

# **How to bring down electricity prices**

**Submission on the *Prohibiting Energy Market Misconduct Act***

## 1 Overview

This submission is from the Grattan Institute, an independent think tank focused on Australian domestic public policy. Grattan aims to improve policy by engaging with decision makers and the broader community.

The Department of Climate Change, Energy, Environment, and Water is seeking views on proposed changes to the *Prohibiting Energy Market Misconduct Act 2019* (the PEMM Act). The proposed changes are:

- making the retail provision ‘symmetrical’ – so that it operates to protect consumers both in periods where retailers’ costs are decreasing (captured under the current retail pricing provision) and where those costs are increasing; and
- prohibiting market manipulation, where parties through their actions in one electricity related market seek to gain benefit in a parallel market.

The changes were originally proposed by the ACCC and the Australian Energy Regulator in their submissions to the most recent review.

This submission focuses on the proposal to make the retail provision symmetrical. We would welcome the opportunity to engage further with the government on any of the matters raised in this submission.

### Summary of recommendations

- The government should not proceed with the proposed symmetrical obligation because it is not likely to lower prices for consumers.
- If the government wants to tackle the clear problems in retail electricity, it should instead commission a comprehensive review.

### 1.1 Background to the PEMM Act

The PEMM Act was introduced in 2019 as part of *A fair deal on energy reforms*, which aimed to help electricity customers. Alongside the PEMM Act, these reforms introduced the Default Market Offer, and instituted the ACCC’s ongoing periodic inquiry into prices and profits in the National Electricity Market.

The PEMM Act prohibited certain forms of conduct by participants in the electricity market that could be harmful to consumers, and introduced new penalties for contraventions, including divestiture.

The Act’s retail pricing provision forced electricity retailers to make ‘reasonable adjustments’ to their prices if they experienced ‘sustained and substantial’ reductions in their underlying cost of procuring electricity (including wholesale, network, and environmental costs).

At the time, there was scant evidence that retailers were failing to pass on cost reductions, and little reason to believe the Act would materially lower retail prices. Grattan recommended against passing the Bill.<sup>1</sup>

In 2025, the federal government reviewed the PEMM Act against the objectives of ensuring competition in the retail and wholesale electricity market and delivering benefits to consumers. That review found that on balance the Act was likely to have had a positive impact, and recommended extending the Act which would otherwise have expired on 1 January 2026. The Act has now been extended to 2031.

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1. Wood & Dundas (2019), *Poorly considered market interventions: an inefficient path to lower power prices*, <https://grattan.edu.au/wp-content/uploads/2019/01/Senate-Economics-Legislation-Committee-Inquiry-on-Prohibited-Conduct-003.pdf>

## 2 Expanding the PEMM won't bring down electricity prices

The retail electricity market is not delivering for consumers. More than a third of consumers are paying more than the default price, customers on older plans continue to pay a 'loyalty tax' through higher prices, and, on average, customers could save \$291 per year just by switching to their retailers' best offer.<sup>2</sup>

Only about 20 per cent of customers switch retailers in any given year.<sup>3</sup> Despite government efforts to make switching easier, electricity remains confusing for many consumers. At last count, there were 145,500 plans in the market.<sup>4</sup> No wonder people are confused.

And as federal government bill rebates expire, many customers will suffer bill shock this year. Australians are rightly looking to government to rein in power prices and curb bad behaviour by electricity retailers.

But none of these are reasons to introduce further price regulation into the retail electricity sector, including through a 'symmetrical obligation' in the PEMM Act. In fact, the proposed symmetrical obligation is unnecessary and would be counterproductive. It would be unlikely to lower retail prices for consumers, and it could distract government from the real levers it has available to bring down prices for consumers.

There are three reasons not to proceed with the symmetrical obligation. First, the proposed provision would be impossible to enforce. Second, even though electricity retail competition is under-delivering for consumers, retailers still face competitive pressure to limit price increases. Third, introducing stricter pricing regulation would further undermine competition in the market.

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2. ACCC (2025) *Inquiry into the National Electricity Market, December Report*, p. 20.

3. *ibid.*, p. 40.

4. *ibid.*, p. 34.

### 2.1 The proposed symmetrical obligation would be impossible to enforce

In seven years, no retailer has been found to have breached the PEMM retail provision. This does not mean that no retailer has breached it. Nor does it mean that the existence of the provision has not itself induced retailers to pass on cost reductions to customers.

But it does suggest that the existing provision is already extremely difficult to enforce. The ACCC acknowledges this, noting that since the PEMM framework was introduced, it has done just 11 assessments of non-compliance, with six being escalated to the second level of investigation, with no confirmed breaches. It notes this monitoring is 'a complex evaluative task, that has been difficult to implement in practice'.<sup>5</sup>

This task would be even more complicated in the case of a symmetrical obligation regarding price increases. The ACCC would be required to monitor cost increases across dozens of retailers and thousands of retail offers, determine what is a reasonable cost increase, and bring sufficiently strong evidence of alleged contraventions.

Increases in retail prices often lag increases in underlying costs, sometimes by years. This is complicated in the case of 'gentailers' because increases in wholesale costs are mediated through opaque internal transfer pricing methodologies.<sup>6</sup>

5. ACCC (2025) *Submission to Review of the Effectiveness of the PEMM Act*, p. 8.

6. 'Gentailers' are integrated electricity generators and retailers – companies that both generate electricity to sell into the wholesale market, and also sell retail electricity to consumers. Australia has three large gentailers: AGL, Origin, and Energy Australia. In a gentailer, the retail arm purchases electricity from its generation arm through an agreed 'transfer price', and can also purchase power from other generators on the wholesale market.

Expecting the ACCC to be able to identify breaches of a symmetrical obligation is an unfeasibly complex task that, in practice, would be impossible to execute effectively.

Moreover, it is difficult to imagine how such a provision could be written in a way that gives clear guidance to retailers about how to comply with the obligation. The ACCC should not be expected to perform this role, and retailers should not be expected to comply with it.

## 2.2 Retailers already face pressure to limit price increases

The premise of the proposed symmetrical obligation is that retailers do not face pressure to limit their price increases. This is incorrect.

In its consultation paper, the department notes that ‘in a competitive market, businesses exert pressure on one another to pass on cost savings to consumers or to limit price increases when their own costs rise. This dynamic is driven by consumer choice and engagement: dissatisfied customers are likely to switch to competitors offering lower prices’.<sup>7</sup>

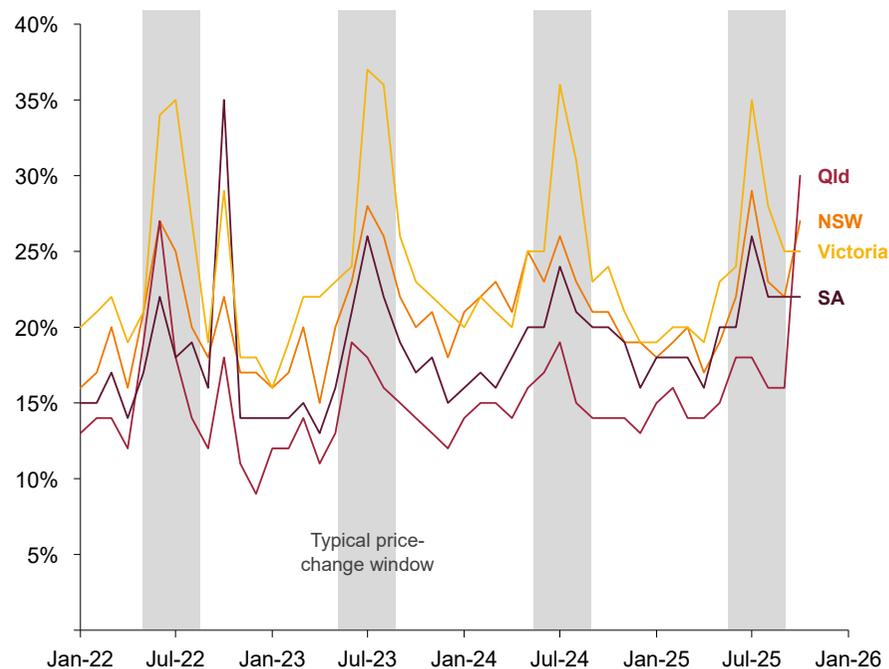
This dynamic exists, albeit imperfectly, in the retail electricity sector. In practice, retailers are highly sensitive to customer churn rates. Two of the three large gentailers, Origin and AGL, publicly report their churn and customer growth data twice a year to their investors on the ASX in half-year and annual results, and AGL has a monthly churn tracker on its website. The third large gentailer, Energy Australia, being owned by Hong Kong-listed CLP Holdings, does not publish standalone annual reports.

Price increases have a direct and immediate impact on customer churn. Customer switching rates always spike after annual price changes comes into effect from 1 July (see Figure 2.1).

7. DCCEE (2025) *Strengthening the Prohibiting Energy Market Misconduct provisions in the Competition and Consumer Act: Consultation Paper*, p. 25.

**Figure 2.1: Customer churn typically spikes around annual price changes**

Annualised rate of customers switching retailers, by month



Note: Churn typically starts before 1 July as price change communications are sent to customers.

Source: Grattan analysis using data from ACCC (2025) *Inquiry into the National Electricity Market, December Report, Supplementary Table C1.7*.

It is true that many electricity customers are ‘sticky’ and rarely or never change retailers. But it is also true that a meaningful portion of customers are price sensitive, and this affects pricing decisions that affect all customers. As a result, electricity retailers face real and immediate incentives to calibrate price increases.

### 2.3 Further price regulation would further limit retail competition

In a properly functioning market, firms are able to determine which products to offer their customers and the prices at which they are willing to offer them. Consumers are then free to choose the products that best suit their needs. Customer choice drives the market.

This is not the case in retail electricity. In recent years, governments have introduced increasingly strict rules about the products that retailers can, cannot, or must offer, the prices they are able to charge, the way they can communicate with customers, and the circumstances in which they can vary contracts.

At the same time, governments have introduced increasingly elaborate nudges to induce consumers to choose better plans. These nudges include messages on customer bills, websites to make comparison easy, and, in the case of Victoria, direct payments to people who simply check the comparison website.

Since the PEMM laws were introduced, new retail electricity rules have been introduced that require retailers to (among other things):

- Only increase prices once per year.
- Automatically place any customers who do not choose a market contract on a default contract subject to price caps.
- Advertise all market contracts based on their discount from the default price.

- Tell customers on their bills if they would be better off on a different offer.
- Direct customers to the *Energy Made Easy* site where they can search for better offers.
- Offer customers three hours of free power during the day.

Yet, despite all this, millions of Australians are failing to select the better tariffs available to them. There is something fundamentally not working here.

One more type of pricing regulation, targeted at a specific cohort of customers, is unlikely to resolve the fundamental problem in the retail electricity market. Instead, it will simply further restrict the ability of retailers to offer differentiated products and services to meet the needs of their consumers.

Governments for good reason have lost faith in the ability of the retail electricity market to deliver for consumers. But instead of further complicating an already complex patchwork of regulations, governments should commission a broader review of the retail electricity market settings.

### 3 Better ways to bring down prices

The government should not proceed with this proposal. Instead, it should prioritise interventions that will actually reduce customer bills, including expanding people's access to electrification and implementing reforms to speed up deployment of large-scale renewables and associated transmission and firming capacity.

The recommendations outlined in our recent reports *Getting off gas*<sup>8</sup> and *Bills down, emissions down*<sup>9</sup> would be a good place to start.

Given that the Australian Energy Market Commission (AEMC) is currently reviewing electricity retail competition and pricing, the government should also refer any recommendation from the PEMM review to the AEMC. Having two simultaneous reviews of retail electricity competition risks inconsistent recommendations.

Meanwhile, there are many options available to the federal government to bring down bills for electricity consumers.

#### 3.1 Increasing the pace of the renewables roll-out will help moderate electricity prices

The major driver of high electricity prices in the past few years was reliance on coal and gas generation. As international prices for these fuels spiked, so too did Australia's electricity prices.

The best way to moderate electricity price increases long-term is to increase investment in renewable energy backed by storage. But uncertainty about emissions policy post-2030 is holding back

investment. The federal government should begin designing a policy to constrain emissions in the electricity sector after 2030. Our recent report, *Bills down, emissions down*,<sup>10</sup> proposed expanding the Safeguard Mechanism to electricity. We found that boosting investment in renewables combined with the residential electrification could save the average household \$2,800 a year on their energy bills by 2050 (see Figure 3.1).

#### 3.2 Home electrification can deliver immediate savings

In the short term, households can drastically reduce their overall energy costs through electrification. The average Australian household with a petrol car, gas heating and cooking, and no solar or storage could save more than \$4300 in energy bills through electrification (see Figure 3.2).<sup>11</sup>

Governments should help deliver these savings to households by removing or lowering barriers to electrification. These barriers include people's access to the upfront capital required to make the switch, and the fact that many Australians are renters or public housing tenants and therefore have no or little choice about their appliances and fuel use.

Governments should introduce minimum standards for rentals, upgrade public housing to all-electric, and help low-income households with the upfront capital costs through low-interest loans. We outline a full suite

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8. Reeve et al (2023), *Getting off gas*. Grattan Institute.  
<https://grattan.edu.au/report/getting-off-gas/>

9. Reeve et al (2025), *Bills down, emissions down*. Grattan Institute.  
<https://grattan.edu.au/report/bills-down-emissions-down-a-practical-path-to-net-zero-electricity/>.

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10. Reeve et al (2025), *Bills down, emissions down*. Grattan Institute.  
<https://grattan.edu.au/report/bills-down-emissions-down-a-practical-path-to-net-zero-electricity/>.

11. *ibid*, p. 22.

of recommendations to accelerate home electrification in our *Getting off gas* report.<sup>12</sup>

### 3.3 The ACCC should clarify the application of the existing PEMM retail provision

Lastly, the PEMM Act in its current form could be better used to drive bill savings for customers.

In its consultation paper, the department says that ‘the retail pricing provision, as drafted, does not operate in an environment of rising prices’.<sup>13</sup> But this may not be accurate. It is possible for the underlying cost of procuring electricity to increase overall while declining for specific customer cohorts.

Many customers choose ‘shaped’ or ‘time-of-use tariffs’, where they pay different prices for power at different times of the day. These customers typically respond to these prices by increasing their consumption in cheaper off-peak times and decreasing it in more expensive peak times. Retailers typically offer discounted tariffs in off-peak times to encourage precisely this response.

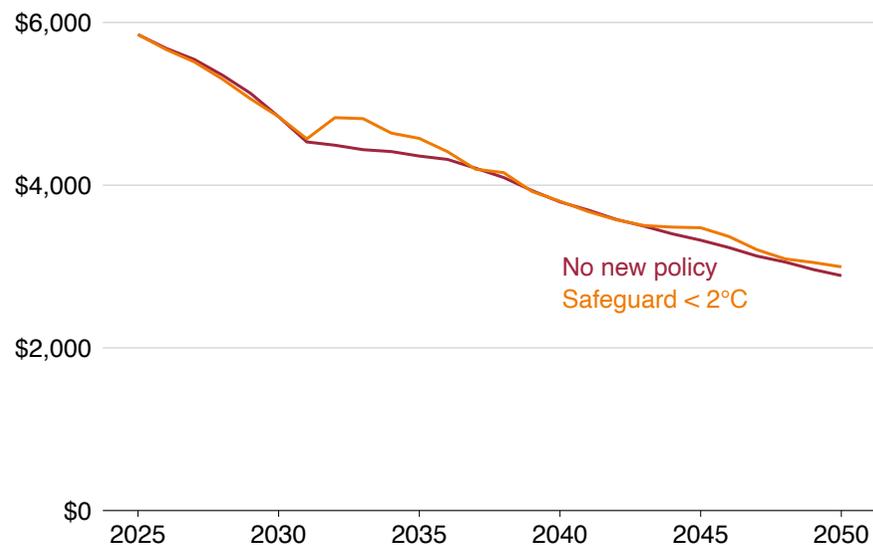
Retailers benefit from these tariffs because their underlying cost of procuring electricity is lower in off-peak times; that is, the retailers face lower wholesale costs and often lower network costs.

For example, a standard retail customer might face high usage tariffs from 5pm to 9pm, when wholesale and network prices tend to be high, but low usage tariffs from 11 am to 3pm, when wholesale and network prices tend to be low. If that customer shifts a material portion of their load into the low-price window, the cost for the retailer to serve that

12. Reeve et al (2023), *Getting off gas*. Grattan Institute.  
<https://grattan.edu.au/report/getting-off-gas/>.

13. DCCEE (2025), *Strengthening the Prohibiting Energy Market Misconduct provisions in the Competition and Consumer Act: Consultation Paper*, p. 25.

Figure 3.1: Household energy bills will fall significantly between now and 2050, even with expanding the Safeguard Mechanism to electricity  
Average annual household energy costs (2025 dollars)



Note: Safeguard < 2°C refers to a modeled scenario where the Safeguard Mechanism is extended to the electricity sector to reduce emissions consistent with a 2°C global warming scenario.

Source: Reeve et al (2025), *Bills down, emissions down*. Grattan Institute.

customer may decline even if average wholesale and network prices are increasing.

The ACCC’s monitoring and enforcement methodology assesses movements in price and underlying costs for each relevant region, customer type, and tariff type. But the ACCC has never clarified whether retailers breach the PEMM Act by:

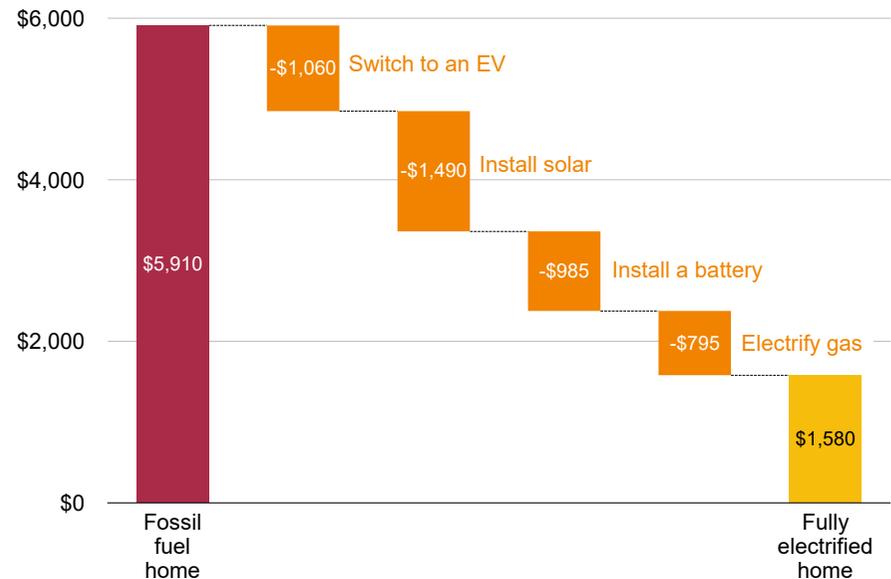
- failing to pass on cost reductions across the retailer’s customer base; or
- failing to pass on cost reductions for specific cohorts of customers, for example, customers on specific time-of-use tariffs.

If retailers are enjoying lower wholesale and network costs thanks to the changing electricity consumption patterns of their customers, those benefits should be shared with customers. Retailers are clearly sharing some of that value with customers through cheaper off-peak rates. But, with appropriate clarifications, the PEMM Act’s current retail provision could be well-suited to assessing whether retailers have made ‘reasonable adjustments’ to these prices.

Wholesale and network costs may continue to increase. And retailers are likely to offer more and more load-shaping tariffs. Given this, the ACCC should clarify how the existing PEMM retail provision applies to individual customer cohorts.

**Figure 3.2: Households can make large savings by switching to electricity and solar**

Annual household energy costs, by household type in 2025



Source: Reeve et al (2025), Bills down, emissions down. Grattan Institute.