14 January 2025

Mr Benn Barr
Chief Executive Officer
Australian Energy Market Commission
GPO Box 2603
Sydney NSW 2000

Submitted online via the AEMC's submissions portal.

Dear Mr Barr,

RRC0060 – Assisting Hardship Customers Consultation Paper

Thank you for the opportunity to comment on the Assisting Hardship Customers Consultation Paper.

The comments contained in this submission reflect the views of the Energy & Water Ombudsman NSW (EWON), Energy & Water Ombudsman Queensland (EWOQ) and Energy & Water Ombudsman South Australia (EWOSA). We are the industry-based external dispute resolution schemes for the energy and water industries in New South Wales, Queensland and South Australia.

We have collectively reviewed the Consultation Paper and believe that the Commission needs to consider whether there could be a better option to assisting customers experiencing affordability difficulties than that proposed by the rule change proponent. One such option might be requiring retailers to obtain explicit informed consent to automatically place customers who are on their hardship program on the deemed better offer.

We have responded to the questions posed in the Consultation paper, with learnings from our complaints data and other issues Energy and Water Ombudsman encounter when assisting customers experiencing affordability difficulties resolve complaints with their provider.

If you require any further information regarding our submission, please contact Dr Rory Campbell, Manager Policy and Systemic Issues (EWON) on 02 8218 5266, Mr Jeremy Inglis, Manager Policy and Research (EWOQ) on 07 3212 0630 or Mr Antony Clarke, Policy and Governance Lead (EWOSA) on 08 8216 1861.

Yours sincerely

Janine Young
Energy and Water Ombudsman
New South Wales

Sandy Canale
Energy & Water Ombudsman
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Jane Pires
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Queensland

Introductory comment
While recognising that the energy sector, through regulation and practice, continues to use the word hardship, we would like to again point out that this word has negative connotations and using it may result in some customers not engaging with their retailers at a time when they need to engage. Describing / labelling customers who are currently, or are at risk of experiencing, energy affordability challenges, as being "hardship customers" is not appropriate – especially given current cost of living impacts on an increasing cohort of customers.

We call on the AEMC to kick off 2025 with a new and more appropriate approach i.e. energy affordability programs; customers experiencing energy affordability challenges / customers facing energy affordability difficulties. Our submission, other than when stating the AEMC questions, provides an example of how that approach can easily be adopted.

Question 1 – Hardship customers may not be on the deemed better offer

We agree that customers facing affordability difficulties find it challenging to engage with their retailer to agree to be on the deemed better offer, as well as other issues, including the similar issue of being on an appropriate payment plan. Energy and Water Ombudsman observe in the complaints we receive from customers about their retailers that engagement is not always a simple process.

Customer service is a feature of many complaints that Energy and Water Ombudsman receive, indicating that it is not only customers facing or experiencing affordability difficulties who find it challenging to engage with their retailer.

We believe that existing arrangements for customers facing affordability difficulties, including ensuring that they are on the deemed better offer, need to be improved. Data from the Australian Energy Regulator in their "Retail Energy Market Performance Update for Quarter 1, 2024-25", indicates that there are issues for such customers (https://www.aer.gov.au/industry/retail/performance-reporting).

Question 2 – Provision of bill credit to hardship customers who are not on a deemed better offer

We believe that the Commission needs to consider whether the proposed solution to provide a bill credit to customers experiencing affordability difficulties who are not on a deemed better offer is the best option and whether there are other, more preferable, options.

Another option is to require retailers to obtain explicit informed consent from such customers to automatically place them on the deemed better offer, possibly in the following ways:

- For customers already on an energy affordability program, a possible rule change would require retailers to contact all of these customers and provide them with the option to give their retailer explicit informed consent to transfer them to the deemed better offer, as well as to transfer them at any time in the future when a deemed better offer is available.
- For customers going on to a new energy affordability program, a possible rule change would require retailers to provide these customers, in their initial information package, with the option to give their retailer explicit informed consent to transfer them to the deemed better offer, as well as to transfer them at any time in the future when a deemed better offer is available.

A concern with the proposed rule change is that when customers leave an energy affordability program, they will remain on their market offer, which is unlikely to be the deemed better offer. They will lose the benefit of the credit mechanism and could be vulnerable to returning to circumstances with affordability difficulties when their energy bills go up again. An explicit informed consent mechanism, on the other hand, would have the customer already on the deemed better offer and when they leave an energy affordability program, they would retain the benefit of being on that offer.

This means that energy consumers could be better off under an explicit informed consent mechanism compared to the credit mechanism proposed in the rule change request.

We also believe that the Commission should consider whether consumer trust and confidence in energy markets and retailers could be enhanced or harmed by any potential options and which option provides the better outcomes in this regard.

Question 3 – Costs and benefits of the proposed solution

It is possible that the proposed solution of a credit mechanism will result in more complaints to Energy and Water Ombudsman, with customers potentially disputing whether the credit on their bill is high enough and whether it is accurate. It may also cause confusion and lead to an increase in enquiries.

We suggest that the Commission consider whether the costs to energy retailers would be higher under a credit mechanism or under an explicit informed consent process. Using the most cost-effective approach would prevent avoidable costs being passed onto consumers in the form of higher energy prices.

Question 5 – Assessment framework

We agree with the proposed assessment criteria.