

26 November 2024

Essential Services Commission
Level 8, 570 Bourke Street,
Melbourne, Victoria 3000

To Whom It May Concern

Energy Retail Code of Practice Review – Energy Consumer Reforms – Discussion Paper

Energy Locals Pty Ltd (ACN 606 408 879) (**Energy Locals**) welcomes the opportunity to provide a submission to the Essential Services Commission (**ESC**) in relation to the Energy Consumer Reforms Discussion Paper (**Discussion Paper**).

Energy Locals is an authorised electricity and gas retailer that supports customers directly as well as via partnerships with newcomers to the energy retail sector, such as RACV, RAA, Indigo Power, Cooperative Power, Tesla, and others.

Further to our submission to the Energy Retail Code of Practice (**Code**) review in July, we reiterate the importance of balancing consumer benefits with operational costs incurred by retailers. Ensuring compliance with new Code obligations requires significant resource allocation and often expensive and time-consuming upgrades to retailers' internal systems.

In this submission we have outlined our position on the key priority areas for reform proposed in the Discussion Paper.

1. Automatic best offer for customers experiencing payment difficulty

While Energy Locals understands the rationale for these proposed reforms, there are more appropriate mechanisms to assist customers experiencing hardship. As flagged in the Discussion Paper, often customers receiving payment assistance consume more energy.¹ Switching these customers to another plan or tariff has many limitations, which we have elaborated on below, and may also not achieve the desired goal of lowering energy bills given it is not targeting the underlying cause. Targeting reduced energy consumption will be more effective.

In our feedback in July, we highlighted some of the limitations of best offer messages which we encourage the ESC to consider.² The existing best offer obligations are burdensome for retailers. Best offer calculations are extremely complicated for billing platforms given the plethora of network tariffs and the added complexity that comes with seasonal usage and tariff changes midway through billing periods. Similarly, often a best offer is dependent on certain eligibility criteria which may not suit that customer. This means switching energy plans or tariffs in connection with best offers will have several limitations.

For each of the proposed options in the Discussion Paper we foresee several challenges in implementation. Each of the proposed options will also require significant system enhancements for retailers.

¹ Essential Services Commission, Energy Consumer Reforms: Discussion paper, 24 October 2024, p.6.

² Energy Locals submission to Essential Services Commission on Energy Retail Code of Practice Review, 19 July 2024.

a. Crediting or reducing tariffs while keeping other terms and conditions

Energy Locals does not support the options of:

- crediting the difference between the current plan and the best offer; or
- reducing tariffs to match the best offer.

As the two options will present similar challenges to retailers we have addressed them together. We understand that the ESC's aim of these options is to "*allow eligible customers to keep the non-monetary benefits of their current energy plans while being protected from paying higher prices.*"³ However, as noted by the ESC, "*both these options would also require retailers to match the price of best offers without considering other terms and conditions which may justify cheaper prices.*"⁴ This would be very difficult for retailers to implement.

Calculating the credit payable or switching the customer's tariff requires appropriate notification to, or consent from, each customer and will be resource intensive and require significant and expensive system updates.

We also agree with the ESC's comment that "*changing a customer's tariffs to align with the best offer may be difficult if the best offer has a different tariff structure (flat rate vs time of use) to the customer's current energy plan.*"⁵ Given the potential consequences of a customer not being able to adapt energy usage to a new tariff structure on an ongoing basis, we are concerned that this change will not be consistent with the aim of providing customers with informed choice about energy plans and we foresee that there will be a rise in complaints.

Considering these limitations, we believe that the cost of implementing these reforms would far outweigh the benefits for customer on hardship.

b. Automated switching to the best offer

Energy Locals does not support this proposed reform. We recognise that the intent of this option is to avoid the requirement for explicit informed consent (**EIC**). However, we consider EIC to be imperative.

Like the other options presented, this will be difficult to implement in practice and require significant improvements to retailer systems. As outlined above, a barrier to automated switching is that some deemed best offers may not be suitable to the customer's needs. For some plans, there are additional requirements to obtain an offer, which means the plan is not suitable for that customer. Similarly, consumption patterns could change, along with retail offers, so there may be situations where a retailer must repeatedly switch an affected customer to a better offer. This may lead to customer confusion and result in an increase in customer complaints.

c. Other options

Given the limitations associated with best offers, we urge the ESC to consider alternate options if the ESC considers that it must implement a reform to lower energy bills for customers in hardship.

Energy Locals would be supportive of new requirements for communicating with customers on payment arrangements. If customers are not engaging with their bills, separate targeted communications advising them of a better offer could be more successful than an automated switch and ensure that customers can retain control and make informed decisions.

³ Essential Services Commission, Energy Consumer Reforms: Discussion paper, 24 October 2024, p.8.

⁴ Ibid.

⁵ Ibid, p9.

We also think that the ESC should consider reforms that relate to providing access to energy efficiency schemes and distributed energy resources for customers in hardship. Reducing energy consumption is the most effective way of lowering energy bills. This also ensures that the burden does not sit solely with retailers.

2. Improving the ability to switch to the best offer

We recognise the aims of reducing barriers for customers to switch to the best offer. However, if these reforms are to be implemented, we would prefer the outcomes-based approach to ensure flexibility for retailers. A prescriptive approach may require further system upgrades and result in increased operational workload and an increased compliance risk for retailers.

3. Improving the application of concessions to bills

Energy Locals recognises the importance of ensuring those eligible for concessions can easily access them. While we support efforts targeting increased uptake of concessions for eligible customers, the burden of this should not sit solely with retailers. The ESC must carefully consider the significant administrative impact such proposals could have on retailers, particularly in terms of system upgrades, resourcing, and customer service.

At Energy Locals, we already have several processes in place to facilitate accessibility of concessions for eligible customers. These include:

- asking customers if they are eligible for concessions at the time of sign-up;
- actively informing customers about the availability of concessions on all bills;
- for customers requesting payment assistance, or those inquiring about better plans or ways to reduce their bills, we automatically check for concession eligibility as part of our account health process;
- we provide clear information on our website to help customers understand available concessions; and
- we offer interpreter services to assist customers who need help understanding or applying for concessions.

We are supportive of a proposal to require a retailer to obtain concession information at sign up, as this is something we already do, however, if concession eligibility must be verified against a previous retailer, further system improvement will be required. We are concerned that if prescriptive measures are implemented requiring retailers to proactively check a customer's eligibility this will require additional resourcing and system improvements.

It is also important to recognise that these proposed reforms will only benefit a relatively small proportion of customers, noting that the ESC has flagged that around 14 per cent of households who are eligible for energy concessions from their electricity retailer are not claiming them.⁶

To address the factors contributing to the underclaiming of concessions, we suggest that the ESC and relevant Ministers direct the responsibility for eligibility verification to Services Australia and the appropriate government bodies. These organisations are best placed to proactively manage eligibility checks, given their access to centralised data such as address changes and existing concession validations. The responsibility to proactively check for concession eligibility should sit with these bodies. For example, if Services Australia is notified of a change of address, they could automatically notify impacted retailers about concession eligibility, removing the need for individual retailers to manage this process.

In this regard, many of the barriers to receiving energy concessions outlined in the Discussion Paper are not within a retailer's control. While retailers play a role as intermediaries in applying concessions, we believe awareness campaigns and efforts to reduce stigma should not be solely the responsibility of retailers. These efforts would be better coordinated by government agencies, who can target public information campaigns and directly address these issues at a systemic level.

⁶ Ibid, p. 20.

We would prefer a process whereby a government agency notifies a customer's retailer that a concession should proactively be applied to their bill. The government can find out the retailer for any given customer at any time via AEMO. This removes the burden of responsibility from the customer and ensures that concession uptake is maximised by leveraging the agency with the required data.

4. Extending protections for customers on legacy contracts

In response to the proposed protection for customers on legacy contracts, we again reiterate that any change may add to retailer administrative burden. In particular, the increased number of benefit change notices that would be required to be provided to customers will result in increased operational overhead to retailers – with these costs ultimately transferred to the end consumers.

a. Removing the grandfathering arrangements in our 'Ensuring contracts are clear and fair' reforms.

Energy Locals does not have a strong position on this proposed reform as we do not have a large cohort of customers on these legacy contracts. We understand the ESC's aim is to remove the risk that customers may be exposed to high costs due to large conditional discounts or the expiry of benefits mid-way through the duration of an electricity or gas contract. However, we consider this risk to be low. If a customer is on a higher plan due to the expiry of past conditional discounts, we note that this customer would receive a best offer message and would be well aware if there is a better plan with lower rates available.

b. Limiting other conditional discounts and conditional fees to reasonable costs.

As above, Energy Locals does not have a position on this change as its impact should be minimal. We comply with the approach by the AEMC in its 'Regulating conditional discounting' rule determination.

c. Prohibiting conditional discounts and conditional fees which discriminate between payment methods

Energy Locals disagrees with this proposal. If a retailer can save money through a customer's payment method, this means that reduced retailer costs can be applied across all consumers. We, therefore, consider that the ability to offer incentives for certain payment methods should remain. We also note that the Victorian Default Offer makes no allowance for the cost of bank fees that retailers incur.

5. Improving awareness of independent dispute resolution services

We support the requirement to include Energy and Water Ombudsman Victoria (**EWOV**) details in billing information and note that we currently voluntarily include EWOV's details on bills. However, we reiterate the feedback we provided in our past submission that having an external EWOV contact on the first page of our bills, instead of our internal complaints contact details, is counterproductive to the obligation of having a complaint and dispute resolution policy in place that encourages first resolution through retailers.⁷ It is our responsibility to try and resolve the issue first before a customer contacts EWOV.

In our past submission we also encouraged the ESC to consider learnings from the requirements in the National Energy Retail Regulations.⁸ Insights from the NSW Energy and Water Ombudsman (**EWON**) complaints analysis highlighted that the requirement for the ombudsman's phone number to be displayed on the first page of the bill resulted in customers contacting EWON before the retailer.⁹ Billing issues are the key driver for complaints to the ombudsman. If retailers had more opportunity to resolve billing issues before they were raised to EWOV, this would reduce the burden on EWOV meaning they can focus attention on resolution of other disputes.

⁷ Energy Locals submission to Essential Services Commission on Energy Retail Code of Practice Review, 19 July 2024.

⁸ Ibid.

⁹ EWON Insights, available at <https://www.ewon.com.au/page/publications-and-submissions/reports/EWON-Insights/ewon-insights-jan-mar-2024>

In summary, while we do agree that it is important to ensure that consumers are aware of independent dispute resolution through EWOV we think it is more effective for customers to initially direct complaints to retailers. We, therefore, do not want to detract from this.

6. Summary of Energy Locals' position

Energy Locals urges to the ESC to closely consider the increased burdens to retailers in connection with the reforms presented in the Discussion Paper. Each proposed change will result in increased administrative and financial burdens which need to be effectively balanced with the intended outcomes. This balance is particularly important where only a small subset of customers may benefit from the change. Any update to a retailer system will require investment, which is ultimately transferred to the consumer.

Larger retailers with more resources may be better equipped to absorb the costs of compliance with these reforms, potentially putting small retailers at a competitive disadvantage. Small retailers may struggle to absorb these costs without passing them on to customers or compromising service quality.

We agree that more needs to be done to support struggling customers. However, electricity is one of many essential services. For example, supermarkets are not required to identify and provide lower prices to customers on low incomes. Instead, those customers are supported through various government concessions, rebates, grants and other support schemes which then provided additional funds to buy vital groceries. In the energy sector, we would prefer to see the same thing happen: where the government will decide the appropriate level of concession and will proactively communicate it to each customer's retailer to ensure 100% concession receipt amongst eligible customers.

Energy Locals would like to take this opportunity to thank the ESC for the opportunity to consult on the potential consumer reforms as part of the review of the Code. We also look forward to future engagement on these reform priorities at the upcoming consumer reforms workshops.

We are very happy to discuss any aspect of this submission with the ESC team.

Yours faithfully,

Adrian Merrick
Chief Executive Officer
Energy Locals Pty Ltd