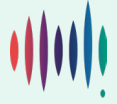


Submission to AER Draft Determination on Default Market Offer Prices 2025-26

Submitted by: Alice Gordon

DATE: 3/04/2025



Introductory Comments

Energy Consumers Australia welcomes the opportunity to respond to the Australian Energy Regulator's (AER) Draft Determination on the Default Market Offer (DMO) Prices for 2025-26.

Consumers continue to face unprecedented pressures from high energy costs and broader cost-of-living pressures. This was recognised in the most recent Commonwealth budget announcement which pledged additional energy bill support for households and small businesses.

Consumer protection tools such as the DMO are even more important given this context, and it is vital the AER employs all measures available to ensure consumers are not paying unreasonable prices. Unfortunately, we believe the AER has not prioritised the need to protect consumers in the Draft Determination, and they must reconsider how consumer interests can be centred in this determination.

The DMO's functions as the reference price and the price cap on standing offers are becoming increasingly ineffective and complicated in an evolving energy market. There is a need to review whether the DMO is achieving the objectives set out in the Australian Competition and Consumer Commission's (ACCC) original Retail Electricity Pricing Inquiry (REPI) and determine where greater support is needed for consumers, particularly those who are unwilling or unable to engage with retail electricity markets.

There is scope for the AER to better ensure the DMO in its current form is best protecting consumers. Our submission recommends the AER:

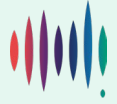
- place further emphasis on the DMO objective to protect consumers from unreasonable prices.
- apply greater scrutiny to reported retail costs prior to the Final Determination and for future determinations.
- continue to provide granularity into the retail costs being reported by retailers.
- choose a lower benchmark for Customer Acquisition and Retention costs.
- seek further information into whether reported bad and doubtful debt costs are actual or estimated.
- permanently remove the competition allowance from all future determinations.
- lower the small business retail margin so it is aligned with residential consumers.

The DMO's role is becoming increasingly complex

Recommendation: The ACCC, AEMC or another appropriate body should conduct a review to identify how to reform the DMO, and where other measures are necessary, to ensure consumers have access to fair and reasonable energy prices.

Our previous submissions have pointed to the fact that the DMO's role is becoming increasingly complex in an evolving energy market. The joint submission from the Justice Equity Centre, SACOSS and ACOSS made similar representations.

The DMO was introduced in 2019 in response to retailers placing disengaged standing offer customers on unreasonably high prices. The ACCC highlighted there was a need to protect these consumers from the "loyalty tax" and recommended the introduction of a cap on standing offer prices. They also found that retailer marketing practices were confusing, identifying the need for a "reference price" to help



consumers compare offers.¹ However, providing a safety net for consumers and an appropriate reference price are two significantly different objectives. As we demonstrate below, there is ample evidence the DMO is not effectively achieving either objective.

There remains a loyalty tax for consumers on market offers

Retailers can (and do) price market offers above the DMO price. While the DMO has effectively capped the prices retailers can charge standing offer customers, more than 90% of residential and 80% of small businesses are on market offers whose prices remain uncapped. The ACCC's December 2024 Inquiry into the National Electricity Market found 22% of households on flat rate market offers were paying above the DMO and a further 16% were paying prices equivalent to it. Further, for consumers on demand pricing (which the DMO does not apply to), over 44% were paying prices higher than the DMO. This demonstrates that many consumers are still paying unreasonable loyalty taxes.

The DMO is not a reasonable price for disengaged consumers

The role of the DMO as a reference price compromises its role as a 'safety net'. The AER is required to include additional headroom to allow for competition (both through the competition allowance and through the entire cost stack, where prices must be set high enough to allow smaller retailers to compete and for retailers to offer lower-priced market offers).

42% of households and 50% of businesses report they review their energy plan less frequently than once a year. And more than half say they only want a basic relationship with their energy retailer.² These consumers are not benefitting from the additional headroom included in the DMO. This is most clear in the inclusion of customer acquisition and retention costs which disengaged customers neither contribute to nor benefit from. However, the AER, while recognising this, is required by DMO regulations to create a price for both standing and market offer customers and therefore explicitly include these costs.³

Further, the need to price the DMO high enough to enable retailers to recover costs and compete underneath it is reliant on an assumption that the DMO acts as a 'soft cap' on market offers. The ACCC's findings demonstrate this assumption is not true: many retailers are able to recover additional costs from market offer customers who are not on competitive prices.

While we acknowledge that the DMO is not intended to be a competitively priced offer, the existing price spread between the DMO and the best offers available is concerningly high. A scan of offers available on Energy Made Easy reveals numerous market offers priced at least 20% below the reference price, and the Vinnies Tariff Tracker has found households can save over \$700 when switching from standing offers to the best market offer.⁴ Further, the ACCC finds there are 2.1 million consumers on offers older than 2 years, with these consumers paying on average \$317 higher than those on new offers.⁵ This demonstrates disengaged consumers are paying a significant premium for not engaging in the market (particularly those paying higher than the DMO), calling into question whether the DMO is effectively eliminating a loyalty tax at all.

The reference price does little to help consumers in a complicated market

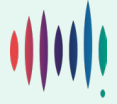
¹ ACCC, Retail Electricity Pricing Inquiry, 2018.

² ECA Consumer Energy Report Card December 2024.

³ AER Default market offer prices 2025-26: Draft determination, p. 64

⁴ <https://cms.vinnies.org.au/media/ph2er5qc/2024-nsw-energy-prices.pdf?path=ph2er5qc%2F2024-nsw-energy-prices.pdf>

⁵ ACCC, Inquiry into the National Electricity Market, December 2024.



Less than 20% of consumers are on their retailer's best offer⁶ and the difficulties consumers face in choosing the best offer for them are likely to increase in an evolving energy market. We have previously demonstrated the increasingly complex retail energy market is weakening the effectiveness of the reference price as a tool to navigate market offers. The reference price was designed to compare basic, "vanilla" offers. It does not help consumers assess the value of additional variables such as solar feed-in tariffs or discounts on subscriptions to streaming services. It is also not readily available as a comparison tool on the AER's Energy Made Easy comparison website where consumers instead compare offers based on the prices of other retailers' market offers. The growing complexity in retail electricity markets highlights the need to improve tools aimed at helping consumers engage.

Given rising electricity costs in the midst of a broader cost of living crisis, it is essential market bodies maintain the tools they need to keep consumer prices reasonable. As currently designed, the DMO appears incapable of achieving this needed objective. We are hopeful a robust review will identify clear opportunities to improve the DMO, and through it, the experience of energy consumers.

The AER must prioritise consumer protections in its final determination

Recommendation: The AER must place further emphasis on the DMO objective to protect consumers from unreasonable prices.

Consumers continue to face significant cost of living pressures and back-to-back years of elevated energy prices. DMO 7 prices are up to 50% higher than they were for the DMO 3. Our Consumer Energy Report Card finds 81% of households and 75% of small businesses are concerned about the cost of electricity. 40% of households and 38% of businesses have reported they have found it difficult in the past six months to pay their energy bills.⁷ The AER's most recent quarterly retail performance data provides further evidence of the difficulties consumers are facing, with average debt increasing by \$301 compared to a year prior.⁸

At the same time, the ACCC has reported increased retail profits in its most recent report, notably a "sharp increase in margins of the big 3 retailers in 2023–24."⁹ These findings varied depending on retailer and jurisdiction. Regardless, increasing profits are further evidence that, while consumers face rising cost pressures and increased debt, retailers have faced few adverse outcomes in recent years. Even despite the extreme volatility following the 2022 energy crisis, very few retailers failed, and the AER noted the few that did were mainly retailers with particularly risky business models.¹⁰ Further, gentailers reported in their annual reports that increased retail pricing has resulted in major increases in their profits.¹¹

In calculating the DMO prices, the AER is required to give consideration to several policy objectives. They are:

1. Protect consumers from unreasonable prices in the market by reducing unjustifiably high standing offer prices.

⁶ ACCC, Inquiry into the National Electricity Market, December 2024.

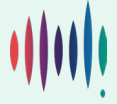
⁷ ECA, Consumer Energy Report Card, December 2024

⁸ https://www.aer.gov.au/system/files/2025-03/Q2%202024-25%20Retail%20Performance%20Reporting_1.pdf

⁹ ACCC, Inquiry into the National Electricity Market, December 2024, p. 7

¹⁰ AER, Default Market Offer Prices Issues Paper 2023-24, November 2023

¹¹ <https://www.afr.com/companies/energy/agl-stages-profit-turnaround-as-higher-tariffs-kick-in-20240207-p5f38e>



2. Allow retailers to recover their efficient costs or providing services, including a reasonable retail margin and costs associated with customer acquisition and retention.
3. Maintain incentives for competition, innovation and investment by retailers, and incentives for consumers to engage in the market.

As previously demonstrated, there is a significant gap between the prices disengaged and engaged consumers are paying, suggesting appropriate weight has not been given to the first objective. In light of the significant cost of living pressures on the budgets of households and small businesses, the AER must place greatest emphasis on the need to protect consumers from unreasonable prices throughout their determination.

Rising retail costs are placing additional pressure on consumers and must be carefully scrutinised

Recommendation: The AER applies greater scrutiny to reported retail costs prior to the Final Determination and for future determinations.

Recommendation: The AER continue to provide granularity into the retail cost data being reported by retailers.

The role of the AER in ensuring consumers are not paying unreasonable prices is particularly important given the information asymmetry we have previously raised. This asymmetry, where consumer advocates do not have access to all the data provided to make these determinations, provides ample incentive for retailers to report additional costs but little incentive to report when costs may be decreasing.

We commend the AER's attempts to make included costs as transparent as possible, particularly in the granularity included for retail costs, but we insist the AER must ensure it is appropriately investigating all elements of the cost stack to ensure any reductions in costs are passed through to consumers and any increases are kept to an absolute minimum.

Increases to the retail cost component in the DMO 7 provide a key opportunity for the AER to investigate how the cost stack can better prioritise consumer protections.

In the past two years we have seen an over 50% increase in the retail cost component of the DMO in all regions (chart 1). While retail costs are a smaller proportion of the overall cost stack compared to wholesale and network costs, these increases are substantial. It is difficult to argue that increasing retail costs are justified given news of rising retailer profits. Further scrutiny must be placed on retail costs to ensure they are prudent and minimal.

The increases to retail costs significantly reduce the impact of any measures introduced to ease the pressure of rising energy bills on consumers. In most regions, the proposed increase for DMO 7 will all but quash any impact of the Commonwealth's recent announcement that it will spend \$1.8 billion extending energy rebates for households and small businesses. And rising retail costs dwarf the impact of removing the competition allowance, which was done in recognition that "external economic conditions, experienced as cost-of-living pressures, were extremely challenging for customers".

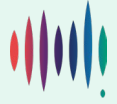
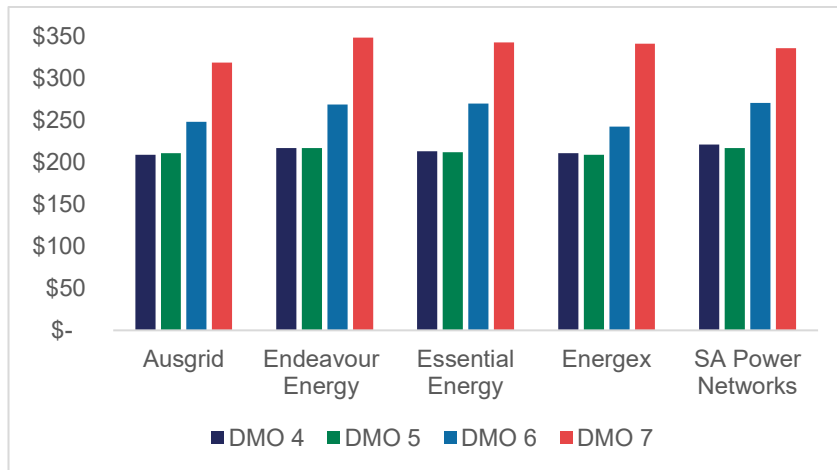


Chart 1: Retail costs for residential customers without controlled load



Customer Acquisition and Retention Costs

Recommendation: The AER choose a lower benchmark for Customer Acquisition and Retention costs.

We have repeatedly questioned the inclusion of customer acquisition and retention costs (CARC) in the calculation of a price designed to protect consumers who are disengaged from the retail energy market and are therefore not seeing any benefit from such costs.

We appreciate that the AER is required to include these in their calculation. We also appreciate that the dual function of the DMO as a reference price for consumers comparing market offers requires the AER to consider CARC. If the AER is required to include CARC in their calculations, all efforts must be made to ensure these costs are kept minimal and do not unnecessarily further increase high energy bills.

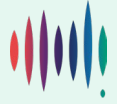
As the ACCC finds (and demonstrated above), there remains a substantial portion of market offer customers on prices higher than the DMO. We would expect the costs retailers face to acquire new customers are being recovered already through this “loyalty tax” and that there is little reason to include an explicit additional allowance for these costs.

There is evidence that the amount explicitly included in the DMO is not a reflection of an ‘efficient’ retailer. We are particularly concerned with the Draft Determination’s finding that the Big 3 retailers “have increased spending on hardship program and debt collection costs, and increased spending on customer acquisition and retention costs.”¹² Considering the majority of consumers are already with a Big 3 retailer, we see little justification why their acquisition costs would be increasing.

Further, it would be expected that many new entrants or smaller retailers would spend substantially more on CARC while attempting to grow their customer base with the expectation these costs would be recovered later on. However, these higher prices would not be considered “efficient” and would be expected to decrease substantially as the retailer becomes more established. These higher costs should not influence the costs consumers are expected to recover through the DMO.

We therefore believe using the customer weighted average to determine the recovery of CARC does not appropriately protect consumers from unreasonable prices and that the final price must be lower. The

¹² AER Draft Determination on DMO Prices 2025-26, p. 65.



customer weighted average provides no incentives for larger retailers to minimise costs and takes into account the expected inflated prices new entrants would invest into acquiring new customers.

Bad and Doubtful Debt

Recommendation: The AER seek further information into whether reported bad and doubtful debt costs are actual or estimated.

Bad and doubtful debt costs have contributed to the increases in retail costs for DMO 7. While these represent an additional cost burden for retailers, they are also yet another sign of the financial pressures many households and small businesses are currently experiencing.

The AER includes “an estimated provision for customer debt (based on a retailers’ subjective assessment of expected non-payment”.¹³ This approach differs from the one used by the Essential Services Commission when calculating the Victorian Default Offer which does not include provisions within bad and doubtful costs.

We support the initial call made in the joint submission from Justice Equity Centre, SACOSS and ACOSS that greater clarity is needed around the portion of debt costs that are actual costs and those that are estimated provisions. As their joint submission notes, this examination may reveal significant differences in the actual costs retailers face. It may also raise questions about whether it is necessary that provisions are accounted for in the AER’s determination.

The competition allowance is not necessary to achieve the DMO’s objectives

Recommendation: The AER permanently remove the competition allowance from all future determinations.

We support the decision for the AER to leave off the competition allowance for DMO 7; its exclusion should be a permanent measure. We reiterate our previous arguments that there is no evidence to suggest the additional competition allowance is necessary to achieve the DMO’s objectives to provide sufficient incentives for competition and innovation.

The AER has found: “the continued growth of Tier 2 retailers signals increased competition in the retail energy market.”¹⁴ Our analysis of retail performance data finds that in December 2024, there were 26 retailers in the NEM that had more than 10,000 residential electricity customers (excluding Victoria). Only 5 of them have had declines in customer numbers over the past 3 years.

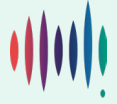
The removal of the competition allowance for DMO 6 appeared to have had no impact on levels of competition. We note that the Essential Services Commission employs a lower retailer margin and has seen no negative impact on retail competition, and has chosen to further reduce this margin to 5% for this year’s Victorian Default Offer.

Small businesses should not face a higher retail margin

Recommendation: The AER aligns the small business retail margin with the one applied to residential consumers.

¹³ AER Draft Determination on DMO Prices 2025-26, p. 56.

¹⁴ AER, Key trends retail performance data, Quarter 2 2024-25



The AER is unique in its decision to employ a higher retail margin for small businesses. While small businesses have generally not been considered ‘vulnerable’ to the same degree as households, years of high inflation following extended periods of COVID lockdowns have placed unprecedented pressure on small businesses, and we are seeing increasing levels of financial stress.

As we have already noted, three quarters of small business have said they are concerned about the cost of electricity, and the average energy debt for a small business consumer is almost twice as high as residential consumers.¹⁵

Small businesses are more likely to be on standing offers than residential consumers, a fact the ACCC has previously raised concern over.¹⁶ Given this high number of small businesses on standing offers, this further amplifies the need to ensure the DMO is acting to ensure standing offer customers are accessing reasonable prices. We do not consider the inclusion of a higher retail margin for small businesses reasonable.

Concluding Remarks

Consumers are likely to face further increases to their energy bills in coming years, perhaps most notably from rising network costs which are on track to become the largest component of the DMO cost stack. It is more important than ever that tools designed to protect consumers are functioning effectively. The AER must work within its powers to ensure the DMO in its current form is best meeting its objectives to protect consumers from unreasonable prices. But we also welcome further investigation into how existing tools can be improved, or where further support is necessary, to ensure consumers have access to affordable energy.

Please reach out to Alice Gordon at alice.g@energyconsumersaustralia.com.au with any further questions.

Signed,

A handwritten signature in black ink, appearing to read 'Brian Spak'.

Brian Spak

General Manager Advocacy and Policy

¹⁵ AER Quarter 2 2024-25 Retail Performance Data Schedule 3

¹⁶ ACCC, Inquiry into the National Electricity Market, May 2021.

**The national voice for residential and
small business energy consumers**



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