago, ENGIE does not consider there are any incremental benefits from this reform that would justify the imposition of additional regulation and administrative burden on retailers. If the Commission were to extend the definition of ‘older contracts’ to a longer time period, there may be some marginal benefits to consumers on pre-1 July 2020 contracts.

ENGIE contends that if the multi-criteria analysis explicitly considered the interactions between other reforms, particular the ‘protections for customers paying higher prices’ reform, the Commission would have unlikely provided this reform with a positive weighted score relative to the base case. Also in relation to the multi-criteria analysis, ENGIE disagrees with the Commission’s assessment of relatively minor costs to industry of this reform, as the reform does not leverage any existing systems that would have been built for the 2020 reform related to conditional discounts. In the event that the ‘protections for customers paying higher prices’ reform did not proceed, this reform would require retailers to establish new billing system logic to apply conditional discounts automatically if the contract start date was prior to 1 July 2020.

Instead of introducing additional regulation that does not address an identified market failure or consumer harm, the Commission could further refine the drafting or guidance on the ‘protections for customers paying higher prices’ reform in relation to its application to contracts with conditional discounts. For example, it may be useful for the Commission to provide additional clarity to retailers on how they should treat any conditional discounts when reviewing whether a customer on an ‘older customer retail contract’ is paying a ‘reasonable price’ for energy on their current tariffs.

***If this reform is implemented, it should apply consistently to contracts pre and post-1 July 2020***

If the Commission proceeds with the reform to conditional fees and discounts, ENGIE urges the Commission to ensure there is a consistent application of the rules for contracts entered into pre and post-1 July 2020. Specifically, the final rule should enable a retailer to effectively split a conditional discount included in a pre-1 July 2020 contract into both a conditional and unconditional component, with the conditional discount not being able to exceed a reasonable estimate of the costs incurred, or likely to be incurred, if the

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<sup>20</sup> Essential Services Commission 2025, Energy Consumer Reforms: Regulatory Impact Statement, 16 May, p. 144

customer fails to satisfy the payment condition. An example of how a retailer may apply such a rule is included below.

Pre-reform pay-on-time discount	Maximum 'reasonable estimate' pay-on-time discount level as at 1 January 2026	Post-reform discount
20 per cent (conditional)	5 per cent	15 per cent (unconditional) 5 per cent (conditional)

ENGIE recognises that some retailers may find it more administratively simple to apply conditional discounts in-full even if the customer did not meet the condition of the discount. As long as the Commission drafts the rule in a way that requires a conditional discount be set below a maximum amount, retailers would have the discretion to set the conditional component of the discount at zero.

#### ***Additional protections for customers with time-limited benefits are not necessary***

As noted in the draft RIS, it is likely that almost all contracts with time-limited benefits entered into prior to 1 July 2020 have already expired.<sup>21</sup> Without evidence of the number of customers that may be affected by this reform, ENGIE questions whether there is a market failure that justifies the additional administrative burden on retailers to ensure compliance with the obligations.

Similar to ENGIE's feedback above, regardless of the merit of this specific reform, any relevant legacy contracts will be captured under the obligations in the 'protections for customers paying higher prices' reform, as these contracts were all entered into more than four years ago. That reform would ensure that any relevant customers would either be transferred to cheaper plans or receive tariffs that do not exceed a 'reasonable price'.

For this reason, ENGIE contends that this reform is unlikely to result in a positive weighted score in a multi-criteria analysis relative to the base case.

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

ENGIE is broadly comfortable with the Commission's proposed reform option to require retailers to include the telephone number of the Energy and Water Ombudsman Victoria (EWOV) on the front page of a bill. ENGIE's Victorian bills already include EWOV's telephone number on the front page, so it will not incur any implementation costs related to this reform.

<sup>21</sup> Essential Services Commission 2025, Energy Consumer Reforms: Regulatory Impact Statement, 16 May, p. 140

ENGIE notes that the Commission has advised this reform seeks to increase consumer awareness of EWOV.<sup>22</sup> There are many reasons why customers may not be aware of EWOV, this could include a sizeable proportion of the customer base that are satisfied with their retailer and their dispute resolution processes and have not felt the need to access ombudsmen services. If the Commission's proposed reform option does not result in a sizeable increase in consumer awareness of EWOV, ENGIE cautions against the Commission using that finding as the basis for additional reform in this area.

### Concluding remarks

Should you have any queries in relation to this submission please do not hesitate to contact me on, telephone, [REDACTED]

Yours sincerely,

[REDACTED]

**Matthew Giampiccolo**

Manager, Regulation and Policy

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<sup>22</sup> Essential Services Commission 2025, Energy Consumer Reforms: Regulatory Impact Statement, 16 May, p. 149