Submission on IPART Monitoring the retail electricity and gas markets in NSW 2025

August 22nd 2025

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About the Justice and Equity Centre

The Justice and Equity Centre is a leading, independent law and policy centre. Established in 1982 as the Public Interest Advocacy Centre (PIAC), we work with people and communities who are marginalised and facing disadvantage.

The Centre tackles injustice and inequality through:

- legal advice and representation, specialising in test cases and strategic casework;
- research, analysis and policy development; and
- advocacy for systems change to deliver social justice.

Energy and Water Justice

Our Energy and Water Justice work improves regulation and policy so all people can access the sustainable, dependable and affordable energy and water they need. We ensure consumer protections improve equity and limit disadvantage and support communities to play a meaningful role in decision-making. We help to accelerate a transition away from fossil fuels that also improves outcomes for people. We work collaboratively with community and consumer groups across the country, and our work receives input from a community-based reference group whose members include:

- Affiliated Residential Park Residents Association NSW;
- Anglicare;
- Combined Pensioners and Superannuants Association of NSW;
- Energy and Water Ombudsman NSW;
- Ethnic Communities Council NSW;
- Financial Counsellors Association of NSW;
- NSW Council of Social Service;
- Physical Disability Council of NSW;
- St Vincent de Paul Society of NSW;
- The Salvation Army;
- Tenants Union NSW; and
- The Sydney Alliance.

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Recommendation 3

That IPART review the Justice and Equity Centre's Roadmap for Efficient and Electric Homes and utilise it as a critical resource for understanding regulatory and legislative gaps that are impacting household energy performance.

Acronyms list

Acronym	Full name
CER	Consumer Energy Resources
DNSP	Distribution Network Service Provider
DOE	Dynamic Operating Envelope
EAPA	Energy Accounts Payment Assistance
ECA	Energy Consumers Australia
EWCAP	Energy and Water Consumers' Advocacy Program
FEL	Flexible Export Limit
IPART	Independent Pricing and Regulatory Tribunal of NSW
JEC	Justice and Equity Centre
NSW DCCEEW	NSW Department of Climate Change, Energy, the Environment and Water

1. Introduction

The Justice and Equity Centre (JEC) welcomes the opportunity to respond to the Independent Pricing and Regulatory Tribunal's (IPART) consultation paper on Monitoring the Retail Electricity and Gas Markets in NSW 2025 (the consultation paper).

The current state of the energy market and its ongoing transition increasingly involves significant jurisdictional differences. In this context IPART's role in monitoring the retail electricity and gas markets provides a critical and unique opportunity to assess energy outcomes for NSW households, identify and understand emerging issues and consider recommendations for NSW Government action. This role is particularly critical through the energy transition, and amidst increasing energy bills and cost of living pressures.

Effective monitoring will also be particularly important in coming years as a range of reforms to markets and protections are considered, implemented and reviewed. It should not be assumed that these reforms address Current processes include:

- the package of seven retail rule changes proposed by the ECMC and progressed through the AEMC which will come into effect from July 1 2026;
- the Commonwealth review into reform of the DMO, which will likely see changes implemented from DMO 8 onwards;
- the AER's Review of payment difficulty in the NECF, which identified a range of opportunities for reform that will likely see changes implemented across coming years;
- the AEMC's ongoing Pricing Review, which will likely see changes implemented from mid-2026; and
- the Commonwealth's Better Energy Customer Experience ongoing process that is scheduled to provide recommendations on regulatory and legislative reforms by early 2027.

IPART should consider the intent of these reforms and monitor their delivery and impact on key outcomes and experiences for NSW households.

We understand some of the content in our submission may be beyond the existing scope of IPART's retail monitoring. However, we encourage the NSW Government to enable IPART to seek and access any information required to effectively assess outcomes for NSW households, and we make recommendations regarding where monitoring should be progressively expanded.

2. Pricing, competitive dynamics and consumer participation in markets

As we have discussed in previous responses to IPART's annual market monitoring reports[1], it is critical that IPART analyse and interpret quantitative data it collects to fully understand NSW consumer outcomes and experiences, rather than simply present data. We contend it is critical to collect actual consumer bill data and supplement reporting with 'qualitative' cases – such as

[1] See Section 5 on further resources

through interviews and case studies – to augment other indicators and provide greater insights into the outcomes markets are actually delivering for NSW household consumers.

2.1 Broad evidence of retail market failures

Increasingly the JEC sees recognition that the retail energy market is not working for NSW consumers. The recent designated complaint to the ACCC by CHOICE[2] - which the ACCC has said presents legitimate issues which warrant further investigation and regulatory action[3] - provides stark evidence of the breadth and consumer impact of poor retail behaviour and what we see as structural failures of the retail energy market.

The fundamental assumption underpinning the current retail energy market – which much of IPARTs monitoring has been shaped to assess - is that consumers can 'shop around' for more efficient, 'fair' retail offers. The further assumption is that in this process, better outcomes are achieved not only for the individual consumer, but all consumers as it drives better and more efficient practices. In other words, the assumption is that consumers switching and exercising choice will shape and 'discipline' the market. However, our observation – increasingly supported by reporting and the initiation of reform processes aimed at addressing poor retail outcomes – is that these assumptions are not reasonable and that the market exhibits consistent failure to deliver and support any meaningful capacity for consumer choice and effective consent. Failures which undermine assumed outcomes from consumer choice include:

- Significant evidence that retail practices make identifying and accessing 'better offers' difficult or even impossible for many consumers, including:
    - That not all best retail offers are consistently publicly available and equally accessible to all consumers, undermining scope for meaningful consumer choice. Often the 'best' offers are not publicly listed and may only be offered to or accessed by 'desirable' customers at the discretion of the retailer;
    - That the best publicly available offers are not equally accessible to all consumers and often exclude many consumers experiencing disadvantage (such as those on income support or those with current or previous debt), undermining scope for consumer choice for many. Market monitoring relies on assessing listed offers, but does not assess how many people – if any – are accessing these offers and who may be being excluded;
    - That there can be differences between the offer identified/selected by a consumer – on comparison sites - and the offer they are actually signed up to, undermining the effective exercise of consumer choice and the robustness of their consent. Particularly for those with lower digital or English language proficiency, it can be unclear that the deal they rang/emailed to inquire about is not the one they are actually being offered;
    - That retailers discriminate between legacy and 'new' customers by offering different terms for the same 'named' energy deal, undermining free consumer choice and

2 CHOICE, 025, *The Power of Confusion: CHOICE designated 'super' complaint on energy plans*
3 Addressed in detail in section 4.1 of this submission

meaningful consent. The CHOICE designated complaint highlighted that new and legacy customers can be on offers with the same name while receiving materially different terms. This often sees consumers who believe they are on the same 'named' offer have widely varying prices and changes in prices;

  - That the price terms of an offer at time of sign-up (which form the basis of the consumers choice) regularly increases throughout the term of a contract (including when that contract is effectively perpetual) with nothing more than required notification. This undermines both effective choice and meaningful consent and has long term impacts on consumers view of the market and the value of engaging with it.

    This also disproportionately impacts those on low incomes and others experiencing disadvantage. As described by one consumer who investigated after receiving a high bill, "Apparently my plan had run out, so they'd bunged me on the highest rate[4]." While the *Improving consumer confidence in retail energy plans* rule change scheduled to commence from July 1 2026 is intended to improve this issue, NSW households are currently experiencing this problem, and the proposed rule does not completely eliminate scope for this to continue.

- The use of inconsistent technical language and terminology across retailers making understanding and comparison of what an offer includes difficult for most consumers;

- Continued consumer confusion in relation to bills, despite the Better Bills Guidelines. Consumers continue to report difficulty in understanding key aspects of their bill, identifying critical information and utilising it to make decisions regarding their energy.

  In particular consumers continue to have difficulty accessing their deemed 'better offer', even after having it provided to them on their most recent bill. A key driver of this is likely to be inconsistency in the format, language and presentation of key information on the bill – and related billing material, such as apps, texts and emails. Given the importance of comparison, it is necessary to standardise and regulate the presentation of the most fundamental billing information, including how and where better offers are presented. Examination of actual bills would provide some further perspective on this for IPART.

Given the fundamental reliance on consumer capacity to effectively exercise choice in driving an effective retail energy market, we regard the factors above as critical considerations requiring investigation. We strongly encourage IPART to incorporate consideration of the above into the analysis and interpretation of data in the retail market monitoring report.

2.2 Participation of small customers in the market

Consumers do not have the choice to opt-out of participation in the retail energy market. The essentiality of energy means that consumers act according to what they need to sustain household health and wellbeing. Their decisions on how and when to use energy are seldom driven by energy related considerations, and arguably they want an market to deliver energy as

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4 Endeavour Energy Tariff Awareness Consumer Engagement Session August 14th 2024

an when they need it, rather than one they must learn to navigate and master, and consider on a daily basis.

Recently, Climate Change and Energy Minister Chris Bowen recognised that most consumers consider (and prefer) choosing an energy provider and energy plan to be a ‘set and forget’ task.[5] Yet despite consistent evidence in support of this, and consistent expression of this preference , the retail energy market remains predicated on constant consumer engagement and participation in the market, and makes affordable energy dependant on it. This is fundamentally unreasonable, and likely to continue to condemn many consumers to poor outcomes.

There are implications for this in IPARTs monitoring, particularly in how outcomes for consumers are regarded - such as those who are not switching and those likely to be paying more than necessary – what conclusions are drawn regarding the effectiveness of the market, and what recommendations are made. We strongly encourage IPART to consider this more fundamental question overlaid over the entire monitoring report – what do energy consumers need and want the energy market to do, and how effectively is it delivering those outcomes for all consumers? We contend current frameworks and practices in energy retail markets are not providing NSW households with what they want and need from an affordable essential service.

Switching

We do not regard switching rates as a robust indicator of good consumer outcomes or an effectively operating retail market.

Switching offers does not necessarily secure a better (or even good) deal and does not reliably indicate the level of ‘engagement’ or capability of a consumer. Switching figures include when people move house even if they remain with the same retailer, but do not include households seeking a better offer with their existing retailer. Switching rates do not track outcomes, and reports over a number of years have indicated issues with consumers successfully identifying better offers in the process of switching. That is – if better outcomes cannot be guaranteed in a switch, or are even uncommon, then rates of switching have little meaning as an indicator in themselves.

As it stands consumers must regularly (every 3-12 months) assess retail offers in order to have a chance of being on the best offer for them. We consider it unacceptable for decent consumer outcomes in an essential service to be so contingent consumer behaviour which must be successfully repeated so often. Nor do we consider it acceptable for the price of failure to engage successfully to be so high, for it to be incurred by the majority of consumers, and to have such a material impact on those who are already experiencing disadvantage and vulnerability.

Through ‘Towards Energy Equity’, ‘Gamechanger’ and in recent State of the Market reports, the AER has recognised that existing energy market arrangements fail to adequately support consumers experiencing disadvantage and are likely to be contributing to increased consumer vulnerability:

[5] Minister Bowen, 2024, *Ensuring energy plan benefits last the length of the contract: Request to make a rule.*

> "For a range of reasons, many consumers face barriers to actively participate in the market and secure the best offer for their situation. This can exacerbate existing structural inequalities, whereby those who can least afford it are paying higher energy rates.[6]"

The AER's work on consumer vulnerability also highlighted that 44% of the population have literacy and numeracy capability insufficient to navigate the energy market and successfully understand and access deals which may be in their best interests.[7] These conclusions support our assessment that switching rates are a poor market for consumer outcomes.

For many households, particularly disadvantaged households, there are considerable barriers to switching energy plans with the regularity required to ensure fair outcomes, including:

- Recognising how often plans need to be re-evaluated,
- Constraints on time impacting capacity to navigate and complete complex market assessments and choices,
- Language, literacy and numeracy constraints impacting capacity to assess and select the best available offers,
- Constraints on technological access, impacting ability to access comparison and switching services and complete switching processes,
- Constraints resulting from mental health, health, domestic violence and other issues impacting the capacity to deal with the 'mental load' of processes involved, and
- The increasing burden of engagement required throughout all aspects of everyday life, including work, family, essential services, banking, insurance, superannuation, government services and internet and communications.

In this context the complexity of the retail energy market and the practices of retailers make comparing, identifying and switching offers time-consuming, confusing, frustrating, with a low likelihood of delivering worthwhile outcomes. Many consumers previous experience can leave them knowing they are worse off by remaining on their current offer but concluding that the effort required to address this is likely to be wasted or not worth the cost. Their behaviour should not be taken as a free choice – that they are choosing to accept higher costs - but as a failure of the market to match consumer needs and expectations.

IPARTs' analysis of switching rates should recognise these factors and seek to provide greater nuance and focus on consumer outcomes in drawing conclusions from them.

Customer perceptions, satisfaction and complaints

There is a general lack of trust in energy retail companies and the energy market more broadly[8] grounded in poor retail practices, experience of consumer harm, and high and rising energy bills.

Consumers have reasonable expectations about pricing, contracts and how retail relationships should function for an essential service such as energy. The opaqueness and complexity of offers and contracts in the retail energy market does not meet these expectations, contributes to poor consumer outcomes and heightens distrust of the retail energy sector. The ACCC has recently

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6 Australian Energy Regulator (AER), 2023, *State of the energy market 2023*, p.248.
7 AER, 2022, *Towards energy equity: A strategy for an inclusive energy market*, p.14
8 Energy Consumers Australia, 2024, *Energy Consumer Sentiment Survey June 2024*

accepted the validity of a complaint from CHOICE about such behaviour[9], noting its impact and seriousness. This is demonstrably not in the long-term interest of consumers and should be examined by IPART as evidence of systemic retailer failure rather than isolated incidents or aberrations.

The JEC has consistently highlighted failures of consumer choice and consent, and unfair and inequitable outcomes in access to energy as an essential service. Many of these are detailed in our submissions to the seven retail rule change proposals that the AEMC has been consulting on over the past year.[10] Ongoing poor outcomes contribute to consumer distrust in the energy sector – which is consistently demonstrated in ECA's consumer sentiment surveys.[11]

In addition to examining publicly available reports, surveys and research (including those we have referenced), we recommend that IPART seek opportunities for additional qualitative data on customer experiences and perceptions of competition and pricing, particularly where these clearly relate to standard retail behaviour and pricing practices. In any case we highlight the importance of drawing on 'objective' data relating to outcomes, rather than relying only on perceptions. Perceptions are inherently subjective and can be influenced by low expectations of what the energy retail market can deliver (particularly as a result of previous poor experience). Data on customer experiences and perceptions of competition and pricing should not be wholly sourced from retailer customer satisfaction data, which often skews towards outcomes retailers value, rather than those valued by consumers.

Further, complaints data needs to be assessed in the context of its limitations. As IPART is aware, complaints data only helps understand issues experienced by the relatively small proportion of consumers who have the awareness, capacity and confidence to make a complaint.

Recommendation 1

That IPART seek opportunities to access independent, robust qualitative data on customer experiences and perceptions of competition, pricing and the retail market. This data should not be wholly sourced from retailer customer satisfaction data.

2.3 Barriers to entry, expansion or exit in the market

Number of retail operators

Number of retailers – and change in that number - is not a good proxy for competitive dynamism and the effectiveness of the retail market. This is particularly true where the market structure itself may allow (and reward) poor retailer practices.

The JEC encourages IPART to undertake more critical analysis when considering the effectiveness of the market, barriers to entry, and expansion or exit in the market. We understand that these factors have been assumed to be key indicators of the health of a competitive market, with the further assumption that an effectively competitive market would (by nature) deliver better

9 ACCC media release
10 See Section 5: Further Resources
11 See: Energy Consumers Australia, *Energy Consumer Sentiment and Behaviour Surveys*

consumer outcomes. We strongly disagree are concerned that previous IPART reports have not challenged or tested the validity of these assumptions. Competition is not an intrinsic good and cannot be assumed to automatically deliver better outcomes for consumers. Competition must be assessed by its ability to deliver the most efficient, quality outcomes for consumers. In the case of energy, it should also be assessed for its delivery of affordable, accessible, and equitable energy services to all consumers.

Number (and change in number) of retailers does not indicate dynamism or competitive tension. Indeed, we argue that the ongoing stasis (or even growth) in number of retailers demonstrates a lack of meaningful competition. IPART should seek to assess this more comprehensively by examining changes in the costs to serve, changes in the costs to acquire and retain customers, and any indicators of improved efficiency in retail operations which flow through to consumers. The absence of such markers should be regarded as a sign of poor competitive market health regardless of the number (or change in number) of retail operators.

The entry or exit of retailers (who are usually small) makes little or no impact for most consumers. As we have noted, the lack of exit of retailers can also be seen as a sign of poor market health, particularly where those retailers who do exit are often taken over by larger retailers, or their exit involves the 'sale of customers' to larger retailers.

Number of retail offers

Number of offers is equally fraught as an indicator of good consumer outcomes. Consumer experience consistently demonstrates that not all publicly available offers are actually available to all consumers, and that not all offers available in the market are made public. There is also anecdotal evidence that many public offers are not effectively available at all. Regardless, it is clear that the proliferation of offers does not necessarily aid effective choice for consumers.

The JEC is concerned the market is characterised by opaque, personalised pricing – which renders the 'number of offers' indicator obsolete as useful proxy for good consumer outcomes. That is, the 'named offer' and their variants which are publicly listed are not representative of what consumers are actually paying, with much wider (personalised) variation in the pricing of those offers. There is clear evidence of this in the CHOICE complaint provided to the ACCC (referenced earlier) where consumers on the same named offer are paying substantially different prices. IPART should, again, undertake a wider analysis of offers and seek to introduce more assessment of actual consumer experience (rather than relying on a simple survey of public availability)

2.4 Price movement and product diversity

Price movements are important indicators of market functioning, and the impact on affordability for NSW consumers. As such it is critical that IPARTs' analysis be granular enough to understand the experience of all NSW consumers, particularly those facing disadvantage – such as those renting, those without CER, those who have not switched for more than 12 months and those on rebates. We encourage IPART to include qualitative analysis, where possible, in examining actual consumer experience and outcomes of price and price movements.

Product diversity is a more fraught area, where we strongly encourage IPART to critically consider the outcomes consumers want and need, and whether existing pricing structures and regulatory settings are delivering those outcomes. Many consumers simply want to use energy when they need it and pay a fair price for it.

Product diversity assessments should examine the energy component primarily (and its price and terms). The CHOICE complaint and other research indicates that offers presented as 'value' or combined with other products (such as vouchers, streaming services, internet, etc) are often significantly more expensive and may be advertised misleadingly. This is critical for IPARTs monitoring and should be assessed not simply as 'more diverse products', but how diversity is being structured, promoted and impacting consumers. Diversity is not an inherent consumer good and IPART should seek to assess not only its scope, but its impact and delivered value for consumers. We are particularly concerned that diversity is being used to conceal or confuse effective consumer choice.

We encourage IPART to engage with the ongoing *AEMC Pricing Review*.[12] Consumer and community responses to that Review provide further detailed insights into current consumer experiences of the retail energy market and how pricing and products could be reformed to achieve better outcomes for consumers. One key recommendation emerging from consumer advocates in *the Pricing Review*, is for the creation of a simple, fair and affordable energy offer.[13]

Price movements (year on year) and longer-term trends

The JEC supports IPART including this indicator in analysis of outcomes for NSW households. This analysis should also assess price movements across a range of offers, rather than only tracking average price changes,

We recommend IPART pay particularly attention to trends in network costs for NSW, as the Electricity Infrastructure Roadmap costs that are borne via consumer bills increase.

Frequency of price increases within 12 months

The JEC supports IPART including this indicator in the analysis of outcomes for NSW households. If IPART progresses with obtaining qualitative data directly from consumers, the experiences, outcomes and perceptions of frequent price increases would be relevant data.

We note that from July 1, 2026, when the package of 7 AEMC retail rule changes come into effect, consumers should not experience price increases more than once every 12 months. It is not clear how this will be enforced and IPART monitoring of NSW household experience would continue to be valuable in assessing the success of this measure.

Number of offers and spread of prices by distribution network

The JEC supports IPART including this indicator in the analysis of outcomes for NSW households, noting that number of offers is not in itself a particularly useful metric. However, an analysis of offers and price spreads by distribution network should be able to provide useful insights into the different affordability challenges experienced by metro, regional and rural

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12 AEMC, 2025, *The Pricing Review: Electricity Pricing for a Consumer-Driven Future*
13 Justice and Equity Centre, 2025, *Submission to the AEMC Pricing Review: Discussion Paper*

consumers. It would also assist in assessments of the equity of cost recovery of Roadmap and other network costs.

Number of consumers on flat rate, time of use and demand tariffs

The JEC supports IPART including this indicator in the analysis of outcomes for NSW households. As discussed throughout this submission, consumer experiences with different types of tariffs is a priority area for the JEC. Understanding the number of consumers on different tariff types over time is critical data for consumer advocates, regulators and policy-makers. We encourage IPART to supplement this indicator with qualitative data collected directly from consumers on their experiences with accessing and using different tariff types.

Price differences across retailers and by tariff type

The JEC supports IPART including this indicator in the analysis of outcomes for NSW households. We particularly encourage analysis of the difference between network tariff structures and prices, and the end retail price paid by consumers – as was done previously in analysing demand charges. A key cause of consumer distrust is a (well founded) perception retailers are absorbing potential consumer savings through the way they price their offers, compared to the underlying network charges.

Levels of fees and charges

The JEC supports IPART including this indicator in the analysis of outcomes for NSW households. As we argued in our submission to the AEMC retail rule change process on limiting fees and charges[14], people experiencing disadvantage often pay more because of their method of payment and are disproportionately impacted by fees and charges.

We note that from July 1 2026 when AEMC retail rule changes come into effect, certain fees and charges will be excluded for defined consumers experiencing disadvantage and vulnerability. Only reasonable costs will be allowed to be charged for all other consumers. IPART's annual monitoring reports will be a valuable tool for monitoring and compliance for this rule change and assessing the reasonableness of any allowed charges.

Changes in cost stack components

The JEC supports IPART including this indicator in the analysis of outcomes for NSW households. Changes in cost stack, particularly in network – especially transmission and roadmap - costs are having increasingly significant implications for NSW household experiences in the energy market. We note that in the final determination for DMO 7, the deviation of NSW network costs compared to other DMO jurisdictions was pronounced, remarked on by the AER, and will likely only grow in the short-medium term as more NSW Roadmap costs are realised.

The JEC advocates for a range of reforms would substantially, and enduringly, lower energy costs for all NSW households and improve the fairness of cost-recovery. These include:

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14 The Justice and Equity Centre et al. 2025, *Submission to the AEMC on Delivering more protections for energy consumers: changes to retail energy contracts*

- A review of cost recovery for environmental and efficiency schemes to implement more equitable cost recovery arrangements. This would help ensure that those without solar and efficient appliances are not unfairly contributing to benefits accrued to others. This should include removing exemptions for large-users and transmission connected entities to ensure that all beneficiaries of lower cost renewable energy contribute to enabling it; and

- Reviewing the cost recovery arrangements for the NSW Energy Infrastructure Roadmap to ensure generators, transmission-connected businesses and large energy users, as beneficiaries of the Roadmap, contribute fairly to the investments and scheme architecture associated with it.

Innovation in products, services and price structures

The JEC supports IPART investigating innovation in products, services and prices structures as part of the 2025 monitoring review. However, innovation should be assessed through merit criteria and according to the consumer outcomes delivered rather that simply recorded by category or number. Product 'innovation' which leads to consumers paying more for energy, or having poorer outcomes in energy, should not be regarded as a positive simply for existing.

As with product diversity generally, assessment of innovation should focus on the energy aspect of offers and comparison of the outcomes delivered for consumers.

It is important to reiterate that consumers are not inherently seeking a wide range of options, but rather a product that dependably meets their need to use energy affordably. A single well-designed offering could be sufficient in many cases. That is, variety is not necessarily a requirement if the core service is effective. To the extent that variety is desirable, value and difference should be easily discernible to consumers, rather than simply involve a plethora of offerings which are practically indistinguishable. We would appreciate any scope for IPART to consider the ability for consumers to correctly identify and compare the value of innovative offers.

When the competitive retail market was first introduced retailers were competing almost solely on prices and non-energy benefits. But this no longer needs to be the reality of our energy market. Our evolving energy system is providing more meaningful opportunities for retailers to compete than price. Retailers are increasingly able to innovate offers that meet consumer needs and preferences including opt-in time-of-use tariffs, solar-soakers, EV tariffs, bundling with renewable asset purchases and other green energy products. Whether retailers choose to compete effectively on these terms is a business decision, but the availability of the opportunity exists. IPART should assess not merely the availability and number of these offers, but the terms they deliver for energy consumers.

2.5 Other matters identified by the JEC

Qualitative data

Qualitative data can provide crucial details on consumer outcomes and experiences that broader, quantifiable data alone cannot capture. While the collection of qualitative data can be a more complex process than the collection of quantitative data, the insights are invaluable and enable assessment of outcomes which are unlikely to otherwise be possible.

3. Virtual power plants and demand response programs

VPPs and demand response programs will be critical contributors to an efficient, zero-emissions energy system and are being prioritised as part of the NSW consumer energy strategy. As such, we strongly support IPART focussing on assessing these products, how they are structured, and what outcomes they are delivering for consumers.

To date households participating in VPPs and demand response programs have faced a range of challenges that raise concerns about fairness, transparency, and long-term consumer engagement. In many cases it is likely that these issues reflect broader issues with retail practices generally – for instance, issues with opacity of terms and pricing structures.

The common issue is the lack of trust in retailers and aggregators, founded in the information imbalances and the lack of transparency involved in pricing of retail offers, particularly in relation to VPPs and demand response programs. This is particularly relevant in relation to how the financial benefits of battery participation are distributed. There is a perception that gentailers and VPP operators may retain a disproportionate share of these benefits, leaving households under-compensated for their contributions. In any case, it is not clear what proportion of benefits are flowing to households, and how benefits are being prioritised.

This concern is exacerbated by the absence of robust regulation governing VPP operations. Without clear rules or enforcement mechanisms, there is no guarantee that consumers are receiving fair value for their participation, let alone an optimised benefit. Given the complexity of valuing VPP services, more appropriate consumer protections are needed and detailed monitoring and analysis now is critical to this.

Consumers face material barriers to making informed decisions about participating in VPPs and demand response programs. VPP offerings vary widely in design and value proposition, yet they are not consistently listed on comparison platforms such as Energy Made Easy. This lack of visibility makes it difficult for consumers to assess costs, benefits, contract terms and suitability.

To address this, we recommend that regulatory bodies such as IPART and the AEMC develop clearer standards for VPPs – potentially including standard contract terms or limitations - while enforcement agencies like AER and EWON ensure compliance and provide avenues for consumer redress. Providing clear, accessible, and standardised information about how VPPs operate, what services they offer, and how benefits are shared would support uptake and improve market transparency.

Improving consumer understanding and confidence in these programs is critical to unlocking the full value of CER and placing downward pressure on energy bills. If left unaddressed, early negative experiences risk undermining long-term consumer trust and participation – an outcome that would hinder the broader energy transition, given the vital role VPPs can play in balancing supply and demand and delivering ancillary services to the grid.

Despite these challenges, there is promising evidence that VPP participation can significantly improve the economics of battery ownership while delivering broader system benefits. For example, combining federal and state incentives with VPP participation can reduce battery payback periods considerably, highlighting the potential value of well-designed programs that fairly reward consumers for their contributions to a more efficient energy system.

We encourage IPART to examine contract terms for VPP's as a basis for assessing consumer risk and benefit. This should include assessing the open interoperability of VPP arrangements and battery products which may either aid or restrict competition and future service switching.

4. Emerging retail market issues

As discussed throughout this submission, energy retail markets are not currently fit-for-purpose and are not providing the outcomes that consumers want and need from an essential service. Alongside the range of issues already highlighted in earlier sections of this submission, the JEC is aware of a range of emerging and existing issues in the energy retail markets that IPART should take into consideration for the retail monitoring report.

4.1 Designated Complaints to the ACCC

2025 was the first year that the ACCC established the 'designated complaints' framework where key consumer issues could be raised and investigated comprehensively via the ACCC. This year, CHOICE and the Consumer Action Law Centre (CALC) were the two organisations granted designated complainant powers with the ACCC.

Retail pricing and contracting behaviour

CHOICE made a designated complaint to the ACCC regarding a range of energy retailer practices which demonstrate systematic practices which are not in the consumer interest.[15] This complaint provides evidence of the scope and materiality of retail market issues, including retailer behaviour that the ACCC is investigating as potentially misleading.[16]

Unsolicited sales

CALC made a designated complaint to the ACCC regarding unsolicited sales, including energy products such as solar systems, which are not in the consumer interest and which often see disadvantaged and vulnerable households disproportionately targeted.[17] The ACCC has since initiated a review into unsolicited selling and lead generation, which JEC provided a submission in response to.[18]

4.2 Gaps in smart meter protections

There are significant gaps in consumer protections associated with the transition to smart meters, particularly in New South Wales. These gaps risk undermining consumer trust and support for the rollout and may lead to adverse financial outcomes for households.

New South Wales does not currently require retailers to offer consumers the choice of a single-rate tariff following the installation of a smart meter as is the case in other jurisdictions that have

15 CHOICE, 2025, *The Power of Confusion: CHOICE designated super complaint on energy plans*.
16 ACCC, 2025, *ACCC to investigate energy plans that potentially mislead consumers about savings.*
17 CALC, 2025, *Designated Complaint: Unsolicited Selling*.
18 The JEC, 2025, *Submission to the ACCC on unsolicited selling and lead generation.*

enacted a local instrument to this effect. This fundamentally undermines consumer choice and will impact vulnerable consumers for whom flat-rate offers are critical to energy affordability.

While new protections commencing on 1 December 2025 will require retailers to maintain a consumer's existing tariff structure for two years after receiving a smart meter, this safeguard is limited. It does not apply to consumers who receive a smart meter before that date or who self-initiate the upgrade, and it ceases immediately if the consumer switches retailers.

This regulatory gap allows retailers to unilaterally shift consumers from flat-rate tariffs to more complex structures – such as time-of-use or demand-based pricing – without their free, prior, and informed consent. These changes can result in higher bills and increased complexity, particularly for consumers facing disadvantage or with limited capacity to engage with energy pricing. Given these gaps and the lack of any clear oversight or enforcement, significant retail non-compliance with any requirement to offer a flat-rate option is very likely and we encourage IPART to examine and monitor this.

Retailers should not be permitted to alter a consumer's tariff structure without their free, prior, and informed consent, regardless of the timing or nature of the meter upgrade. Strengthening these protections is essential to maintaining social licence for the smart meter rollout and ensuring consumers – particularly vulnerable consumers with limited scope to control their usage - are not disadvantaged by reforms intended to benefit them.

4.4 Lack of retailer responsiveness to solar price signals

Alongside the minimal retail implementation of time-dependent feed-in tariffs offers, the JEC is aware of a broad lack of retailer responsiveness to solar price signals in NSW. Increased penetration of residential solar in NSW is a clear opportunity for retailers to innovate and provide different benefits of solar to different consumer cohorts.

The growing number of households with smart-meters should open up greater opportunities for retailers to create more dynamic 'solar soaker' offers to spread the benefits of solar to those without the technology on their own rooftops, while also helping to address issues arising from excess solar at peak times.

Further, as part of wider measures to ensure the optimal utilisation of solar, retailers could also be considering measures to dynamically compensate households with excess solar for not exporting at times when this is beneficial, in order to avoid AEMO using more expensive measures to address minimum system load events.

IPART should include more detail examination of solar offers, the range and terms of offers (including balance of feed in tariffs, usage and fixed costs) and particularly the availability and value of more flexible or responsible solar offers and what outcomes they deliver for consumers.

4.5 Negative pricing impacts

While NSW is not currently in the same situation as Victoria or South Australia, it is likely that we will increasingly be impacted by negative price events. The JEC strongly recommends more co-ordinated engagement from IPART, the NSW Government, energy retailers and other stakeholders to develop more efficient responses to negative price events.

In the meantime IPART should investigate retail behaviour and the structure of their offers to assess their role in contributing to negative price periods or acting to mitigate or avoid them.

4.6 Addressing retail market failures through overarching reform

We encourage IPART to engage with retail reform processes and ensure its monitoring of the retail market and outcome for NSW consumers can contribute to anticipated reforms.

Introducing a robust retailer overarching consumer duty

There is increasing interest in energy market bodies and governments exploring the introduction of an explicit energy service provider duty, obligation or responsibility to act in the best interests of the consumer in the delivery of good consumer outcomes in access to energy as an essential service. The JEC broadly supports the idea as a measure to augment and enable better regulation and protection (including through prescription), not as an alternative to it.

Energy is an essential service and service providers do (and should) have a higher level of responsibility or 'duty of care' to their customers in providing that service. Enshrining this duty, and responsibility for customer outcomes, would put greater onus on service providers to demonstrate they have fulfilled their duty and acted to deliver the good outcomes understood and agreed upon by their customer.

A positive duty is likely to enable improved outcomes for consumers by reversing the burden of responsibility. Where defined 'poor outcomes' occur (such as the accumulation of certain levels of debt, or threats of disconnection) the onus would be on the retailer to demonstrate they have still fulfilled their duty and done everything possible to avoid that outcome. That is – they have to demonstrate they have fulfilled their duty, notwithstanding the outcome. Many of the issues and market 'failures' we have detailed in this submission could be better addressed with implementation of an effective duty.

The ongoing Better Energy Customer Experience (BECE) process being progressed by Commonwealth DCCEEW is a likely forum through which the idea of a consumer duty will be further explored.

Strengthening explicit informed consent

Explicit informed consent (EIC) is a critical foundation and protection of meaningful consumer choice. It is critical that consumers are guaranteed clear, simple means to understand the terms of their services and agree to them. This is a fundamental protection for good consumer experiences and outcomes. EIC as it currently operates is not fit-for-purpose, and in many cases, it contributes to poor outcomes for consumers. For instance – it prevents consumers from automatically benefitting from 'better offers', while allowing retailers to unilaterally change prices and pricing structures.

Issues arising from the practical asymmetry in application of EIC have been examined by the AEMC as part of a number of rule changes relating to retail energy contracts. However, in their final determinations, the Commission explicitly avoided considering any reforms to EIC provisions themselves.

The JEC has recommended that through BECE, Commonwealth DCCEEW should consider reforms to improve or augment explicit informed consent, given that robust consent provisions will be a critical part of any future energy regulation and protection framework.

There is a role for IPART in assessing consumer outcomes against the terms they have consented to and considering how effective current consent provisions are.

Meaningful reform of embedded networks

Embedded networks undermine the equality of treatment of energy consumers, and the equality of outcomes they can expect in the provision of an essential service. It is not in the interests of energy consumers for residents in embedded networks to continue to be structurally disadvantaged. While we do not preclude the possibility that embedded networks, properly regulated, could be structured to provide consumer benefits, the current regulations and protections do not do this.

Having seen numerous reviews into embedded networks fail to embed meaningful reforms, we support the NSW Government identifying the ongoing inequities experienced by customers living in embedded networks as a key area for reform in the NSW Consumer Energy Strategy.

Consumer and community organisations' evidence and recommendations for reform have been detailed in the numerous consultation processes on embedded networks undertaken over the last decade.[19] We encourage IPART to review these, including our joint response[20] to the recent draft decision on the Review of the AER's exemptions framework for embedded networks.

5. Energy affordability and consumer protections

The JEC strongly encourages IPART to include a focus on affordability, including outcomes for disadvantaged and vulnerable consumers, in their 2025 Retail Monitoring Report. Standard indicators of affordability – such as rebates; Energy Accounts Payment Assistance; disconnection rates; debt amount and age; payment plans; and hardship programs - provide some insight into payment difficulty. However, contextualised analysis is necessary to create an accurate understanding of the experience of consumers and the impact of affordability issues upon them which cannot be drawn from the data alone.

We also encourage consideration of ways that supports can be reformed to better deliver on their intent. We further recommend IPART expand its focus on payment difficulty beyond the standard indicators in their Review, and we provide recommendations regarding a more fulsome understanding of affordability challenges below.

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19 See the appendix of the JEC et al. 2025, *Joint submission to the Draft Report on the Review of the AER's Exemptions Framework for Embedded Networks* for a comprehensive list of submissions on embedded networks

20 The JEC, SACOSS and the Tenants' Union of NSW, 2025, *Joint Submission on the Draft Report: Review of the AER's Exemptions Framework for Embedded Networks*

5.1 Rebate assistance not assisting as intended

Eligibility

Data from the NSW Energy Social Programs dashboard indicates significant numbers of NSW households do not receive rebates they are eligible for. In 2023-24, 440,000 households did not receive a rebate they were eligible for,[21] leaving households on low incomes paying more for their energy bills than necessary and likely experiencing increased payment difficulty as a result. We support the work of the AEMC in working to address this issue however, we strongly recommend that Energy Ministers, energy market bodies and other stakeholders urgently prioritise more comprehensive reform to automate access to rebates. Further analysis from IPART on those missing out, including those groups in need but not currently eligible, would be a timely contribution.

JEC's *Powerless* research revealed that only 10% of NSW households respondents seriously struggling with energy bill affordability were accessing energy rebates, with only 7% receiving the main NSW energy rebate, the Low Income Household Rebate (LIHR).[22] This indicates that there are likely to be cohorts of households who would benefit from accessing rebates to afford their basic energy needs, but who are currently not eligible for rebates. This includes families on low and even on middle incomes;[23] First Nations households (particularly families); and young adults.

Proportion of support offered

The Energy Social Programs dashboard also indicates the value of rebates is eroding overtime. This decline started after 2021, when rebates were, on average, covering 20.3% of energy bills. In 2024, this figure had dropped to 15.4%. Despite this, and an increased DMO and subsequent anticipated increased energy bills, rebate values (and Energy Accounts Payment Assistance – EAPA amounts) were recently reduced to FY 2023-24 levels, further lowering the average proportion of bill support offered by rebates. This does not account for the significant variability in proportional support and the reality that larger users (including low-income families) are receiving proportionately less support.

The JEC considers that providing rebates as a proportion of bills is both ore equitable, more effective and more flexible over time. This is particularly important as the energy transition – through measures such as the Energy infrastructure Roadmap - leads to higher energy costs in the short term, but lower energy costs in the longer term. Supporting rebate households to access energy efficiency programs and CER (or the benefits of CER) and ensuring rebate recipients are on efficient retail deals, helps to maximise the impact of rebates and significantly reduce rebate budgets overtime. IPART monitoring should assess the range of support proportions offered by rebates.

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21 https://www.energy.nsw.gov.au/nsw-plans-and-progress/regulation-and-policy/nsw-social-programs-energy-code/energy-social-programs

22 JEC (2024) *Powerless: Debt and disconnection*, 35. The research included households who had either experienced a disconnection from their energy or water service; received a notification of disconnection but avoided the disconnection; or were seriously worried about being disconnected and making sacrifices to afford their energy/water bill.

23 We note that the NSW DCCEEW is working to increase assistance for families and we support this work.

The JEC previously collaborated with Australian Council of Social Service and SA Council of Social Service and other civil society organisations to explore the impact that percentage-based rebates would have.[24] Although conditions have changed since the modelling was undertaken, the research demonstrates the benefits of a proportional approach.

5.2 Energy Accounts Payment Assistance

IPART should assess access to the EAPA scheme, including those consumers who access the scheme multiple times. Where possible analysis should seek to draw conclusions regarding what is driving EAPA access, with a view to recommending reforms for more effective emergency payment support which is better integrated with general energy affordability support.

Based on data from the NSW Energy Social Programs dashboard, in the financial year 2024, 72.6% of Energy Accounts Payment Assistance (EAPA) recipients were also receiving the LIHR and 69.1% were also receiving the Gas Rebate. These results are reasonably consistent across the 2023 and 2022 financial years. High proportions of households already receiving rebate assistance indicates that these rebate supports are not sufficient to avoid payment difficulty. Continuously having to rely on EAPA places stress on households an requires time, effort and often shame. This also has significant resource impacts on Service NSW and community organisations who facilitate EAPA.

We support investigation of reform measures, including continuation of the NSW DCCEEW Energy Debt Relief Trial. This should include considering models that accept referrals from community organisations and financial counsellors. The restructuring and continued implementation of this program should be aimed at addressing long term payment difficulty and reducing continued reliance on EAPA.

EAPA is also used by households who don't already access a rebate, and we urge NSW DCCEEW to investigate who these households are and whether they would be better served by an expansion of eligibility to rebates and / or energy efficiency / CER programs to help prevent payment difficulty before it occurs. IPART monitoring should seek to provide insights into this aspect of EAPA use.

5.3 Disconnections and threats of disconnection

We strongly encourage IPART to expand their consideration of disconnection to gain a more comprehensive understanding of how it is experienced and how it impacts NSW households.

In their *Review of payment difficulty protections in the NECF - Findings Report*, the AER concluded that "Disconnection, or the threat of disconnection, is being used as an engagement tool despite the framework's implied objective that it should be a last resort for customers who are struggling to pay their bills."[25] And that "The community generally expects that all Australians should have universal access to essential services, such as energy".[26]

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24 SACOSS & ACOSS (2022) *Reforming electricity concessions to better meet need: Summary report*.
25 At page 22.
26 At page 22.

Energy Social Programs data indicates that disconnected households continue to have higher use than the average for rebate / EAPA households. We consider this indicates significant opportunity to equip households at risk of disconnection with measures to improve their energy efficiency and lower their usage over the long-term while improving health and well-being outcomes.

Whist it is encouraging that disconnection rates remain lower than pre-Covid this cannot be assumed to be an ongoing circumstance. Regardless, we draw IPART's attention to hams caused by threats of disconnection. Our *Powerless* research found significant harms occur when people are threatened with disconnection, even when it is avoided. For example, 54% of 'threatened' households reported that as a result of the threat, someone in the home became anxious or distressed, which was higher than for households who were actually disconnected. 'Threatened' households also indicated the threat caused them to significantly reduce their energy / water use and avoid seeing friends and family. These responses are likely to further compound the negative impact of the debt. [27]

Threats of disconnection can also be used to pressure people into agreeing to unaffordable payment plans, which do not address their payment difficulty problems, but often exacerbate them.[28] Whist figures for disconnection warning notices are not collected under reporting requirements by the AER, the Essential Services Commission of Victoria does collect these figures – and given other similarities, these figures should be regarded as indicative of NSW experience. For example, in Q3 2024-25, 2,873 Victorian households were disconnected for non-payment, but 75,654 received a disconnection warning.[29] These present a serious potential risk of harm.

The threat of disconnection should be seen as a failure of the payment difficulty framework resulting in harmful impacts for households. It is quite likely that for every disconnection for non-payment in NSW, significantly more NSW households experience a disconnection threat, with all the impacts indicated in our research.

Given the harms that disconnection itself and the threat and worry of disconnection causes, we look forward to working with governments to realise the AER's *Opportunity 13: Consider alternatives to disconnection to manage risk in the energy market*, so that households experiencing energy poverty can get the assistance and protections they need to avoid disconnection and debt build up. Our recently published report *In-person visits before disconnection*[30] and our previously published report *Powerless* provide ideas for avoiding disconnections where contact with the household can't be made or appropriate payment plans aren't able to be put in place.

Although the National Energy Retail Rules prohibit disconnection during extreme weather, the Rules refer to a local instrument for the meaning of 'extreme weather event'. However, in the case of NSW, no such local instrument exists. This leaves it up to distributors and metering

27 See page 70.
28 See pages 31 to 34.
29 Victorian Energy Market Dashboard
30 Available at: https://jec.org.au/wp-content/uploads/2025/07/250724-In-person-visits-before-disconnection-FINAL.pdf

coordinators to interpret when there is an extreme weather event without guidance from the NSW Government. Given our changing climate and the likelihood of increased extreme weather events, this lack of clarity is no longer fit for purpose. We recommend the NSW Government work with consumer advocates, climate experts, health experts, distributors and metering coordinators to determine an appropriate definition of 'extreme weather event' to protect NSW households from losing their energy connection when they need it most.

We encourage IPART to engage with this work and support recommendations for further review and reform of disconnection practices.

5.4 Understanding and measuring energy poverty in Australia

In our *Powerless* research (which only included households experiencing severe payment difficulty) we found significant numbers of households engaging in behaviour which disguises their experience of energy payment difficulty from retailers and governments, meaning they do not appear in the standard indicator data.

These behaviours include cutting back on buying food or other groceries or accessing a foodbank and delaying medical / dental appointments. We found many households also shift some of their energy payment difficulty elsewhere – such as by borrowing money from friends / family; delaying or missing other important payments; and using credit products.[31] This indicates that what is revealed to retailers and reported to the AER, is just a fraction of the payment difficulty that NSW households are experiencing, and that many households experiencing significant payment difficulty do not appear in AER data collection.

Whilst the impacts of energy unaffordability are usually most harmful to households on low incomes, they are not restricted to them.. We draw IPART's attention to work done by Energy Consumer Australia[32] (ECA) to measure energy hardship in Australia by looking at the following indicators:

- Spending more than 6% of income on energy bills;
- Whether people find it 'very difficult' to pay their energy bill; and
- Whether a consumer is having a lot of difficulty covering basic living expenses and avoiding heating or cooling to save money.

Using these indicators, ECA determined that 19% of Australian households are vulnerable to or experiencing significant energy hardship. As ECA notes, these indicators only measure the most acute cases of energy hardship, and that higher numbers of households are experiencing more 'moderate' energy hardship.

As ECA point out, these are not comprehensive measures of energy hardship and across the three indicators they found very little overlap. This is likely to indicate the multidimensional nature of energy poverty and hardship.

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31 See page 79.

32 Energy Consumers Australia (2025) *Understanding and measuring energy hardship in Australia*.

JEC considers that measuring energy poverty should take a wellbeing approach, which would expand on the above to include whether households:

- Go without the energy needed for health and wellbeing, in order to lower energy bills.
- Go without other essentials such as food and medical needs, in order to pay an energy bill on time.
- Shift energy bill payment difficulty elsewhere such as by using credit products (eg Buy Now Pay Later or credit cards) and/or borrowing money from friends or family to pay the bill.

While our system relies heavily on self-reporting, self-reporting of energy poverty is fraught and unlikely to be accurate, given that many households adjust to their circumstances and become habituated to payment difficulty. They are not likely to recognise their circumstances as energy poverty and are unlikely to be willing to admit it to others.

The approaches taken by ECA and JEC indicate that energy poverty is a significant issue in the community. The high percentage of people experiencing energy poverty and the likelihood that this is a significant underestimation of actual energy poverty, indicates that energy affordability challenges aren't a marginal issue in the community and that retailer and government assistance measures are failing to prevent and address energy poverty.

We strongly encourage IPART to draw on all possible data and qualitative inputs to gain an indicative picture of NSW household experience of energy 'poverty' and the impact on households in these circumstances. In the longer term, development of comprehensive measures of energy poverty and their incorporation into IPART monitoring, should be progressed.

6. Household energy transition

There are a range of issues impacting household experience of and participation in the energy transition, which should be at the center of evolving policy to support NSW households.

We see opportunity for reforms facilitating the transition to include:

- Enabling the coordinated retreat and decommissioning of the residential gas network;
- Targeted supports for disadvantaged households and communities to ensure equity of outcomes in the energy transition through electrification and energy upgrades;
- Prioritisation of support for improved residential energy performance;
- Improvement of baseline housing and energy performance data and information;
- Enabling implementation of mandatory minimum energy efficiency standards for rental properties and accompanying enabling policies;
- Improvement of building and appliance standards and compliance; and
- Delivery of place-based and digital consumer information and resources.

The JEC, in collaboration with over sixty organisations, has published the Roadmap for efficient and electric homes: Making all Australian homes healthy and affordable.[33] We encourage IPART to review the Roadmap as a critical resource that informs on gaps in regulation and legislation

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33 The JEC, 2025, *Roadmap for efficient and electric homes: Making all Australian homes healthy and affordable*

that are impacting household consumers' experience of the retail energy markets and the energy system more broadly. Recommended indicators of the NSW household experience of the transition, proposed below, are informed by this work

Recommendation 3

That IPART review the Justice and Equity Centre's Roadmap for Efficient and Electric Homes and utilise it as a resource for understanding regulatory and legislative gaps impacting outcomes for NSW households, and evolving monitoring to understand NSW household experience of the energy transition.

6.1 Household energy transition indicators

The retail market is more complex as our energy system continues to transform. This presents current challenges for consumers and increases the importance of ongoing reforms (such as those progressing out of the NSW consumer energy strategy).

The JEC strongly supports IPART expanding its monitoring to including the household experience of the energy transition and examination of key issues which relate to current and future government priorities and areas of reform. We recommend that IPART expand the focus beyond uptake of smart meters and CER to ensure a more holistic understanding and analysis of outcomes and experiences of NSW households, particularly those without CER.

IPART's market monitoring should track how retailers and consumers are engaging with the process of electrification, as well as provide updated data that can assist in the planning and implementation of electrification and improved efficiency in NSW. Electrification of households is critical to emissions reduction, which has been incorporated into the updated NEO and legislated targets through the NSW Net Zero Plan.

Market monitoring should track consumer energy resources (CER), innovative and green energy products, offsetting and bundling to better understand how the retail system is contributing towards emissions reduction and equitable access to emerging energy products. These indicators could also assist in tracking potential greenwashing in the energy retail market, which is a current priority of the ACCC.[34]

The full range of potential additional indicators could include:

- Experience of consumers who have had a smart meter installed, including analysis of what is working well for consumers and what challenges consumers are experiencing. This could include consideration of:
  - Ease of upgrade process, including communication from retailer;
  - Unexpected costs of upgrading to a smart meter (e.g. remediation of meter infrastructure);
  - Those who have not been able to take up a smart-meter due to their installation;
  - Ability to choose the tariff that best serves the household's needs;
  - Resulting changes to usage

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[34] ACCC, 2025, *Environmental and Sustainability Claims*

- Impact of access to real-data time on usage

- Number of dual-fuel households.
  - this may be difficult where the gas retailer is not also the electricity retailer but should be examined wherever possible.

- Number of dual-fuel households with solar.
  - While this may be difficult where the gas retailer is not also the electricity retailer, it should be examined where possible. For instance, through the social programs report.

- Number of consumers with bundled renewable asset purchases.
  - indicating how retailers are adapting to consumer and environmental outcomes; if/how consumers are accessing CER; trends in debt and hardship (if debt/hardship sub-categories included); equity of access to CER.
  - this indicator should apply whether retailers are offering the products themselves or have a licensed deal.
  - Contract terms and advertised benefits of bundled renewable offers.

- Number of customers on Greenpower.

- Number of customers with carbon offsetting products.

- Total dollar amount of carbon offsets.

- Total carbon emissions offset.
  - This would be another useful area to collect qualitative data on retailer carbon offset programs, particularly given the recent Go Neutral litigation brought against EnergyAustralia.[35]

- Percentage of retailers' actual emissions offset by customer offset products.

- Consumers charged with load control supply charge but not usage (indicating legacy issues with an electric hot water service which has subsequently been removed).

Data on ongoing consumer experiences and outcomes from the energy transformation is crucial to capture to monitor the affordability, accessibility and sustainability of the energy retail market system. The JEC seeks to understand whether any of the following could reasonably be captured in IPART's market monitoring reporting.

- How much renewable generation retailers active in NSW purchase from the wholesale market.

[35] Energy Australia, 2025, *Go Neutral Litigation*.

- The different experience of customers wholly dependent on the NEM / Domestic Gas networks compared to those with CER
.
- Consumer complaints and issues concerning the deployment of CER, electrification and leaving the gas network.

Where the indicators outlined above cannot be incorporated, we encourage IPART to seek any available data or credible assessments that may improve understanding of the related issues.

Recommendation 2

That IPART expand analysis of household energy transition to include a broader range of indicators that will provide a better, more holistic understanding of household experiences of and outcomes from participation in the energy transition.

6.2 CER Embedded Networks

The JEC is aware of the growing risk of CER embedded networks. As part of the household zero-carbon energy transition, installation of solar, batteries, electric vehicles and other CER will increase. If appropriately regulated, CER embedded networks could provide a valuable option for certain households to electrify their home. However, with current lack of protections and poor regulation we are aware of a growing market for CER embedded networks creating unacceptably poor outcomes for consumers.[36]

Our climate commitments necessitate a fast and fair household zero-carbon energy transition. NSW households need to understand what is required of them in the transition and to trust that the provision of CER will result in emissions reductions, long-term energy affordability and better health outcomes. CER embedded networks established to benefit the developers and/or operators rather than the residents of the embedded network are a critical risk to achieving Australian and NSW climate commitments and an unacceptable poor outcome for NSW households.

As part of the retail monitoring report, IPART should investigate the growth of CER embedded networks, assess the issues and/or benefits being experienced by residents and consider appropriate regulation to ensure consistent good outcomes for residents. The forthcoming implementation of broader pricing and consumer protection regulation in NSW should go some way towards alleviating the emerging issue but IPART should regularly monitor outcomes for residents living in properties with CER embedded networks.

6.3 The trend towards larger residential solar systems

Through engagement with NSW DNSPs the JEC is aware of the concerning trend towards larger (often oversized) residential solar systems. This is particularly concerning where these are being installed without batteries or associated with equally large household electricity loads.

While there are some households (such as very large families with pool pumps, EVs and other

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36 For example see: Williams, S. 2025, *''You feel like Darryl Kerrigan of The Castle': How Adam got charged for his own solar power'*, Sydney Morning Herald.

fully electrified loads) for whom these large systems may be appropriate, and who may be able to utilise most of their solar onsite, many households are installing capacity well beyond what can be used or efficiently exported without issue.

There are likely to be many drivers for this trend, including:

- A generally poor understanding of the benefits and costs of solar and what is required to benefit from a household installation. This manifests as a widely held assumption that exports and associated income is the primary benefit both to the household and the system.
- A lack of understanding regarding the systemic issues and limitations related to solar export at peak times.
- Lack of awareness of ongoing changes to network and export pricing.
- Misleading or predatory sales tactics from installers and representatives, selling expensive oversized systems and raising issues of a need to 'future-proof' systems according to unreasonable perceived future needs. We refer to the CALC designated complaint to ACCC regarding unsolicited sales as an indication of further relevant issues driving this outcome.

It is critical that information provided to consumers, particularly by installers, enables good consumer decision-making and 'right-sizing' of solar installations, ensuring that NSW households are able to optimise the benefit they can derive from the investment they make in solar.

We are concerned with the real risk that consumers will be left with expensive, inefficient systems, unfulfilled expectations of payback and benefit, and loss of trust in an important part of the energy transition. We are also concerned with the wider systemic impacts (and associated costs) which are likely to result from an ongoing trend to inefficiently size solar systems.

IPART should support improved information and further measures to help address this, as well as investigate further recommendations regarding network or government action.

6.4 Distribution networks

IPART should closely monitor the implementation of Dynamic Operating Envelopes (DOEs), particularly the rollout of Flexible Export Limits (FELs) across NSW distribution networks. These mechanisms are designed to dynamically adjust the amount of electricity that CER, such as rooftop solar and batteries, can export to the grid, based on real-time network conditions.

Trials of FELs are already underway in parts of the network and broader deployment is expected from Q1 2026, coinciding with the launch of the Emergency Backstop Mechanism and the CER Installer Portal. These reforms are intended to support grid stability during periods of minimum system load and high solar generation, while enabling greater CER penetration.

FELs have the potential to deliver significant benefits to both consumers and the energy system by increasing export capacity for households beyond static limits, reducing network congestion and deferring costly infrastructure upgrades, and supporting more efficient integration of CER into the grid.

However, these benefits are contingent on fair and equitable access. It is critical that:

1. All consumers required to enrol in the Emergency Backstop Mechanism are also provided access to flexible export arrangements through their DNSP.
2. Capacity allocation principles are transparent and designed to ensure equitable sharing of export capacity across consumers, avoiding preferential treatment or systemic disadvantage.

IPART should consider the consumer protection implications of these reforms, including:

- Ensuring DNSPs implement FELs consistently and transparently;
- Monitoring whether consumers are receiving fair value from their CER investments;
- Supporting harmonisation across DNSPs to avoid fragmented implementation and consumer confusion.

Given the pace of change and the technical complexity involved, IPART's oversight will be essential to ensure that the rollout of FELs and related mechanisms delivers on their promise of consumer and system-wide benefits.

7. Further Resources

The following recent submissions and reports provide further detail on a range of issues relevant to monitoring the retail electricity and gas markets in NSW.

IPART Retail monitoring report – last 5 years

- Justice and Equity Centre submission to IPART Monitoring the Retail Electricity and Gas Markets in NSW 2024

- Public Interest Advocacy Centre letter to IPART on Energy Retail Market Monitoring 2023

- Public Interest Advocacy Centre submission to IPART Monitoring the NSW energy retail markets 21-22 Draft Report

- Public Interest Advocacy Centre submission to IPART on NSW electricity retail market 2020-21 Draft Report

- Public Interest Advocacy Centre submission to IPART Review of Retail Energy Market 2019/20

AEMC Retail rule change processes

Improving confidence in retail energy plans
- Joint submission in response to the Issues Paper
- Joint submission in response to the Draft Determination

Assisting hardship customers
- Joint submission in response to the Issues Paper

- Joint submission in response to the Draft Determination

Improving the ability to switch to a better offer
- Joint submission in response to the Issues Paper

Improving the application of concessions to bills
- Joint submission in response to the Issues Paper

Other relevant submissions

2025:
- Justice and Equity Centre Submission to the National Energy Market Wholesale Market Review
- Joint Submission to Commonwealth DCCEEW's Default Market Offer Review 2025
- Justice and Equity Centre Submission to the AEMC Pricing Review: Discussion Paper
- Joint submission to the Better Energy Customer Experience consultation paper
- Justice and Equity Centre submission to IPART Draft Report on Solar Feed-in-Tariff Benchmarks 25-26

2024:
- Joint Submission to the AER's Review of Payment Protections in the NECF
- Justice and Equity Centre Submission to Electricity pricing for a consumer-driven future

2023:
- Joint Submission to the AER's Review of consumer protections for future energy services: Options for reform of the NECF