20 June 2025

By email only: ConsumerPolicy@aer.gov.au

General Manager, Policy
Australian Energy Regulator

Dear Consumer Policy Division,

Submission to the Minimum Disconnection amount draft decision

We welcome the opportunity to provide our submission, with support from the First Nations Clean Energy Network, to the Australian Energy Regulator (**AER**) regarding its draft decision on the minimum disconnection amount.

In support of this submission, we provide our recent submission to the Better Energy Customer Experiences consultation, with regard to opportunities for broader reform.

A summary of recommendations is available at **Appendix A**.

About Consumer Action

Consumer Action is an independent, not-for profit consumer organisation with deep expertise in consumer and consumer credit laws, policy and direct knowledge of people's experience of modern markets. We work for a just marketplace, where people have power and business plays fair. We make life easier for people experiencing vulnerability and disadvantage in Australia, through financial counselling, legal advice, legal representation, policy work and campaigns. Based in Melbourne, our direct services assist Victorians and our advocacy supports a just marketplace for all Australians.

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Overview

In this submission, we discuss the significance of energy affordability in determining a disconnection amount, the risks with setting a threshold to disconnect a person or household from an essential service, and the resulting harms this approach may cause. We provide some insights into how a disconnection threshold relates to the principle of essentiality, and the dependency of energy on the health and wellbeing of Australians. Lastly, we propose some recommendations towards a principles-based framework, with the view to ensuring that disconnection is truly a last resort, and provides strong protection against disconnection for people experiencing disadvantage or vulnerability.

The minimum disconnection threshold is just one consumer protection in a broad energy poverty landscape; that is, it's not a standalone solution to energy debt. The minimum threshold must be set alongside other forms of assistance including the introduction of a 'constantly connected' class of customers, as considered by the AER in its National Energy Customer Framework (**NECF**) Review. Keeping customers experiencing vulnerability connected to their essential energy supply is fair, reasonable and good policy, and removes the power imbalances that we observe on the NDH when retailers use the threat of disconnection to secure agreement to highly unsustainable repayment plans.

Energy affordability and debt

Energy is essential to a liveable home and dignified life, yet the cost of energy supply is becoming increasingly unaffordable for many Australians. The AER reports that energy prices have nearly tripled over the last 20 years alongside food and housing costs.[1] As energy prices increase, so does the risk that more Australians are unable to afford their ongoing usage costs, putting more consumers at risk of disconnection, even if the disconnection threshold is increased to the proposed $500 amount.

We submit that when the AER is determining a disconnection threshold amount, the amount must be considered in the context of the increasing cost of energy, and the affordability of an essential service.

Energy is unaffordable for a growing number of people

The ability to afford the cost of ongoing energy usage is clearly becoming untenable for a growing number of Australians. In 2024, a higher proportion of Victorians contacting the National Debt Helpline (**NDH**) were receiving their primary income from employment (33%), rather than Centrelink (29%). This was the first time these demographics had presented since 2019, and illustrates the depth of the current cost of living crisis, wherein a growing proportion of people in paid employment are falling into significant debt. This said, we are equally concerned that people contacting the NDH on Centrelink payments are continuing to go without food or medications in order to meet the cost of essential items, or are resorting to credit or Buy Now Pay Later (**BNPL**) products to cover their costs[2]. Taken together, it is clear for many Australians, whether in paid employment or in receipt of Centrelink benefits, their income is not keeping pace with the cost-of-living.

The minimum disconnection draft decision identifies that the estimated average quarterly electricity costs for average-income households in the National Energy Market (**NEM**) regions in 2023–24 were between $457 and $550 for market offers and between $464 and $691 for standing offers[3]. While we acknowledge these average amounts are lower for low-income households, there is mounting evidence that low-income households have

[1] Australian Energy Regulator, Review of payment difficulty protections in the NECF - Issues paper - May 2024 (aer.gov.au) p.8
[2] Consumer Action, Energy Assistance Report – Keeping the Lights On, June 2024, p.6; p.22 case study 'Thomas', p.26 case study 'Simone'; p.34 case study 'Lisa'
[3] Australian Energy Regulator, Review of the minimum disconnection amount draft decision, May 2025, p.5

higher energy usage costs caused by multiple factors including energy inefficient housing, and barriers to affording the upfront costs associated with transitioning to renewable energy[4].

Average energy debts are increasing and there is a persistent assistance gap

For Victorians contacting the NDH with energy as a top-three presenting issue, we have found that average electricity debts have increased by 27% between 2020 and 2023, with an average electricity debt of $2,048 in 2023[5]. The Essential Services Commission (**ESC**) has reported in 2023-24 compared to the previous year, that average energy debts have increased to $1,311 for electricity and $1,317 for gas[6]. The AER's draft decision records an average level of debt for non-hardship customers as $1,395[7]. These figures demonstrate that a disconnection amount of $500 is significantly below current average debt amounts.

Recent evidence from the AER, the ESC and Energy Consumers Australia (**ECA**) has found there is a significant cohort of eligible Australians who are not receiving assistance, who are at risk of disconnection[8]. Concerningly, the ESC has found in 2023-24 compared to the previous year, more Victorians are in debt, and are not in assistance programs with their retailer[9]. Similarly, the AER has found that there is a 'persistent assistance gap', where over 750,000 households are in energy debt but are not receiving any assistance from their retailer[10]. Further evidence suggests that there is a persistent cohort of low-income households who are experiencing invisible hardship, commonly foregoing other essential expenses in order to meet energy costs[11].

Based on this evidence, we believe that a disconnection threshold at a minimum, should take average debt amounts into account, to prevent the ability for disconnection processes to occur before assistance measures and payment difficulty obligations are pursued as a first step.

The risk of disconnection before assistance

As outlined above, there is a persistent gap of consumers who are not receiving payment difficulty assistance, yet have an average energy debt of approximately $1,300 across Victorian and NECF jurisdictions. If the disconnection amount is set at a simple dollar figure of $500, in practice, this means that someone experiencing hardship could be disconnected before receiving any assistance measures from their retailer. If disconnection is to truly be a last resort, the minimum disconnection threshold must be determined at an amount that reflects a reasonable timeframe for the retailer to have pursued all opportunities to engage the consumer into payment difficulty assistance. There must also be clear limits on disconnecting or threatening to disconnect without retailers first offering assistance.

Threats of disconnection are increasing

Through our casework on the Victorian NDH, we have seen a high number of examples of retailers using the threat of disconnection to pressure people into agreeing to unaffordable payment plans[12]. The ESC has found that in 2023-24 there was an increase of disconnection warning notices, on average, each month for 21,182 electricity and 18,578 gas customers, representing an increase of 16% for electricity and 23% for gas compared to 2022–23[13].

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[4] Melbourne Institute, Taking the Pulse of the Nation: Australians continue to face budgetary constraints in housing, food, energy and healthcare, 2023 Taking the Pulse of the Nation; Best, R. and Burke, P.J. (2022), Effects of renting on household energy expenditure: Evidence from Australia, CCEP Working Paper 2202, May 2022. Crawford School of Public Policy, The Australian National University Effects of renting on household energy expenditure: Evidence from Australia
[5] Consumer Action, Energy Assistance Report – Keeping the Lights On June 2024, p.14
[6] Essential Services Commission, Energy Consumer Reforms Regulatory Impact Statement, May 2025, p.64
[7] Australian Energy Regulator, Review of the minimum disconnection amount Draft Decision, May 2025, p.7
[8] Australian Energy Regulator, Review of payment difficulty protections in the NECF - Findings report - May 2025, p.7
[9] Essential Services Commission, Energy Consumer Reforms Regulatory Impact Statement, May 2025, p.32
[10] Australian Energy Regulator, Review of payment difficulty protections in the NECF - Findings report - May 2025 , p.7
[11] *Ibid* p.7
[12] Consumer Action, Energy Assistance Report – Keeping the Lights On, June 2024, p.25
[13] Essential Services Commission, *Victorian Energy Market Report 2023-24* November 2024, p.7

Many people contacting the NDH report being signed up to an unaffordable payment plan by their retailer, under the threat of disconnection if they don't agree to the high repayment amount[14]. Victorians contacting the NDH often tell us they are unable to afford the ongoing payment amount under the payment plan, which causes them to fall out of payment difficulty assistance. Consumers in this situation must then contact their retailer to initiate the process of being included in a payment assistance program again.

The Victorian Essential Services Commission (**ESC**) reported that in 2023-24, more Victorian consumers were unable to meet their payment plan instalments due to financial stress, and there were higher numbers of consumers at risk of disconnection for non-payment [15]. The AER has reported similar issues across NEM jurisdictions, with on average 60% of payment plans being cancelled due to non-payment since 2019-20[16].

If the disconnection threshold amount was increased, this would reduce the pressure felt by consumers to agree to a payment plan they can't afford, as the disconnection isn't as imminent. Increasing the threshold to a reasonable (and averaged, evidenced amount) would in turn enable consumers struggling with their arrears to commit to ongoing sustainable payments, providing them more support to not fall out of hardship programs.

Disconnection is being used as an engagement tool

The AER identifies that disconnection is being relied upon as an engagement tool by retailers. This approach is entirely inconsistent with disconnection being 'a last resort', and it places additional costs such as bonds and reconnection fees onto consumers who are more likely to be experiencing hardship and or vulnerability[17].

The AER's better practice toolkit supports retailers improving identification and engagement with customers experiencing vulnerability. This is the approach that retailers should be taking with respect to customers in financial difficulty. Raising the disconnection threshold should also strengthen regulatory protections against retailers resorting to disconnection as tool for engagement. Similarly, we strongly support the proposal to introduce civil penalties for retailers who fail to uphold the general principle that disconnection should be a last resort.

Disconnection disproportionately affects consumers experiencing vulnerability or disadvantage

Recent data from the AER [18] and research from the Justice and Equity Centre (**JEC**) has identified that disconnection due to non-payment remains a significant issue for a proportion of Australians[19].

Notably, the JEC has found that people more susceptible to experiencing disadvantage are most impacted by disconnection, including people on lower incomes, First Nations households, culturally and linguistically diverse households and renters, as well as people experiencing vulnerability such as family violence, mental or physical disabilities[20].

A disconnection threshold amount must take into consideration that the process of disconnection, including the threat of disconnection, can cause significant financial and non-financal harm, and that people already experiencing disadvantage or vulnerability are likely at higher risk of experiencing these harms.

Low-income households, such as those receiving a Centrelink income or pension are experiencing disadvantage by virtue of receiving an income too low to meet essential costs. As these cohorts are likely to have higher energy

[14] Consumer Action, Energy Assistance Report – Keeping the Lights On June 2024, pp.23-24
[15] Essential Services Commission, Victorian Energy Market Report 2023-24 Annual, p.4
[16] Australian Energy Regulator, AER Review of payment difficulty protections in the NECF - Findings report - May 2025, p.11
[17] Justice and Equity Centre, Powerless: Debt and Disconnection report, June 2024, p.65
[18] Australian Energy Regulator, Review of payment difficulty protections in the NECF – Findings report May 2025, p.12
[19] Justice and Equity Centre, Powerless: Debt and disconnection - Justice and Equity Centre, June 2024; AER, Schedule 3 – Quarter 4 2023–24 retail performance data, Australian Energy Regulator, Sheet: 'Disconnection Resi by debt';
[20] Justice and Equity Centre, Powerless: Debt and disconnection - Justice and Equity Centre, pp.4-14

costs (e.g. due to energy inefficient homes or appliances), and less ability to resolve their arrears, it is pertinent to consider the impacts on these cohorts when deciding the disconnection amount.

Opportunities towards a principles based framework

'NO CUSTOMER INCENTIVE CAN OVERCOME THE BARRIERS THAT SOME PEOPLE FACE TO PAYING THEIR ENERGY BILLS. AS A RESULT, WE CANNOT AVOID DISCONNECTION WITHOUT DIRECTLY ADDRESSING PAYMENT DIFFICULTY, CHANGING THE WAY THE MARKET WORKS, OR BOTH. GIVEN THAT THE COMMUNITY EXPECTS ALL AUSTRALIANS SHOULD HAVE ACCESS TO ENERGY, IT MAY BE TIME TO RETHINK HOW WE CAN KEEP CUSTOMERS CONNECTED TO THIS ESSENTIAL SERVICE.'

AER Review of payment difficulty protections in the NECF – Findings report
May 2025, p.4

Establish a constantly connected customer class

We acknowledge that additional measures should be thoroughly investigated and implemented to ensure low-income households are able to afford ongoing energy use. We strongly support the AER's proposed opportunities to this end, including banning reconnection fees and considering alternatives to disconnection[21]. However, we submit that a minimum disconnection threshold must be set at an amount that supports these necessary additional measures.

We propose that the AER considers the significant harm that disconnection and the threat of disconnection can cause people, particularly those experiencing disadvantage or vulnerability, and account for this by setting a disconnection amount that provides appropriate friction and disincentive for retailers to resort to this measure.

In addition to considering these impacts, we affirm our recommendation for the AER in its review of the NECF to establish a 'constantly connected' customer class, which includes people more likely to experience disadvantage or people experiencing vulnerability[22].

RECOMMENDATION 1. For the AER to consider the impacts including financial and non-financial costs to households experiencing disadvantage or vulnerability when setting the disconnection amount.

RECOMMENDATION 2. For the AER to establish a 'constantly connected customer class' that includes people experiencing disadvantage or vulnerability

Access to energy is essential to health and wellbeing

We submit that under the principle of 'essentiality', access to energy must be upheld, even more so for people experiencing disadvantage such as low income households. As the AER's NECF Review Findings report outlines, there is an expectation among the community that as an essential service, all Australians should have access to

[21] Australian Energy Regulator, Review of payment difficulty protections in the NECF – Findings report, May 2025, p.22

[22] Consumer Action, Submission to the review of payment difficulty protections in the National Energy Customer Framework, June 2024, p.12; & Consumer Action, Submission to The Energy Retail Code of Practice review - June 2024, p.10

energy[23]. In order to give effect to the principle of essentiality, we consider that the minimum disconnection threshold must support the objective of upholding access to an essential service, regardless of someone's income.

In our submission to the NECF Review and the Energy Retail Code of Practice Review, we proposed the AER and the ESC consider restricting disconnections for non-payment, using guidance developed during the coronavirus pandemic, that would require an assessment as to whether the disconnection would endanger the health and safety of a person.

RECOMMENDATION 3. For the DCCEEW and AER to consider banning disconnections for non-payment as part of a protections framework that upholds the principle of essentiality of energy; and its relationship to people's health, safety and wellbeing.

Establish a positive consumer duty

In our submission to the Consumer Energy Resources review and Better Energy Customer Experiences consultation, we proposed some principles that should be included in a positive consumer duty. In addition to essentiality discussed above, we included 'efficient, honest and fair', as exemplified from the UK Financial Conduct Authority[24].

When considering disconnection with these principles, it should never be efficient, honest or fair for a retailer to disconnect someone experiencing payment difficulty from an essential service, nor would it meet the intention of understanding the essentiality of energy.

RECOMMENDATION 4. For the AER to establish a positive consumer duty for energy resource and service providers that includes the obligation to act with regard to the essentiality of energy, and act efficiently, honestly and fairly with regard to disconnecting consumers from essential services such as energy.

Question 1: What are your views on how we have considered evidence on inflation and energy costs?

With regard to energy costs, it is our view that the evidence provided in the draft decision regarding average energy costs suggests that the $500 disconnection threshold amount is significantly too low to capture average energy costs. At $500, the draft decision risks that some consumers could be disconnected for an average quarterly bill.

Similarly, $500 is significantly below the average energy debt across Victorian and NECF jurisdictions, leaving a wide gap in a payment assistance framework, where retailers may be able to disconnect someone experiencing hardship before assistance measures are put in place (as outlined above).

[23] Australian Energy Regulator, Review of payment difficulty protections in the NECF – Findings report, May 2025, p.4
[24] Consumer Action, submission to the Better Energy Customer Experiences consultation, May 2025, p.4 & pp.7-8; & Consumer Action, Submission to the Consumer Energy Resources review, February 2025, pp.13-15

We submit that a disconnection threshold amount must be considerably higher than an average quarterly bill, and the average debt for all households, if it is to meet the principles of disconnection being a last resort.

With regard to inflation evidence, we support the AER considering indexation in its decision, but also noting that the draft decision outlines increases to electricity prices have grown faster than many other goods in the economy[25].

We propose that a disconnection amount should be determined through an evidence-based approach, that takes into account the average debt held by consumers across varied tariff and usage types; the changing electricity price index and Consumer Price Index (**CPI**), as well as the real wage index discussed in response to question two. This approach would consider relevant and timely factors that correspond to the fluctuations of the energy market, whilst also providing reasonable protection for people experiencing hardship or payment difficulty to be provided assistance before facing the the threat of disconnection. To this end, we support the disconnection threshold being reviewed regularly, with indexation of CPI and electricity prices, whichever is higher, to account for inflation in future decisions.

RECOMMENDATION 5. For the AER to increase the disconnection amount to an amount higher than the rounded average energy debt

RECOMMENDATION 6. For the AER to consider the electricity price index and the Consumer Price Index in their methodology for the disconnection amount

Question 2: What other evidence or analysis should we consider in making our decision?

Average household income and expenses

In addition to CPI and electricity prices, we submit that the AER should consider consumers' income and expenses when determining a disconnection amount. In our submission to the NECF review, we provided evidence from our frontline services that shows that new cohorts of Victorians are experiencing energy hardship for the first time, like some single or dual-income holders, likely attributable to wages no longer meeting expenses[26]. Through our casework on the NDH, we commonly speak to consumers who are struggling in the 'money juggle' of essential expenses, often resulting in what the AER notes are attempts to avoid disconnection by foregoing other essentials such as medicine or food[27]. Recent real wage index modelling from Australia Institute has found that as at September 2023, real wages were as low as they were in June 2009, with analysis suggesting restoring real wages to pre-inflationary levels will take a number of years[28].

The ability for a consumer to resolve their arrears is relative to their income, and other household expenses. It follows that a threshold amount of debt should take into account average income and expenses of Australian households, to account for their ability to repay arrears over a reasonable period. To this end, we submit that the AER consider the Australian wage index in correlation to CPI or the Household Expenses Measurement (**HEM**) benchmark, in determining the disconnection amount.

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[25] Australian Energy Regulator, AER Review of payment difficulty protections in the NECF - Findings report - May 2025, p.3
[26] Consumer Action, Submission to the review of payment difficulty protections in the National Energy Customer Framework, June 2024, pp.5-6
[27] Australian Energy Regulator, Review of payment difficulty protections in the NECF – Findings report May 2025, p.12
[28] Prof. Allan Fels AO, Inquiry into Price Gouging Report to the ACTU, Final Report, February 2024, p.21

RECOMMENDATION 7. For the AER to consider the Australian Wage Index, and the Household Expenses Measurement when determining the disconnection amount

Question 4: How will aligning the amount with existing performance reporting obligations impact retailers?

Question 5: How long would retailers need to implement the new amount with least cost?

Average disconnection amount in practice

The ESC has found that 82% of disconnections took place at a debt amount over $1,000, and that the average debt amount at disconnection was $2,457, yet some retailers were disconnecting at $650 arrears[29]. These figures demonstrate that the draft disconnection amount is significantly lower than the average disconnection amount in practice. Further, the significant gap between the current average disconnection amount and the draft amount of $500 could drive more disconnections and continue allowing for largely inconsistent practices regarding disconnection across retailers and debt amounts.

We don't support referring to retailers' practices as a methodology to determine the disconnection threshold, as it has been found by the AER and ESC respectively that retailers' assistance and disconnection practices can be largely inconsistent[30]. We instead provide these figures in response to questions 4 and 5 of the Draft Decision paper, to demonstrate that current retailer practices are to initiate disconnection well above the $500 proposed amount, which provides support to both increase the disconnection amount above $500, and to suggest that reporting obligations, as well as timeframes and costs associated with implementation should be minimal.

Question 6: How should the AER determine when to review the minimum disconnection amount in future?

When responding, please consider the following options and provide feedback on any potential alternatives.

- **A review of the minimum disconnection amount could be triggered periodically – in this case, what would be an appropriate timeframe and why?**
- **A review of the minimum disconnection amount could be triggered through changes to indexation – in this case, what would be the most appropriate approach and why?**

We support the AER setting a review of the minimum disconnection amount periodically, to be triggered in line with the Default Market Offer (**DMO**) determination. By setting the review annually, this would support the disconnection amount reflecting changes to indexation (such as electricity price index, CPI and wage index), whilst also being supported by changes in the default price, as reflected in the DMO.

An annual review of the disconnection amount would enable better assessment of reforms aimed at improving affordability, and providing assistance to consumers experiencing payment difficulty, as well as providing a more accurate reflection of real costs and debt held by consumers.

[29] Essential Services Commission, Energy Consumer Reforms Regulatory Impact Statement, May 2025, p.45

[30] Australian Energy Regulator, Review of payment difficulty protections in the NECF – Findings report, May 2025 p. 8; Essential Services Commission, Energy Consumer Reforms Regulatory Impact Statement, May 2025, p.45

We note that we provide this recommendation to be considered in addition to our considerations outlined above, in that further reforms should be implemented to exempt disadvantaged or vulnerable cohorts from the disconnection process.

RECOMMENDATION 8. For the AER to review the minimum disconnection amount annually, triggered to occur in time with and in relation to the Default Market Offer determination.

APPENDIX A - SUMMARY OF RECOMMENDATIONS

RECOMMENDATION 1. For the AER to consider the impacts including financial and non-financial costs to households experiencing disadvantage or vulnerability when setting the disconnection amount.

RECOMMENDATION 2. For the AER to establish a 'constantly connected customer class' that includes people experiencing disadvantage or vulnerability

RECOMMENDATION 3. For the DCCEEW and AER to consider banning disconnections for non-payment as part of a protections framework that upholds the principle of essentiality of energy; and its relationship to people's health, safety and wellbeing.

RECOMMENDATION 4. For the AER to establish a positive consumer duty for energy resource and service providers that includes the obligation to act with regard to the essentiality of energy, and act efficiently, honestly and fairly with regard to disconnecting consumers from essential services such as energy.

RECOMMENDATION 5. For the AER to increase the disconnection amount to an amount higher than the rounded average energy debt

RECOMMENDATION 6. For the AER to consider the electricity price index and the Consumer Price Index in their methodology for the disconnection amount

RECOMMENDATION 7. For the AER to consider the Australian Wage Index, and the Household Expenses Measurement when determining the disconnection amount

RECOMMENDATION 8. For the AER to review the minimum disconnection amount annually, triggered to occur in time with and in relation to the Default Market Offer determination.

Please contact Senior Policy Officer **Eirene Tsolidis Noyce** at **Consumer Action Law Centre** on 03 9670 5088 or at eirene@consumeraction.org.au if you have any questions about this submission.

Yours Sincerely,

CONSUMER ACTION LAW CENTRE

Stephanie Tonkin | Chief Executive Officer