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Energy Consumer Reform team
Department of Climate Change, Energy, the Environment and Water
GPO Box 3090
CANBERRA, ACT 2601

Dear Energy Consumer Reform team,

Re: Consultation Paper – Better Energy Customer Experiences

The Australian Energy Regulator (AER) welcomes the opportunity to respond to the Department of Climate Change, Energy, the Environment and Water's consultation paper on the Better Energy Customer Experiences reform program.

We acknowledge the Energy and Climate Change Ministerial Council's (ECMC) commitment to strengthen consumer protections and modernise the consumer regulatory framework. The AER is grateful for the opportunity to support this work through ongoing engagement with the reform program, including through participation in this consultation process and as a member of the advisory group.

As the consultation paper highlights, we have recently identified the need for important reforms in 4 key areas. These reform recommendations have arisen from comprehensive review processes undertaken by the AER, including the Review of consumer protections for future energy services, the Review of the exemptions framework for embedded networks, the Review of payment difficulty protections in the National Energy Customer Framework (NECF) and the Game changer initiative.

We have identified specific, deliverable reforms through these reviews, which balance the flexibility of principles-based regulation with targeted prescription to address specific risks of consumer harm. They would support a more efficient and equitable energy market that appropriately reflects the essentiality of energy and maintains consumer agency, promoting consumer trust in the energy transition. We recommend prioritising key opportunities within these reforms by:

- creating a consumer protection framework for the evolving energy market, including expanding the scope of the NECF to capture new energy services and introducing an overarching consumer protection duty supported by outcomes-based principles
- making payment difficulty protections stronger and more consistent by simplifying the eligibility framework and introducing civil penalties for retailers who fail to uphold the principle that disconnection of hardship customers should be a last resort option
- addressing consumer protection gaps for embedded network customers

- addressing energy consumer vulnerability at a systemic level by better balancing the costs and risks of vulnerability across the energy sector and working across government portfolios to improve concession and rebate systems.

A principles-based consumer protection framework for the evolving energy market

The AER's [Review of consumer protections for future energy services](#) recommended changes to the NECF to adequately protect consumers in the evolving energy market and support consumer trust in the energy transition.

As the Better Energy Customer Experiences guiding principles acknowledge, energy is essential to consumers' health, safety, wellbeing and economic and societal participation. However, the current consumer protection framework does not adequately address the potential risks associated with new energy services, which could significantly impact consumers' access to energy. For example, services might be remotely controlled by a provider in a way that causes detriment to the customer or customers might enter contracts with financial commitments or lock-in terms that they don't understand, potentially resulting in energy payment difficulty and disconnection.

Regulatory change is needed to address these risks and support consumer confidence to participate in the energy transition. These risks would be effectively mitigated by supplementing the NECF with an overarching consumer protection duty supported by outcomes-based principles to ensure consumers are adequately protected. To capture new energy services within this framework, the scope of the NECF must be expanded by changing key definitions – for example, to include the provision of any energy service that sells, on-sells, exports, controls, constrains, prevents or otherwise has a substantial impact on the flow of electricity to and from a customer's premises. Existing prescriptive requirements for traditional energy providers (including authorisation processes) should be retained, reviewed and potentially reduced over time where appropriate.

This model is an efficient and deliverable approach to a new consumer protection framework that would:

- capture both traditional energy providers and new energy services that are beyond the reach of the current framework
- provide sufficient coverage and protections for new energy services without imposing significant burdens on providers
- be flexible enough to respond to ongoing changes and innovation in the energy market.

Together, these changes would promote consumer trust and confidence in the evolving energy market and encourage further uptake of consumer energy resources. They should be key priorities in the Better Energy Customer Experiences reform program.

Stronger and more consistent payment difficulty protections

As we shift towards a more principles-based framework, targeted prescription will remain important to address specific risks of consumer harm, particularly for customers experiencing vulnerability. Our recent [Review of payment difficulty protections in the NECF](#) found that the current protections for customers experiencing payment difficulty are not fit for purpose and identified key opportunities to strengthen protections for these customers. The opportunities we identified included legislative changes that would support a more efficient and equitable consumer protection framework that better reflects the essential nature of energy.

The first change would simplify the eligibility framework for payment difficulty protections by amending the National Energy Retail Law to introduce a single, consistent definition for customers experiencing payment difficulty. This single definition would make clear that customers are entitled to protections regardless of the effectiveness of their retailer's processes to identify payment difficulty. Simplifying the eligibility framework in this way will significantly reduce regulatory complexity and increase the consistency of payment difficulty protections for energy customers.

We also identified an opportunity to strengthen payment difficulty protections by amending the National Energy Retail Regulations to introduce Tier 1 civil penalties for retailers who fail to uphold the principle that disconnection due to inability to pay energy bills should be a last resort option. This simple change will significantly increase the incentive for retailers to ensure they are genuinely reserving disconnection for when no other options are available to them, helping to keep customers connected to this essential service. Our proposal to introduce a single, consistent definition for customers experiencing payment difficulty would further strengthen this incentive, as it would ensure that more customers are protected by this principle (which currently only applies to hardship customers).

The Better Energy Customer Experiences reform program should prioritise these changes as opportunities to both simplify and strengthen payment difficulty protections. This reform program is also a timely opportunity for policymakers to consider alternatives to disconnection to manage the risk of customer non-payment in the energy sector, in recognition of the community's expectation that all Australians should have access to essential services such as energy.

More equitable consumer protections for embedded network customers

There is a clear gap in protections for customers of embedded networks in comparison to other customers. The [draft decision](#) from our [Review of the exemption framework for embedded networks](#) found that:

- embedded network customers are not afforded the same consumer protections as grid-connected retail customers
- there is a lack of customer choice for embedded network customers
- there are challenges with monitoring and enforcing exempt entity compliance due to reduced visibility of some embedded networks.

There are also inconsistencies in protections for embedded network customers depending on whether the customer is supplied by an exempt seller or an authorised retailer. However, these gaps and inconsistencies are beyond our power to address. Many of the most important consumer protection gaps require legislative change to address, including:

- extending legislative price protections to embedded network customers
- extending Retailer of Last Resort provisions to embedded network customers, none of whom are covered by these arrangements in the current framework
- addressing gaps in other protections for embedded network customers, such as an obligation to supply and notification obligations related to outages or life support status
- expanding compliance and enforcement powers to provide civil penalties for breaches of network exemptions and a wider range of penalty options for breaches of the Retail Exempt Selling Guideline.

Other solutions are not likely to deliver the outcomes we seek. For example, banning future embedded networks would not address the consumer protection gaps for existing networks. It would also be a blunt policy response that fails to recognise that the risks of harm we have

identified relate more to the relationship between energy sellers and their customers, rather than to the existence of embedded networks themselves. It would also risk cutting off the potential benefits that embedded networks can offer consumers.

A holistic approach to tackling regulatory issues through the Better Energy Customer Experiences reform program would best ensure that customers have more equitable protections, regardless of how their energy is obtained.

A systemic approach to addressing consumer vulnerability in the energy sector

Our [Game changer reforms](#) arose from the recognition that energy is essential to all our daily lives, but we continue to see persistent poor outcomes for some customers in the energy market. We proposed a new collective approach to addressing these challenges that would better balance cost and risk within the sector so that customers experiencing vulnerability are identified early and get the support they need to improve outcomes.

We acknowledge that ECMC have already progressed the Game changer proposal to automatically place customers in hardship programs on a better offer through the [Assisting hardship customers](#) rule change proposal. We welcome this progress to date and consider the Better Energy Customer Experiences reform program an important opportunity to prioritise other Game changer proposals, including systemic reforms that would:

- work across government portfolios to improve concession and rebate systems, which would ensure more customers receive the concessions and rebates to which they are entitled
- create a shared funding mechanism which incentivises the sector to deliver energy performance improvements and increased debt relief for customers experiencing vulnerability, which would improve customer outcomes and ease the future burden of customer debt.

We encourage Energy Ministers and jurisdictions to consider and prioritise the reforms in these 4 areas through the Better Energy Customer Experiences reform program. They would improve the regulatory framework and, ultimately, deliver better and more equitable energy customer experiences and outcomes into the future.

We appreciate the opportunity to provide feedback on the consultation paper and look forward to our continued engagement with the reform program.

If you have any questions about this submission, please contact the AER's Consumer Policy team at ConsumerPolicy@aer.gov.au.

Yours sincerely,



Stephanie Jolly
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Consumers, Policy and Markets

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