ENERGY CONSUMERS AUSTRALIA

Strengthening and Streamlining Payment Difficulty Protections

Energy Consumers Australia submission to the Australian Market Commission’s Draft Rule and Draft Determination.

DATE: 30/07/2026

Energy Consumers Australia is the national voice for household and small business energy consumers. We advocate for a fair, affordable, and reliable energy system that meets everyone's needs and leaves no one behind on the journey to net zero.

Energy Consumers Australia (ECA) welcomes the opportunity to respond to the Australian Energy Market Commission's (AEMC) draft determination and consultation paper regarding the proposed rule change requests by the Australian Energy Regulator (AER). This document contains responses to both the Streamlining Payment Difficulty Protections Draft Determination and the Strengthening Standards for Payment Difficulty Assistance Consultation Paper.

ECA strongly supports the proposed reforms, all of which will build the foundations for more comprehensive change as positioned in the AEC's Payment Difficulty Review. We endorse the intent to strengthen disconnection protections and remove barriers that currently prevent consumers from receiving the support they are entitled to.

ECA's latest Consumer Energy Report Card (CERC) paints a stark picture of the growing pressure energy costs are placing on consumers.[1] Energy affordability remains a significant challenge with more people finding it hard to pay their electricity and gas bills. Those already experiencing financial difficulty are being hit hardest, with a material proportion struggling to meet their energy costs. This is particularly concerning given that 70 per cent of people who reported financial difficulty had not reached out to their retailer for support. Our findings underscore the need for stronger, more accessible, and timely support for Australians experiencing payment difficulty, so they retain access to an essential service.

While we look to the AEMC to make necessary changes to the rules to streamline and strengthen payment difficulty protections and support, we recognise that many reforms to address systemic barriers and more comprehensive protections are not within the current set of rule changes or sit outside of the AEMC's remit. For example, the implementation of a **outcomes-based consumer duty** that would shift the responsibility for delivering good consumer outcomes onto energy providers. We encourage the AEMC to ensure the compatibility of any proposed reforms with an eventual consumer duty and outcomes-based regulation more generally.

We thank the AEMC for the opportunity to provide feedback and make ourselves available for discussion and collaboration throughout the review process. For any questions or comments about the submission, please contact Kimberley Crofts at kimberley.crofts@energyconsumersaustralia.com.au

Sincerely,

Kimberley Crofts

Manager, Consumer Advocacy
Energy Consumers Australia

[1] Energy Consumers Australia Consumer Energy Report Card,16 July 2026. https://energyconsumersaustralia.com.au/our-work/surveys/consumer-energy-report-card-data

Contents

Part A: Response to the draft determination on streamlining payment difficulty protections

We support the Draft Rule Determination regarding Streamlining Payment Difficulty Protections. We also support the proposal to apply the same amendments to Rule 113 as for Rule 56.

We offer some minor suggestions which may further strengthen the reforms:

- **Require retailers to test communications with low accessibility customers.** ECA analysis of retailer hardship policies suggests existing retailer communications vary greatly with respect to accessibility (see Part C for analysis in full). We therefore suggest adding a requirement to the new clause (5) of Rule 56 for retailers to test communications with customers who have accessibility needs or low English comprehension. Providing information on websites (even if in plain language) does not guarantee people will have capacity to understand it. Before implementation, communications should be subject to extensive outcome-focused testing with consumers who face higher barriers to engagement—such as those with low literacy, limited English proficiency or limited digital skills—to ensure they are accessible, safe, and actionable.

- **Add protections for customers affected by family violence.** We recommend the addition of a clause to 111(2) to protect customers affected by family violence. As noted by the Essential Services Commission (ESC), family violence is a potential cause of payment difficulty.[2] Our suggested additions (in **bold** text) are to broaden protections to affected customers:

    (2) Where a customer is:

    (a) a hardship customer; or

    (b) an affected customer; or

    (c) a residential customer who:

        (i) has informed the retailer in writing or by telephone that the customer is experiencing payment difficulties; or

        (ii) the retailer otherwise believes is experiencing repeated difficulties in paying the customer's bill or requires payment assistance

- **Amend language in Rule 113 to meet requirements for two forms of communication.** The existing Rule 113 states that de-energisation may occur if the retailer '*has used its best endeavours to contact the customer in person; OR by telephone*...' [3] We suggest that the two-forms of communication methodology (Rule 111) be also included here. That is, amend the sentence to match the intent of the following:

    *'has used its best endeavours to contact the customer in person; **AND** by telephone **or another customer-designated form of communication**...'*

[2] Essential Services Commission, Payment Difficulty Framework Guideline, 24 July 2024 https://www.esc.vic.gov.au/electricity-and-gas/electricity-and-gas-codes-guidelines-and-policies/energy-guidelines/payment-difficulty-framework
[3] National Energy Retail Rules, Version 30, Rule 113. https://energy-rules.aemc.gov.au/nerr/794/859084#113

Part B: Response to the consultation paper on strengthening standards for payment difficulty assistance

Energy Consumers Australia (ECA) welcomes the opportunity to provide feedback to the Australian Energy Market Commission's (AEMC) consultation paper on strengthening standards for payment difficulty assistance.[4] We have drawn on the following ECA reports in drafting our responses:

- **Exploring a consumer duty for Australia's energy market**. Four reports by Paterson and Bourova (Melbourne Law School) and commissioned by ECA that explore the concept of outcomes-based regulation in essential services.[5]
- **Consumer Energy Report Card, June 2026.** Survey of 4,507 household energy decision makers across Australia showing that energy affordability is a growing concern.[6]
- **Understanding and measuring energy hardship in Australia.** Using data from our Consumer Energy Report Card we identified several practical steps needed to reduce number of households vulnerable to, or experiencing, energy hardship.[7]

The table below summarises our responses to the consultation paper. Detailed responses to each consultation question are provided in the sections that follow.

Summary of ECA responses & recommendations

Question 1: Banning documentary evidence	
I. What are the impacts of not requiring documentary evidence from customers in accessing payment difficulty assistance?	See response to II below.
II. Would banning retailers from requiring evidence to access payment difficulty assistance reduce barriers customers face in seeking support?	Yes, removing the need for documentary evidence should make it easier for consumers to access support.
III. Should retailers be able to require documentary evidence for some kinds of payment difficulty assistance? Does this matter for some types of assistance more than others?	There should be no documentary evidence requirement for any protection or assistance the customer is entitled to under NECF (e.g., retailer obligations in the Hardship policy as set out in the standardised statements).

[4] AEMC, Strengthening standards for payment difficulty assistance, Consultation paper, 18 June 2026.
[5] Energy Consumers Australia, Exploring a consumer duty for Australia's energy market, 5 November 2025. https://energyconsumersaustralia.com.au/our-work/research/exploring-consumer-duty-australias-energy-market
[6] Note 1.
[7] Energy Consumers Australia, Understanding and measuring energy hardship in Australia, June 2025. website-doc-consumer-energy-report-card-jun25-report-understanding-measuring-energy-hardship-australia.pdf

Question 2: Considering customer payment capacity	
I. How should retailers consider information provided by consumers including via newer digital means (i.e., chatbots etc)?	Require retailers to treat disclosures of payment difficulty made through digital channels, including chatbots, as valid and legally equivalent to verbal or written disclosures. Mandate clear consumer protections for digital engagement, including reliable record-keeping, safe provision of chat records, consistent information across channels, and family violence safeguards.
II. How should retailers consider information from third-party representatives (including, but not limited to, financial counsellors and community advocates) in determining a customer's capacity to pay? **How is this information balanced against other factors, such as energy consumption and arrears?**	Retailers must consider information from a customer or their representative equally. Capacity to pay must not be given less weight than payment arrears nor consumption.
III. Do you agree with the proposed assessment criteria? **Are there additional criteria that the Commission should consider or criteria included here that are not relevant?**	Assess the rule change with positive consumer outcomes as the primary foundation, not as one criterion among others. Ensure market efficiency and good regulatory practice are relied on only where they demonstrably protect and benefit consumers in practice. Include additional criterion to measure whether the rule change promotes equity across all consumer types.

Responses to consultation paper questions

Question 1. Banning documentary evidence

I. What are the impacts of not requiring documentary evidence from customers in accessing payment difficulty assistance?

II. Would banning retailers from requiring evidence to access payment difficulty assistance reduce barriers customers face in seeking support?

III. Should retailers be able to require documentary evidence for some kinds of payment difficulty assistance? Does this matter for some types of assistance more than others?

The AEMC should ban requirements for documentary evidence

ECA supports the removal of requirements of documentary evidence from customers to access payment difficulty assistance. To be clear, there should be no documentary evidence requirement for any protection or assistance the customer is entitled to under NECF (e.g., retailer obligations in the Hardship policy as set out in the standardised statements).

The consultation paper suggested that there may be some circumstances where documentary evidence is necessary, such as if a customer was granted energy savings appliances (e.g., energy-saving hot water heater) that would necessitate evidence of home ownership. Although we strongly encourage retailers to help customers reduce their bills through these programs, evidence from the latest AER Quarterly Performance Data[8] shows that few retailers are providing this service. As such, this is currently a narrow issue that could be better managed through a statement within retailer hardship policy documents. This statement should make it clear that retailers may request documentary evidence only where the information is genuinely necessary and goes beyond what is covered by the standardised statements. The statement should clearly specify whether it applies to “above-and-beyond” assistance to avoid ambiguity.

Question 2. Considering customer payment capacity

I. How should retailers consider information provided by consumers including via newer digital means (i.e., chatbots etc)?

The way retailers are engaging with customers is evolving and many newer forms of digital engagement have the potential to reduce complexity for customers. The ESC has recognised in their Payment Difficulty Framework, for example, that digital channels may lower barriers for some consumers.[9] This is particularly important when shame, stigma, anxiety, or safety concerns make direct contact difficult.

Notwithstanding this potential, digital engagement must improve access to payment difficulty assistance and must not reduce retailer obligations to their customers. With the speed of technological change, it will be difficult to prescriptively regulate for every new form of digital communication. Therefore, all

[8] AER, Retail energy market performance update for January to March 2026, Quarter 3, Schedule 4, 2026.
[9] Note 2, pp.14-15.

retailer obligations and protections currently afforded to customers must be equally applied no matter the form of engagement.

Furthermore, digital engagement should never become a barrier to assistance or increase the cognitive load on those already experiencing financial stress. As our recent Consumer Energy Report Card shows,[10] most people want a basic relationship with the energy system, and many have only limited understanding of how their gas and electricity bills are calculated. Designing all consumer-facing systems and communications to acknowledge low levels of comprehension and to minimise complexity is essential so that digital engagement strengthens rather than undermines support for vulnerable consumers.

Information provided through digital agents should carry the same weight and legal effect as that provided verbally or in writing

Engagement by a customer through any channel should count towards demonstrating a consumer's willingness to engage in good faith with a payment plan or other assistance pathway.

Retailers must include clear safeguards to all customer-facing channels

The same level of safeguards should apply equally to all customer-facing channels including newer forms such as chatbots. This includes reliable record-keeping, the automatic provision of chat records where safe, and consistent information across all touchpoints. Crucially, automated systems must include secure processes that safeguard consumers affected by family violence to avoid the need for repeated disclosures of trauma.

Question 2. Considering customer payment capacity

> II. How should retailers consider information from third-party representatives (including, but not limited to, financial counsellors and community advocates) in determining a customer's capacity to pay? How is this information balanced against other factors, such as energy consumption and arrears?

Retailers must consider information from a customer or their representative equally

Retailers must take consumers at their word and adopt a low burden of proof when establishing a customer's capacity to pay. This includes information from the consumer or their representatives (where given permission by the customer).

Focusing strictly on debt levels or consumption history without trusting the consumer's representation of their financial reality leads to unaffordable payment plans that are inevitably broken, further deepening the cycle of debt. Introducing measures to more broadly consider information could make significant improvements to customers facing payment difficulty.

[10] Note 1.

Capacity to pay must not be given less weight than payment arrears nor consumption

In Australia, the National Energy Equity Framework defines energy hardship as occurring when: "A household is … unable to afford and/or use energy services in the home to live a comfortable and healthy life."[11] In 2025, we used our CERC survey data to estimate the scale of energy hardship in Australia.[12] Around 50% of households identified as vulnerable to, or experiencing, energy hardship reported paying more on energy bills than at least 75% of all other households. This aligns with ACCC findings that consumers on payment plans or hardship programs tend to have significantly higher energy bills and consumption compared to other consumer groups.[13]

Due to the multiple, intersecting issues that contribute to energy hardship, it will be hard, therefore, for a retailer to ascertain capacity to pay without understanding the full situation of an individual customer. Capacity to pay must therefore not be given less weight than payment arrears nor consumption.

Several factors make consumption and arrears an imperfect and incomplete measure:

- Many consumers may never be able to afford the energy they need due to a combination of high-energy prices, inefficient housing, and limited ability to shift energy use to more affordable times of the day. High consumption may therefore mask capacity to pay.
- Low consumption is equally a problematic measure of capacity to pay. For example, our hardship report found that 18% of households who reported as being under financial stress are turning off heating and cooling to save money.[14]
- Most vulnerable consumers are renters, so they cannot make home upgrades that would significantly reduce their energy consumption.[15]
- The current regulatory framework often allows consumers to accrue unmanageable or significant debt before meaningful help is offered, making the debt harder to resolve once the consumer is finally identified.
- Consumer who curtails spending on essentials like food, transport, or medicines to pay their energy bill represent 'hidden' energy hardship. This behaviour can make it appear that a customer has capacity to pay when they do not.
- It is worth stressing that for pre-payment customers, hidden energy hardship will be even more difficult to spot as the information collected is for the meter or the top-up card rather than the customer.[16] As such, the need to take the customer's or their representative's word regarding capacity to pay becomes much more acute.

[11] DCCEEW, Draft National Energy Equity Framework, Department of Climate Change, Energy, the Environment and Water, Canberra, 2024. https://consult.dcceew.gov.au/national-energy-equity-framework
[12] Note 7, p.11.
[13] Australian Competition and Consumer Commission, Inquiry into the National Electricity Market, June 2024. https://www.accc.gov.au/system/files/accc-inquiry-national-electricity-market-report-june-2024.pdf
[14] Note 7.
[15] Note 7, p.12.
[16] Original Power and the prepay research team, The Right to Power - Keeping First Nations communities on prepayment connected. Melbourne, Australia, 2025, p.96.

Question 2. Considering customer payment capacity

III. Do you agree with the proposed assessment criteria? Are there additional criteria that the Commission should consider or criteria included here that are not relevant?

Assess the rule change with positive consumer outcomes as the primary foundation

The AEMC should not assess the rule change request by treating consumer outcomes as one consideration among many. Positive outcomes for consumers must be the foundation of the assessment. This would redress the power imbalance where retailer costs are given too much weight relative to consumer outcomes for an essential service.

Market efficiency and good regulatory practice should be understood as meaningful only where they support outcomes that protect and benefit consumers. In other words, measuring compliance by real-world impacts and comprehension. Benefits to consumers should be on a higher scale than the implementation costs or "cost to serve" for businesses.

An additional criterion should be to measure whether the rule change promotes equitable protections across all consumer types, particularly the most vulnerable such as those affected by family violence along with pre-payment customers. For example, the implementation of a rule governing the use of new digital communication tools like chatbots should include mandatory human review by experts of automated triggers to ensure empathy and privacy.

Part C: Accessibility review of retailer hardship policies

In the draft rule determination, the AEMC says it ‘considers that improving the accessibility and clarity of assistance information would support more consistent and transparent communication of payment assistance options. This would make it easier for customers to understand what support is available and how to access it.’[17] With this in mind, ECA reviewed a sample of retailer hardship policies to assess how consistently accessibility is reflected in practice within these hardship policy communications.

Energy retailer hardship policies are intended to help customers experiencing payment difficulty access support and remain connected to an essential service. The AER’s *Customer Hardship Policy Guideline* requires retailers to explain how they will communicate effectively with customers with diverse communication needs, including customers with low English literacy and customers with disability. It also requires hardship policies to be readily accessible, written in clear and simple language, and designed for ease of readability.

Our review of a sample of retailer communications found considerable differences in language and format. For example:

- Some retailers published Easy English or translated versions of their hardship policies online, while others stated that alternative versions were available only upon request or provided no alternative versions.
- Accessibility information varied considerably in prominence. Some retailers placed contact details for interpreter and disability-accessible communication services on the first or final pages, or in clearly identified contact sections, while others placed them within lengthy sections of policy text.
- Access to interpreter services ranged from dedicated telephone numbers accompanied by multilingual instructions to English-only information, indirect pathways through general customer service, or references to interpreter services without actionable contact details.
- Information about the National Relay Service also varied substantially. Some retailers provided direct instructions for several channels, including TTY, Speak and Listen, SMS relay, voice relay, and NRS Chat, while others provided only a TTY number or required customers to contact the retailer before accessing assistance.

Our review suggests that practical accessibility depends not only on whether a service is mentioned, but on whether a customer can locate and use it independently. For example, a policy may refer to interpreter or relay services yet remain difficult to act on because the relevant telephone number, link or instructions are absent, buried within the document, or provided only in English.

Improvements to practical accessibility are particularly important for customers who are self-advocating while experiencing financial and personal stress. The *Rank the Energy Retailer 2025* report[18] similarly identified poor communication quality and a lack of proactive accommodation of diverse needs as among the weakest aspects of retailer engagement. The variations identified through ECA’s review suggest a case for clearer minimum expectations concerning the placement of accessibility information, direct contact pathways, multilingual instructions, and the ready availability of alternative-format documents.

[17] AEMC, Streamlining payment difficulty protections, Draft rule determination, 18 June 2026, p.16.
[18] Financial Counselling Victoria, Rank the Energy Retailer 2025: Financial counsellors rank Australia’s energy retailers on hardship practices, 2025. https://fcvic.org.au/rank-the-energy-retailer-2025/#full-report