Submission to the Essential Services Commission's consultation on the Energy Consumer Reforms Regulatory Impact Statement

Date of submission: 26 June 2025

About Financial Counselling Victoria and the financial counselling sector

Financial Counselling Victoria (FCVic) is the peak body and professional association for financial counsellors in Victoria. We provide resources and support to financial counsellors and their agencies who assist vulnerable Victorians experiencing financial difficulty. We work with governments, banks, utilities, debt collection and other stakeholders to improve approaches to financial difficulty for vulnerable Victorians.

Financial counselling is a free, confidential, and independent service. It provides vital help for people experiencing, or at risk of, financial hardship. Financial counsellors are uniquely qualified professionals, specially trained to deal with complex financial matters. They assist more than 23,000 Victorians each year – including people impacted by catastrophic natural disasters, newly arrived migrants and refugees, and more than 3,800 family violence victim-survivors.

About this submission

We welcome the opportunity to provide a submission to the Essential Services Commission's (ESC) consultation on the Energy Consumer Reforms Regulatory Impact Statement (RIS).

Our submission is informed by what our members have told us about the needs and experiences of vulnerable consumers within the Victorian energy market. We give special thanks to the members of the FCVic Essential Services Network for sharing their expertise, experience with the most vulnerable consumers, and recommendations for ensuring that essential services are fair for all.

We have also reflected on some of the feedback we heard from industry in the ESC's public consultation workshops, and where possible, have addressed industry commentary in our submission in order to provide a consumer view.

We note that as part of the Vic Utilities consumer advocacy group, we meet regularly with our counterparts at Consumer Action Law Centre, Victorian Council of Social Services and Brotherhood of St Laurence – amongst others. We hold similar strong views on energy consumer rights, and so we support their submissions where they provide further policy context that reinforce our commentary below.

Further questions about this submission can be sent to [redacted]

Note – we use the term client, consumer and customer interchangeably through this submission, depending on the context (a financial counselling client; an energy consumer; an energy retailer's customer).

Our commentary and recommendations

Financial counsellors are in support of the proposed reforms captured in the Regulatory Impact Statement.

We believe that the proposed reforms will assist to better protect consumers experiencing payment difficulty and vulnerability, creating more opportunities for active engagement in the market, retailer application of eligible concessions and grants, and ensuring that consumers are receiving the best possible offer. These reforms may help to address some of the poor practices highlighted in FCVic's recent Rank the Energy Retailer report, in which we know the ESC takes an interest - https://fcvic.org.au/publications/rank-the-energy-retailer-2025/.

We encourage the ESC to consider enforcement activities appropriate to each proposed reform, including through reporting and audits.

Automatic best offer for customers experiencing payment difficulty

We agree with the proposal that retailers must automatically switch certain customers to the best offer for their circumstances, without the need for explicit informed consent, so long as there is an opportunity to opt-out or request a switch back to their earlier contract.

We have previously recommended that the term 'customers receiving payment difficulty assistance' is unnecessarily narrow framing as often the stigma of asking for assistance will mean that people will struggle to pay their bills, but still not seek formal payment difficulty assistance. For that reason, we believe that the proposed cohorts of 'customers receiving tailored assistance' and 'customers in arrears for at least three months and with arrears of $1,000 or more' will help to capture those most at risk of paying more than necessary for their energy use.

We acknowledge industry feedback in the ESC public consultation workshops that a rolling eligibility check for all customers may be difficult in some systems, and manual for other systems. We understand that set calendar dates for this eligibility check would be preferrable for industry. We have no objections as set calendar dates may also assist financial counselling casework in determining where retailers have failed in upholding their obligations.

We do see some inconsistencies in the RIS – specifically in the proposal that eligibility for the automatic best offer be checked once every six months for electricity, as this does not align with the proposed cohort of customers in arrears for at least *three months*. It makes

sense to align these timeframes when eligibility is checked every three months, so that a vulnerable customer on a higher tariff doesn't end up accruing excessive arrears of up to five and a half months because they just missed out on the retailers' last eligibility check.

We note the discussion in the RIS relating to the interaction between the $1000 automatic best offer threshold and the proposed $500 disconnection threshold – and the industry concerns voiced in the workshop between the confusion a customer might face when receiving communications about both automatic switching to a best offer and a disconnection notice in the same week.

We continue to reiterate that energy hardship is not experienced in isolation of other experiences of financial hardship. Customers who are receiving disconnection notices are likely to be receiving other overdue and debt-related correspondence from a range of other providers. Receiving positive correspondence amongst this (e.g. 'we are helping you save money by moving you to our best offer') may help to act as positive inducement for engaging with a utility provider and entering tailored assistance. Importantly, financial counsellors note that clients may miss notifications on bills, and therefore this correspondence should be a separate piece of communication in the customer's preferred medium.

We hear the industry feedback that the automatic switching process detailed in the RIS is long and complicated. From an accessibility perspective, we believe that simplified processes are always in consumers' interests. The customer's experience should be that they receive communication in the medium and language of their preference:

- before the switch occurs to advise them that the switch will happen on a particular date, that they will save $X amount under the new plan, and that they have the option of opting out, via the medium of their preference
- after the switch occurs to advise them that the switch has occurred, and reiterating that they will save $X amount under the plan, and that they have the option of switching back to their previous plan, via the medium of their preference

The logistics of how this happens on the retailers' side will be up to the ESC to determine with industry.

Finally, we note there has been some discourse about the time period for a customer to opt-out or request a switch back. We feel that for ease for the customer and the retailer alike, it would make sense for this period to align with the timing of the next bill.

Improving access to cheaper offers

Financial counsellors agree that retailers must offer alternative payment methods, paper bills and e-billing options for all contracts, with a requirement of a fee-free payment method.

However, we do hold reservations about the option for retailers to still charge a fee or provide a conditional discount, despite the note that it must be set at a reasonable cost. We do acknowledge that there may be some costs associated, but we hold concerns that the

definition of reasonable may be tested by some retailers, especially as the RIS suggests that enforcement of the rules would be on a case-by-case basis.

To help address this risk, we recommend that either a definition of 'reasonable costs' be included within the Code (despite the fact that it is not included in the National Energy Retail Rules), or that the ESC produce a guidance note for retailers on this issue. Further, there should be an ongoing communication requirement for these costs – e.g. whereby the $X cost of producing a paper bill on the itemised energy bill be accompanied by a note that this cost can be removed by opting for e-billing.

We note that there was some industry opposition to this recommendation, especially in instances where certain plans currently 'require' direct debit as the only payment option – e.g. a Netflix and energy plan where the Netflix registration requires direct debit. In response, we assert that provision of energy is an essential service, and any plan 'add-ons' are a commercial service, driven by commercial interests by a retailer. **Regulation must apply to the essential service being delivered, free of commercial interests.**

This comment applies across other areas of reform detailed in the RIS, including in the calculation of a 'best offer'.

Improving the ability to switch to the best offer

Financial counsellors agree with the proposal of an outcomes-based rule that requires a retailer to have effective, simple and accessible processes for a customer to switch to their best offer.

Being principles-based, this is the type of reform that would strongly benefit from the ESC publishing a guidance note on the definitions of 'effective', 'simple' and 'accessible', including clear case studies and examples of good and bad practice.

Measurement of the success of this outcomes-based rule is essential, and based on both the inclusions in the RIS and the discussions at the public consultation workshops, we agree that comparative metrics – both within retailers' own performance from year-to-year, and broadly across the industry – will be essential to ensure that the rule is performing as desired.

Protections for customers paying higher prices

Financial counsellors agree that customers on older contracts should pay a reasonable price for their energy, and agree that a good option is an automatic switch to a cheaper offer for their circumstances without the need for explicit informed consent, so long as there is an opportunity to opt-out or request a switch back to their earlier contract.

This is an area where specific guidance should be issued by the ESC for the retailers in the calculation and definition of 'reasonable price', with clear case examples provided.

In relation to the prescribed factors listed in this section that can be included in the calculation, we reiterate the point that any plan 'add-ons' are a commercial service, driven by commercial interests. Therefore, they should not be included in the regulation and calculation of the value of the essential service being delivered.

Discussion at the consultation workshops indicated that the recommended retail value of these 'add-ons' could be included in the calculation. We disagree with this. If a retailer includes the $18.99/mth RRP of a Netflix subscription in their calculation, rather than the $5/mth they may have negotiated with Netflix, then they could effectively charge the customer $13.99 more per month than a comparable plan without the Netflix add-on. These 'add-ons' serve only to obscure the true cost of a service.

Instead, we suggest that the calculation be done purely on the essential service being delivered, and requirements be added on communication of any automatic switch that explains the difference between the two plans, including any differences in add-ons, with opportunities to opt-out.

Improving the application of concessions on bills

Financial counsellors agree that there should be regular touchpoints at which a retailer should ask a customer about concession eligibility. We view this as a positive requirement which will help to increase the number of eligible customers claiming available concessions.

We make a further comment that the quality of language in eligibility checks will be a determining factor in the success of this requirement. Prescriptive wording that is jargon-full will likely be unsuccessful. Guiding wording for frontline staff within retailers, with appropriate training and flexibility for knowledgeable staff to explain eligibility in language that is tailored to the needs of individual customers will lead to success.

As an example, financial counsellors note that client understanding of a 'concession' may vary – some refer to it as a 'healthcare card' or 'Centrelink card' or 'seniors card'. Having frontline staff who have the flexibility, knowledge, and understanding to ask questions in different ways to elicit accurate responses is critical.

We note there was industry feedback in the consultation workshops about whether this measure needs to be included in the regulatory framework, or whether this is a matter of consumer education. We assert that everyone has a role to play in equipping consumers with information about their rights and eligibility for supports – retailers included.

Evidence from financial counsellors has made it clear that not all retailers are currently applying all concessions and grants for those eligible, and that it often requires a financial counsellor's intervention to make this happen. Financial counsellors also report that when clients self-advocate for payment flexibility, that this is often not followed up with proactive payment difficulty assistance.

For instance, a financial counsellor reported that they had a client who would regularly use their retailer's customer app to request extensions on their power bills. However, despite the regularity of this request, the retailer never followed up the client to offer any hardship assistance, checked concession eligibility, or helped to access grants. There should therefore be some kind of requirement in recognising that a 'request for payment difficulty assistance' as a trigger point may look different depending on the medium by which the customer contacts the retailer.

Requiring retailers to be proactive in this space through clear regulation not only increases the likelihood of compliance, but will assist in individual consumer advocacy efforts when a retailer has not complied, allowing a financial counsellor to escalate to external dispute resolution schemes with clear evidence of non-compliance.

On an additional related point, we noted in our November 2024 submission that financial counsellors have raised a fault in the Utility Relief Grant Scheme (URGS), whereby people who would normally be eligible for URGS are not receiving it, because they have opted to use Centrepay to stay on top of their utility bills although they may be in financial hardship in other aspects of their life. As they are not experiencing utility arrears, they cannot apply for the URGS, though they may be in rental arrears, significant credit card or Buy Now Pay Later debt, or struggling to put food on the table.

In these circumstances, financial counsellors will recommend that their clients pause their Centrepay deductions to accumulate utility debt and become eligible for the URGS – directing their funds to other debts in the meantime. However, some clients choose not to take this action as they like the control of knowing that their utility costs will always be paid, even to the detriment of other parts of their lives.

We understand that this is outside the scope of this RIS and consultation, but we flag this issue for the ESC's consideration – and suggest that this may be incorporated into a guidance about how retailers can best support customers to access all eligible concessions and grants. For instance, a retailer may proactively reach out to all customers paying via Centrepay, and commence conversations about reducing Centrepay payments for a short period of time in order to build some energy debt so that they can apply for the URGS.

We note that this phenomenon of people staying on top of their utility bills but experiencing hardship elsewhere can also exist outside of the Centrepay context – for instance, financial counsellors report instances of clients borrowing money from family members, accessing emergency relief or skipping meals – all to keep the lights on. Access to concessions and grants therefore should include a community education element with responsibility shared between retailers, regulators, and government.

Extending protections for customers on legacy contracts

Financial counsellors agree that any measure that better protects customers on legacy contracts who are not engaged with the energy market is a good outcome.

We note industry comment that this reform may not be required given the expected cumulative impact of the suite of reforms under consideration. We suggest that given implementation timeframes for the entire suite of reforms may be long, that this measure may help to meet any gap in protections in the meantime.

Improving awareness of independent dispute resolution services

Financial counsellors agree that the Energy and Water Ombudsman Victoria's (EWOV) telephone number should be included on the front page of every energy bill.

Consistent with feedback provided in November 2024, we believe that this requirement should include EWOV's website as well as phone number, for those consumers who prefer alternative contact methods. This is also consistent with other requirements in these reforms, e.g. requiring retailers to provide at least two contact methods for best offers.

We note some industry questions about whether this measure is needed, with the speculation that consumers don't know about EWOV because they have never needed to use the service. We assert that increasing consumer awareness of EWOV's role and availability before issues arise is critical to building customer empowerment to seek assistance early and confidently when disputes or concerns do emerge.

Increasing best offer and debt-disconnection thresholds

Financial counsellors consider that the idea of thresholds is ultimately flawed – but if necessary for regulation, should be much higher for disconnection, and maintained at current levels for best offer.

We believe that raising the minimum disconnection amount to $500 won't meaningfully reduce harmful disconnection practices, especially as most retailers already disconnect for higher amounts. The core issue is not the dollar figure, but the approach to engagement – and so we propose that a principles-based approach to regulation, focused on minimising harm and maintaining access to an essential service, would be more appropriate.

In essence, the threat of disconnection should not be used as a default engagement tool. Receiving disconnection notices can be deeply distressing for people already in financial hardship. These notices often arrive when individuals are juggling multiple debts, struggling with more essential costs like housing, food, and healthcare. The threat of losing access to something as essential as energy adds immense psychological pressure and can worsen mental health, anxiety, and feelings of shame or failure.

It's crucial that the regulatory framework prioritises respectful, proactive support over punitive measures. Engagement should be about understanding circumstances and offering tailored assistance, not applying pressure through the threat of losing access to essential services.

On the best offer threshold, we make the comment that the value of savings is relative to incomes. We acknowledge the consumer testing referenced in the RIS that found that 90 per cent of customers would need to save at least $50 in order to make a switch, but:

- the final report lacked information about how people in financial difficulty responded to the testing, though the survey included this as a question.
- the survey design, having been recruited for and completed online, is skewed towards those who are likely to be more digitally engaged and interested in energy issues
- we consider that the economic climate in 2025 is very different to that of 2018 when the testing was conducted

We would encourage holding this threshold at $22. For the most vulnerable households, an extra $28 a year could represent one or two essential meals for a family already skipping food to pay bills, a school excursion for a kid who might otherwise miss out, or a month of phone recharge to keep someone connected. When households are in financial stress, small savings can offer breathing room, dignity, and stability.

Other comments

While this is beyond the scope of the RIS, we note that financial counsellors working with the Aboriginal Advancement League recommend that the Energy Retail Code of Practice should include specific minimum provisions for First Nations customers, similar to those for customers experiencing family violence, to address the unique barriers First Nations people face in accessing energy services.

Staff who interact with First Nations customers must receive cultural awareness training to ensure respectful and informed communication. Retailers also have a responsibility to inform First Nations customers of Aboriginal support organisations that can assist with utility arrears. Importantly, retailers must not disconnect a First Nations customer without first providing information and a referral to an Aboriginal agency familiar with relevant hardship policies. These measures promote fair, culturally appropriate support and help protect vulnerable communities from further hardship.

Final comments

Energy is an **essential** service. It must be governed by principles that reflect its vital role in people's lives—not just as a commodity, but as a necessity for health, safety, and dignity.

We encourage the ESC to consider broader principles-based reforms, and how concepts like a positive consumer duty, centred on fairness, should be a requirement of delivering an essential service.

This is critical for those must vulnerable who can fall through the cracks of regulatory and support frameworks. These include people facing intersecting forms of disadvantage, such as language barriers, cognitive impairments, housing insecurity, or those not neatly captured by existing eligibility criteria.

It is essential to acknowledge that there will always be a cohort for whom market tools like the Energy Retail Code of Practice are insufficient, either due to the depth of poverty they experience or the systemic barriers they face. Regulatory responses must ask not only whether existing protections are working, but also who they are not working for—and why.

The energy system must be equitable, compassionate, and responsive to the lived realities of the people it serves. We encourage the ESC to continue developing reforms that not only comply with legal obligations, but also reflect a deeper ethical commitment to justice and inclusion.

Finally, we also encourage the ESC to continue using your strong position to advocate beyond your immediate statutory roles—particularly in areas like concession access and systemic affordability issues. While such advocacy may sit at the edges of regulatory scope, it is squarely within the remit of caring for Victorian consumers, especially those with the least power and the greatest need.

Thank you for the opportunity to provide this submission to the Essential Services Commission's consultation on the Energy Consumer Reforms RIS on behalf of Victorian financial counsellors who each year, assist over 23,000 vulnerable people experiencing financial hardship.

This submission is endorsed by Westjustice.