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EnergyAustralia

LIGHT THE WAY

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Rule Change - Strengthening protections for customers in hardship

EnergyAustralia welcomes the opportunity to comment on the AEMC's consultation paper on *Strengthening protections for customers in hardship* rule change proposed by the Australian Energy Regulator (AER).

EnergyAustralia is one of Australia's leading energy companies, providing gas and electricity to 2.6 million household and business customer accounts in New South Wales (NSW), Victoria, Queensland, South Australia (SA) and the Australian Capital Territory. EnergyAustralia also controls over 4,500MW of generation in the National Electricity Market (NEM). We have a modern energy portfolio underpinned by coal and gas power plants and complemented by newer energy sources like wind, solar and batteries.

As an energy retailer we acknowledge the important role we play in supporting vulnerable customers who are unable to pay their energy bills. We do this via a dedicated hardship program, *EnergyAssist*, which we deliver in cooperation with Kildonan Uniting Care. *EnergyAssist* supports customers via individual case managers who provide tailored advice about payment plans, government grants, financial counselling, energy efficiency information, home energy audits and appliance swaps. *EnergyAssist* has been independently ranked the number one hardship program within the energy sector by Victorian financial counsellors. In 2017, we boosted *EnergyAssist's* funding by an additional \$10 million to increase its reach.

In short, we believe that appropriate support to households experiencing financial difficulty is essential. However, we do not support the AER's proposal to introduce binding Hardship Guidelines through the National Energy Retail Rules (NERR). We see this proposal needs to be better targeted to uphold consistent minimum standards across retailers while minimising large operational cost increases that will ultimately be borne by consumers. EnergyAustralia welcomes outcomes-based efforts to strengthen protections for residential customers in financial hardship. Our concerns are outlined further in the attached submission.

If you have any questions or would like to arrange a time to discuss our submission in more detail, please contact me on 03 8628 1242 or at Melinda.Green@energyaustralia.com.au

Yours sincerely

Melinda Green
Industry Regulation Leader

1. Supporting customers in hardship

Nationwide, we have around 16,000 customers participating in *EnergyAssist* at any one time, although many more enter, exit or graduate out of the program through the course of a year. Participant numbers typically reflect up to 1% of EnergyAustralia's individual customer base in each state, except for South Australia which sits at around 2% of our customer base.

Without doubt, the number of customers participating in our hardship program is increasing annually. Last year, the number of people participating in *EnergyAssist* increased by 26%. We see this driven by a combination of higher costs across all living expenses including utilities and housing, as well as increased awareness by EnergyAustralia staff and our customers to access payment support earlier than has been the case previously.

To meet this challenge, it is incumbent on industry, government and community groups working together on effective and long-lasting solutions. There are already some excellent examples of this type of collaboration, such as the Thriving Communities Partnership of which EnergyAustralia is a founding partner.

EnergyAustralia is proud to be a strong advocate for best practice hardship support for customers experiencing payment difficulties, whether short-term or ongoing.

We believe that as a provider of an essential service, retailers have a fundamental responsibility to support customers who may be struggling to pay their energy bills. This support should be wide in scope, practical in outcomes, flexible in application, and ultimately help to ensure households avoid unmanageable levels of debt as well as disconnection. Further, any support measures must be easily accessible by customers and delivered by retailers' staff in a non-judgemental, non-intrusive and respectful way.

We have made many recent improvements. In 2013, EnergyAustralia partnered with Kildonan Uniting Care to improve our processes and practices, particularly in our engagement with people experiencing payment difficulty. Kildonan also delivers a number of our support services such as the energy audits and staff coaching and training.

In March 2016, we partnered with CUAC on their *Principles for a Fair Consumer Experience Project*, along with Origin Energy, AGL, City West Water, South East Water and Yarra Valley Water.¹ We provided CUAC access to our processes and enabled them to track interactions between customers and our frontline sales staff, credit and collections personnel as well as our specialist hardship and complaints teams. This enabled CUAC to develop industry best practices for customer experience, which EnergyAustralia continues to follow (see **Attachment 1**).

In August 2016, EnergyAustralia was independently ranked as having the number one energy retailer hardship program by the Financial and Consumer Rights Council (FCRC).² This rating was sourced from Victoria's front-line financial counsellors; their ratings took into account retailer practices and client outcomes over the preceding 12 months with a focus on general experience rather than specific or isolated cases. In terms of performance, one in three financial counsellors gave EnergyAustralia a rating of eight or above, and we were the only retailer to receive any scores of 'excellent' (10).³

¹ CUAC: Consumer Utilities Advocacy Centre, now renamed Consumer Policy Research Centre

² FCRC, *Rank the Energy Retailer* (August 2016), available online at http://www.fcrc.org.au/Content/PDF_downloads/4796%20Rank%20the%20Energy%20Retailer%20Report%202016-Web2.pdf

³ FCRC, *Rank the Energy Retailer* (August 2016), p9

This is particularly noteworthy when you look at the FCRC's previous *Rank the Energy Retailer* report – EnergyAustralia came last with an overall score of 3.63 out of 10.⁴ We committed to do genuinely better and invested accordingly, with dramatic results. This example also helps to demonstrate that any business can drastically improve their hardship policies and practices if there's a cultural willingness to do so.

In November 2016, EnergyAustralia was the first energy retailer to launch a Financial Inclusion Action Plan (FIAP).⁵ The FIAP is an initiative of Good Shepherd Microfinance, which requires organisations to commit to an agreed strategy of practical, measurable actions that will improve financial inclusion.

EnergyAustralia continues to focus on a range of measures to review and improve practices across our business, including:

- The affordability, appropriateness and accessibility of our products and services, particularly for those customers who are most vulnerable.
- Our employees' understanding of financial inclusion, and ensuring staff have the right information, capabilities, attitudes and behaviours to support our customers.
- Reflecting the needs of the entire community, particularly those who face barriers to financial inclusion due to a lack of access to knowledge, language barriers, illness, family violence, or customers who are refugees or asylum seekers.

Through increased analysis of our *EnergyAssist* information, we are aware that a staggering 70% of our hardship program participants are women. Further, we know that the most significant increase in *EnergyAssist* participant numbers is within the 30-to-60 year old 'working age' bracket, as more families and single parents are struggling to make ends meet even when employed. While these statistics can be disheartening, they also represent a valuable opportunity for our business to develop better, targeted assistance going forward.

Every year, EnergyAustralia sponsors financial counselling conferences around Australia and runs booths to gain valuable feedback from the front line on how we're performing, insights on areas for improvement, as well as to promote lesser-known support measures such as free appliance swaps. By listening to community and consumer groups, EnergyAustralia has introduced a new suite of measures in the past two years to assist our customers. This is not because of regulatory requirements, but because we believe it is the right thing to do.

Some examples of EnergyAustralia's new and existing customer support measures include:

- \$10 million boost to existing hardship funding including:
 - More specialist case managers
 - \$2 million increased funding in the areas of payment matching and debt waiving
- Providing all hardship customers on a standing offer with a best-in-market discount
- Investment in solar for government housing (State based)
- Partnering with VincentCare on energy efficient solutions for the redevelopment of Ozanam House (Victoria)
- Investment in training and support for Financial Counsellors

⁴ FCRC, *Rank the Energy Retailer* (August 2014), p6

http://www.fcrc.org.au/Content/PDF_downloads/FCRC_RANK-THE-ENERGY-RETAILERS-REPORT_AUGUST-20141.pdf

⁵ <https://www.energyaustralia.com.au/sites/default/files/2017-02/financial-inclusion-action-plan.pdf>

- Encouraging customers onto the most suitable offer and application of discounts for all hardship customers to assist in minimising their energy costs
- 25% to 45% rebates for the majority of our Victorian standing offer customers
- Removing paper bill fees and Australia Post payment fees for all customers
- Free carbon offsets for customers' electricity accounts
- No late payment fees for hardship customers

We are also in the process of updating our National Hardship Policy⁶ to ensure it reflects the most recent research and understanding of best practice support measures for our customers. We intend to finalise our updated Hardship Policy in consultation with the AER and the Victorian Essential Services Commission (ESC) before the end of 2018.

Through our experience in working with vulnerable customers and implementing and trialling new ideas, we've acquired various other learnings and insights. Where these may be relevant to the current consultation, we've include them in **Attachment 2**.

2. There's always room for improvement

It would be unrealistic to pretend that EnergyAustralia get things right all the time, or that improvements cannot be made. Of course, hardship support should continue to improve into the future. The question is how this can best be achieved, ensuring those who need support are offered options to suit their needs in a timely manner, and that costs are minimised for remaining customers.

Equally, we cannot pretend that all retailers do the right thing. We are aware of poor practices within the industry. We have been advised by customers that their previous retailer demanded they see a financial counsellor before being permitted access to hardship support, or that they were given a debt waiver only if they promised to move to a different retailer. Within the industry, and indeed more broadly, there remains attitudes and practices towards people experiencing payment difficulty that need to change for the better.

We would readily support the AER in these endeavours; for example, through the introduction of financial hardship awareness training for a wider range of retail staff. Staff at all levels should understand that living in financial hardship is not a choice our customers make. Indeed, many households we speak with do not self-identify as being in hardship because they don't perceive they deserve or warrant targeted support.

Ultimately, attitudes need to change. Retailers are already required to have hardship policies that are supposed to provide meaningful assistance and that customers can readily access. If these are not being adhered to now, as has allegedly been found through the 2017 Hardship Policy Review, then having a binding guideline isn't going to change the situation. Instead we would welcome the AER naming and shaming poor performers, and highlighting best practice. Reputation is a powerful motivator, particularly in a market with around 27 energy retailers competing for the attention of residential customers.

As CUAC noted in its *Principles for a Fair Consumer Experience Project*, "Sound policies, procedures and practices alone are not enough to ensure consistently fair treatment of

⁶ EnergyAustralia, *National Hardship Policy*, <https://www.energyaustralia.com.au/sites/default/files/2017-03/HardshipPolicy-LongVersion-Final.pdf>

individual customers – fair treatment requires a fundamental business culture that emphasises and embraces fairness. Such a culture is driven from the top, but needs to be understood and practiced by staff at all levels.”⁷

3. Regulatory changes for hardship in Victoria

The ESC in its Payment Difficulties Framework (PDF) is one example of how to establish consistent consumer protections across all retailers. It is founded on high-level principles, but the new regulatory framework is highly prescriptive and operational in nature.

The way the regulations are constructed and apply at a detailed level are a concern for us. The costs of the PDF are also driven up by the high level of prescription it requires in terms of support measures. Our current estimates for system implementation and ongoing costs of PDF are already running into the tens of millions. This is largely driven by the expected over-capture of customers who may have inadvertently missed a payment but do not require hardship assistance, creating administrative burden, undue confusion and higher customer debt.

There are some aspects of the PDF which are beneficial to consumers too, however, the new framework doesn’t commence until 1 January 2019 so it is too early to assess the overall benefits and costs. We recommend the learnings from the PDF implementation and outcomes are understood before committing to any similar approach.

4. What regulatory changes may be required?

We take our hardship obligations very seriously and welcome the opportunity to discuss the outcome of the review to assess what improvements may be necessary.

EnergyAustralia supports the AER’s monitoring and compliance activities, and we believe any retailers who fail to provide customers with appropriate and effective standards of support as outlined under Section 44 of the *National Energy Retail Law* should be dealt with through the regulatory process.⁸ It appears that the proposed rule change has been driven by the AER’s 2017 Hardship Policy Review and other recent compliance assessments.

EnergyAustralia has not seen the results of the AER’s 2017 review of retailers’ hardship policies, nor have the results been discussed with us, so we cannot fully comment on specific issues or non-compliances identified by the AER. It is therefore unclear to us what problem AER is hoping to fix by implementing binding guidelines if it believes the existing regulatory requirements are not being met. This appears to be a cultural issue within certain retailers, which would be better addressed through increased monitoring, enforcement and penalties by the AER if required.

Any regulatory change should address the underlying cause of poor retailer behaviour, without simultaneously adding unnecessary administrative and operational costs which ultimately flow through to customers.

While, we agree with the AER’s overarching aims, it is still uncertain what regulatory changes would best achieve the desired outcomes. For example, at the workshop on 22 June 2018 on the consultation paper, it appeared that some of the proposed changes were focussed on

⁷ CUAC, *Principles for a Fair Consumer Experience Project - EnergyAustralia*, p9

⁸ “Division 6-Customer hardship, Section 44-Minimum requirements for customer hardship policy” [www.legislation.sa.gov.au/LZ/C/A/NATIONAL%20ENERGY%20RETAIL%20LAW%20\(SOUTH%20AUSTRALIA\)%20ACT%202011/CURRENT/2011.6.AUTH.PDF](http://www.legislation.sa.gov.au/LZ/C/A/NATIONAL%20ENERGY%20RETAIL%20LAW%20(SOUTH%20AUSTRALIA)%20ACT%202011/CURRENT/2011.6.AUTH.PDF) p54

making the AER's enforcement role easier as a way to drive better outcomes for customers. However, if we focus on the primary aims being to provide better hardship support to customers across all retailers and to tailor support appropriately to individual customers, then the regulatory solution may be different.

Best practice policy development generally assumes that more regulation is not necessarily the answer. Any new regulatory imposition will generally increase retailers' operational costs and the costs to customers. It is illogical to impose costs across the entire industry if there is a low number of poor performers.

Rather than focussing on a specific regulatory solution at this early stage, we have instead focussed on what elements it should and shouldn't include:

- Should provide a high-level approach to meeting the aims that allows retailers who already have good practices to continue to do what they are doing, while uplifting the practices of other retailers. This will help to ensure energy retailers provide a consistent level of hardship support to their customers.
 - Should not allow AER to set minimum standard statements at such a detailed level that specify steps that retailers must take with customers who are facing (or potentially facing) payment difficulty.
 - Should not stifle innovation and improvements in how hardship assistance is tailored to customers, or subgroups of customers.
 - Should not allow AER to make calls on policy matters – e.g. to specify what level of assistance retailers must provide or the proportions of customers a retailer must provide assistance to.
 - May include a list of example or model statements, but should not include specific standard statements that must be included in each retailers' hardship policy.
 - Should not equate customers in debt with customers who are facing payment difficulty.
- Should allow a clear, transparent and streamlined approach between AER and retailers around approvals, reporting, audit and enforcement activities.
 - Should not allow civil penalties to be applied to additional parts of the NERR where there are only isolated cases of a retailer not following parts of its hardship policy. We note that actual wrongful disconnections or systemic cases where a retailer has not followed its stated practice are of far higher concern.
 - Should not complicate the performance reporting guideline - this should be left intact.
 - Could ensure that audit attention on retailers with evidence of substandard treatment of customers or unexplained trends in hardship indicators.
- Should allow time between the finalisation of any rule change and guideline change and the date that retailers must comply with any new or amended guideline. In this area, operational changes are likely to require system, process and training changes.
- Should ensure that changes to the rules and guidelines are fully assessed to ensure the costs do not outweigh the benefits.

In terms of standards for hardship policies, our suggestions are that they:

- Are readily accessible to customers and consumer agencies

- Are written in plain English and can be understood by a typical residential customer.
- State how translation assistance can be accessed.
- State where assistance is available to access the policy for those who don't have internet, are vision impaired, etc.
- Not require retailers to allow access or allow continued inclusion in their hardship program or other assistance if the customer hasn't made payments and has either not made contact with their retailer or responded to requests to contact their retailer.
- Explicitly disallow particular negative behaviour towards customers – e.g. a demand that customers see a financial counsellor before being permitted access to hardship support, or that they are provided a debt waiver on the condition they transfer to a different retailer.
- Include action oriented statements so customers can understand the types of assistance they may receive, but not entitle them to all types of this assistance. e.g. Energy audits are useless for customers who already have low usage, or who are in a housing situation where it's not feasible to make changes to the house or appliances.
- Outline different payment options and describe how payment plans work.
- Require suitable training of consultants who are handling calls from customers potentially in hardship.

5. Tailoring hardship programs most effectively

Certainly, many customers do not have the ability to pay their energy bills. Those are the customers we aim to assist.⁹ There are also customers who have the ability, but not the willingness to pay. The latter customers are spread between our hardship program and our credit and collections program and often move between the two. They may have debt but they are not necessarily in hardship.

While both groups exist, it's extremely difficult to determine their size or to distinguish between customers on a case-by-case basis. When we call customers to follow up on unpaid debts, customers frequently are uncontactable and often tell us we've called the wrong number. It is hard to know if the customer is avoiding speaking to us, really has had their phone number changed, or if they are experiencing broader health issues or family violence that would outwardly look the same.

Understanding these groups is important as a hardship approach that is one-size-fits-all can easily provide more time, more assistance and resources to customers who don't need hardship assistance. For customers who are unwilling to pay, providing more time allows their debt to grow and increases the likelihood that these debts will never be paid. This approach therefore drives up retailers' costs that translate to higher costs across all customers. Spending more on customers who don't require assistance also detracts from resources that could be better directed to the customers who do require the assistance.

Our frontline staff must deal with customers in both groups throughout each day. They differentiate between these groups to the extent current regulations allow while erring on the side of caution. This discretion is important to tailor assistance to each customer's needs, but clearly, they will not always make the right decision about how to treat the customer. Retailers

⁹ We note that just focussing just on customers in debt or an inability to bills can be misleading. Some customers in hardship are paying their bills but are going to extreme lengths to minimise use of heating, cooling and ovens etc. to keep costs down. These customers are clearly in need of hardship assistance too.

may also use their discretion in a negative way and provide a very low level of hardship assistance.

Successfully delivering tailored assistance to the customers most in need without excessive expense and upholding standards of assistance across all retailers is one of the fundamental challenges. We encourage the AEMC to understand the role of incentives, obligations on customers to be contactable or to commit to paying what they can and to avoid prescriptive regulatory changes that remove retailers' discretion altogether.

Attachment 1

THE PRINCIPLES FOR A FAIR CONSUMER EXPERIENCE

CUSTOMER RELATIONSHIPS

- | | |
|---|---|
| 1 | Retailers treat customers with dignity and respect |
| 2 | Retailers endeavour to build a relationship of trust with customers |
| 3 | Retailers strive to empower customers |
| 4 | Retailers make customers aware of their rights and obligations |
| 5 | Retailers have a flexible and adaptable approach |
| 6 | Retailers work with customers to tailor solutions appropriate to the individual |

SERVICE STANDARDS AND PROCESSES

- | | |
|----|---|
| 7 | Retailers set customers up to succeed from the beginning |
| 8 | Retailers help customers to understand how the energy and water systems work |
| 9 | Retailers have efficient customer service processes |
| 10 | Retailers offer consistent customer service |
| 11 | Retailers prioritise early identification of, and respond to, customer payment difficulty |
| 12 | Retailers monitor, understand and keep pace with changing community and customer needs |

BUSINESS CULTURE AND MANAGEMENT

- | | |
|----|--|
| 13 | Retailers understand that energy and water are essential services that should be accessible to all |
| 14 | Retailers' boards and senior management are committed to fair treatment of customers |
| 15 | Retailers make fair customer treatment part of the culture of the business |
| 16 | Retailers take ownership of concerns raised by customers and commit to finding solutions |
| 17 | Retailers strive for continuous improvement in customer service |
| 18 | Retailers' staff are trained and supported |

Attachment 2 - EnergyAustralia's hardship experience and insights

Hardship indicators

Hardship indicators are often used as evidence when regulators or other industry stakeholders are raising concerns about the hardship performance of retailers. However, these indicators are difficult to interpret accurately and should often not be taken on face value.

Examples include:

- Some retailers have higher average debt for customers in their hardship programs than their average debt on entry to the hardship program. Is it bad if average debt increases after entry to a hardship program? Is this just a reflection that it will take time for customers to get back on track and in the meantime that they will receive additional bills that they can't pay in full? These trends may differ between retailers depending on how active a retailer is in excluding customers from their hardship program where those customers have growing debts. In our view, the comparison of debt on entry and average debt for hardship program customers means very little without further analysis.
- Is there a level of average debt for hardship program customers that is acceptable? We observe that retailers who waive or write off debts for hardship customers more frequently have lower average debt levels than those who assist customers in other ways. A retailer may spend more on energy reduction measures than debt waivers, but will most likely have a higher average debt. This should not be seen as a negative.
- Should average debt levels or enrolments in hardship programs be expected to go up if a retailer has announced price increases? Is it a problem if this doesn't occur? Retailers often seek to offset the impact of price increases, so it's possible that hardship customers did not experience the headline price changes announced in the media.
- Some metrics may look positive, but they can mask negative practices by retailers. An example of this is that having a high number of successful hardship program graduations could be a result of retailers waiving the entire debt for a customer on the condition they transfer to another retailer. This may be initially beneficial for the customer to clear their debt, but produces worse outcomes in terms of overall costs and customer choice.
- The hardship indicators published directly on the AER's website¹⁰ showing the number of customers per 100 customers over the quarter who were disconnected for non-payment and those reconnected over the same period. It is more useful to view these as the percentage reconnected of those disconnected¹¹ (although noting that for any one customer, the disconnection and reconnection could occur in different quarters). For most retailers this latter metric is around 30-50%. This seems a useful metric to report on and get further insights into the experience of customers and improvements that could be made. However, from our cursory research it appears there are valid reasons why it's not possible to increase performance to a much higher percentage.

Additionally, we recommend that more research and reporting are done to understand the trends and insights from not only the hardship indicators, but also other related data on concessions and other government and economic data. The AER does report on this at a high level already, but a deeper and more comprehensive analysis would help to provide better guidance for hardship policy development by government and retailers.

¹⁰ AER, <https://www.aer.gov.au/retail-markets/retail-statistics>

¹¹ The AER report on this in their Annual Report on Compliance & Performance of the Retail Energy Market 2016-17, <https://www.aer.gov.au/retail-markets/performance-reporting/annual-report-on-compliance-performance-of-the-retail-energy-market-2016-17>, November 2017, pages 46-48

Observations on hardship programs

- **Different levels of assistance** - There are many types of hardship assistance from short term to long term, and each type is best if tailored to and selected by the customer. Customers have very little buy-in to a payment plan if they have not actively participated in setting it up. We offer payment plans to all customers via our call centres and online. EnergyAustralia has a very high number of customers on regular payments and many take up this option for convenience rather than to stay out of debt. We also offer payment extensions and short-term payment arrangements. These are all types of assistance that we provide outside our hardship program. It is incorrect to see hardship assistance as all or nothing. The classification around what hardship assistance entails and how many customers are receiving different types of assistance may need to be considered when seeking to make assistance levels more consistent across retailers.
- **Enrolling and exiting hardship customers** - We offer hardship assistance to many customers. Many customers that enter our hardship program do not make contact with us, do not respond when we try to contact them and don't make any payments. We're not always aware of what is going on for these customers, but we are unable to provide any meaningful assistance to customers who don't interact with us at all. After a period of inaction from the customer, we will move them back to our credit and collections process. The number of customers in our hardship program then is a function of many processes and policies, we do not directly control or limit the number of customers we provide this assistance to.
- **Encouraging regular payments that the customer can afford** - Payment matching provides an incentive to customers, keeps them engaged. The way this works is that we offer a customer that we will match every fifth instalment paid by the customer (or some other frequency). We also find that Centrepay is a useful tool for customers receiving Centrelink payments and note that EnergyAustralia has one of the highest percentages of hardship program customers on Centrepay. In terms of setting up customers on sustainable payment plans, we often refer customers to a financial counsellor who can independently assist the customer to determine the payment amount. Customers may feel pressured or unwilling to have a similar conversation with their retailer, so the involvement of an independent party working for the customer free of charge is a better solution.
- **Providing access to other assistance** - Concessions and relief grants both require the customer to take some steps to set up. Retailers can provide assistance but ultimately cannot ensure customers receives all assistance available from government or other agencies that may be eligible for. The same is true of life support status where customers must return forms from their doctor to remain flagged as a life support customer.
- **Contact methods and communications** - Our research suggests that customers in payment difficulty prefer impersonal, but clear and concise contact methods like text messages. Putting more information on bills or letters or requiring phone calls is not always the best approach. When talking to customers we don't find it necessary to ask personal questions to provide the necessary assistance. We already have information on the size of the customer's bills and know if that is above or below average. If the customer is renting, has no job and high energy bills, it is not a stretch to understand that they may need assistance.