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28 June 2018

Australian Energy Market Commission  
PO Box A2449  
Sydney South NSW 1235

Dear Australian Energy Market Commission

**Reference: RRC0017**  
**Strengthening protections for customers in hardship**

Powershop Australia Pty Ltd (**Powershop**) thanks the Australian Energy Market Commission (**AEMC**) for the opportunity to provide comments on the National Energy Retail Amendment (Strengthening protections for customers in hardship) Rule 2018 consultation paper.

**Question 1: Rationale for rule change - adequacy of the current approach to hardship**

**(a) To what extent do you consider that the current approach to the application of hardship policies provides adequate protections to consumers in financial difficulty?**

From a Powershop perspective, we find that that our hardship policy provides adequate protections for customers experiencing hardship to the extent that customers are provided:

- payment arrangements that suit their needs;
- more time to pay, in certain circumstances;
- information on available government concessions and rebates;
- information on financial counsellor's and respite programs; and
- account credits (e.g. for meeting a payment arrangement or meeting energy usage reduction targets), in certain circumstances.

One of the key challenges Powershop faces is customer engagement with hardship policies – whether that be adherence to an arrangement (e.g. payment arrangements or lowering energy use), or not being able to speak with a customer who is showing signs of hardship or is on Powershop's hardship program.

While Powershop is comfortable with its approach to hardship customers, the AER's findings from the Hardship Review indicate that there is room for improvement to ensure consistency of approach across the industry.

**(b) Are general obligations that are more difficult to enforce leading to inadequate consumer protections?**

General obligations are beneficial for two reasons. Firstly, they allow retailers to design and apply hardship policies in a way that suits the retailer's processes and customer base. Secondly, general obligations allow retailers to easily harmonise their hardship policies across all jurisdictions as opposed to having state-based hardship policies which could lead to an inconsistent service and create more room for error in applying the policies.

Conversely, general obligations can lead to inadequate customer protections if a retailer does not apply their hardship policy in-line with the good practice principles detailed in the AER's sustainable payment plans framework.



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Powershop's view is that for hardship policies to be manageable from an operational perspective while allowing for flexibility to handle individual customer circumstances, there has to be an element of generalised obligations in the National Energy Retail Law and National Energy Retail Rules.

Powershop supports the AER in providing a guideline to ensure consistency, provided that it is harmonised with the Essential Services Commission (ESC) Payment Difficulties Framework (PDF).

### **Question 2: Hardship indicators**

**(a) Do the current indicators appropriately reflect the success or failure of hardship policies in protecting consumers who are facing financial difficulty? Please explain your perspective.**

The current indicators reflect the state of the market and society, not solely hardship policies.

#### *Increased debt levels*

Unfortunately, over the last few years, the cost of energy has increased due to increasing wholesale costs and network costs. These cost increases have placed pressure on household budgets which has led to greater energy debt. At the same time, Australian households have experienced the an increase in the cost of living a number of factors such as increased house prices/ rental costs, increased health care costs, increased childcare costs. Cost of living pressures combined with increased energy costs and stagnant wage growth has led to increased debt levels for household energy bills.

While undoubtedly there would be instances where retailer's hardship programs have failed to meet customers' circumstances, by and large, increased debt combined with non-engagement has led to the perceived failure to identify hardship customers.

Recent reductions in wholesale prices and an increase in the supply of energy in the National Electricity Market have started to translate to lower energy for costs for consumers. As energy costs ease debt levels should also start to ease.

#### *Low numbers of customers receiving hardship assistance*

Powershop's successful contact rate for customers that show signs of payment difficulty is 24% for the June 2017 to May 2018 period. This low successful contact rate aligns with the AER's findings that despite the high levels of energy debt across most jurisdictions, the proportion of customers on hardship programs remains low. If a retailer cannot make contact with a customer to offer assistance -the customer cannot be placed on an arrangement consistent with the retailer's hardship policy.

However, the low successful contact rate does not mean that the industry should not be doing more to continually explore innovative ways of driving engagement and making information available to customers.

There would be some benefit in conducting independent research to ensure the guideline is designed to successfully identify and engage customers experiencing payment difficulties.



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### *Fewer customers successfully completing hardship programs*

As mentioned above, cost of living pressures and higher energy costs have made it harder for customers to successfully complete hardship arrangements. But it should be noted that system driven data does not necessarily tell the individual story of each customer's situation. If a customer left the hardship program it does not mean that they were not provided assistance under normal payment assistance arrangements. For example, if a customer had breached two payment arrangements in a hardship program they may have been excluded from the hardship program but still provided with a payment arrangement to suit their needs.

Key drivers for customers being excluded from the hardship program are customers breaching an arrangement or (more commonly) failing to engage with Powershop after being placed on a hardship arrangement. For the three months March 2018 to May 2018 Powershop only successfully contacted 18% of hardship program participants. Powershop might have contacted these customers to check how they are going with their arrangement, offer external assistance, follow-up on a missed payment or update any rebates or concessions.

Being unable to offer assistance and discuss the suitability of a hardship arrangement is a major contributing factor to fewer customers successfully completing hardship programs.

### **(b) Should the hardship program indicators reside in the binding Hardship Guidelines as proposed or remain as separate to the Guidelines as a stand-alone requirement in the NERR? Please explain your perspective.**

Powershop considers there are benefits of providing a hardship guideline that sets out best practice and research-based guidance on how to promote engagement, manage customer arrears, and identify signs of hardship and foster relationships with stakeholders. However, Powershop is reluctant to support making the Guideline binding, especially if it is not harmonised with the PDF.

Considerations that Powershop suggests the AER take into account in determining whether to include the hardship program indicators in the binding Hardship Guidelines:

- 1 January 2019 sees the ESC's PDF launch in Victoria. The PDF sets out a minimum standard that ensures all customers experiencing payment difficulties are afforded a consistent level of assistance from all retailers.
- While Powershop cannot speak on behalf of other retailers, Powershop will be applying the PDF principles wherever possible across its customer base to ensure consistent service delivery.
- If the AER were to introduce a binding guideline Powershop would encourage harmonisation with the PDF. Not harmonising may lead to retailers having to run two hardship programs and two general payment assistance programs simultaneously, which could lead to adverse outcomes for customers and an unnecessary reporting burden on retailers.

### **Question 3: Proposed approach**

#### **(a) Are you of the view that Hardship Guidelines that include standard statements adequately protect the long-term interest of consumers in financial difficulty, while providing retailers with flexibility in how they apply hardship provisions?**

Powershop's view is that there has to be a level of standardised statements in a hardship guideline to ensure that there is enough flexibility to cater for all customer situations in all jurisdictions. A



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level of standardisation also allows retailers to provide personalised assistance as opposed to rigid process driven assistance.

### **(b) Is there another approach that would better meet the requirements under the NERL in relation to customers in hardship, and allow retailers to meet their obligations more efficiently?**

As mentioned above, allowing or prompting retailers to apply the PDF process across the AER jurisdiction will give customers a consistent minimum standard and ensure harmonisation.

#### **Question 4: Enforceability of Hardship Guidelines**

### **(a) The AER proposed that all the Hardship Guidelines be enforceable. Do you agree that all aspects of the guidelines should be enforceable? If not, what aspects of the guidelines should or should not be enforceable and why?**

Of the aspects detailed in the AER's rule change proposal, Powershop supports making assistance available an enforceable obligation as all customers, especially those experiencing hardship, are entitled to assistance. However, it is important that this obligation does not unintentionally promote disengagement or growth in customer arrears.

Powershop does not support making the following components enforceable obligations under a guideline due to the variability of the components and the risk that it will limit retailers' ability to provide personalised assistance to match customer's individual circumstances:

- entry to hardship programs;
  - Note: Reasonable obligations relating to self-identification are suitable, but proactive identification or any automation around entry will be difficult to apply consistently.
- participation in hardship programs;
- hardship program processes; and
- specific timeframes for assistance.

#### **Question 5: Implementation**

### **(a) What transitional arrangements should be put in place to require that retailers amend their current policies to comply with the Hardship Guidelines, if this rule were made?**

If the drafting of the guidelines led to retailers needing to amend their hardship policies, a six month transition timeframe should be implemented.

Powershop again wishes to stress that alignment with the PDF requirements is favorable. Powershop is amending its hardship policy to support the PDF and AER jurisdiction requirements.

### **(b) What aspects of the rule, if made, should be a civil penalty provision?**

Powershop's view is that civil penalty provisions do not necessarily drive better outcomes for customers. Rather, they have the potential to limit innovation and personalised customer assistance.

Powershop encourages collaboration and information sharing to promote continuous improvement and better customer outcomes. Civil penalties can promote risk mitigation and a compliance-centric focus to the detriment of a customer focus.



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### **Question 6: Costs and benefits**

**(a) Please comment on the benefits and costs that have been identified, in terms of their adequacy in assessing the rule change proposal and any quantification of those factors.**

A single point of reference for expectations should create efficiencies in processes for retailers and customers if they are harmonised with the PDF. Creating a different set of requirements in the guideline which do not align with the PDF will introduce additional costs for retailers.

Powershop agrees with the AER's position on customer cost benefits with regard to consistency of assistance, but note that if the AER's intent is to implement heavy monitoring and compliance reporting procedures, any customer benefits will be eroded. This would be due to retailer's further shifting their focus away from customer experience and more toward compliance and data monitoring.

**(b) Will improving hardship policies through the Hardship Guidelines result in a cost saving to consumers as a result in a reduction in bad debt? Please explain your perspective.**

As mentioned above, if the AER were to adopt a heavy compliance focus as opposed to allowing retailers to focus on customer experience, the customer may see no cost saving as retailers resources will be allocated away from customer assistance and directed toward data analysis and reporting.

Additionally, changes in the hardship guidelines may lead to an increase in bad debt. For example, a requirement in the guideline stipulated that retailers must allow for non-payment of arrears for a certain period or that arrangements must only focus on arrears which would likely lead to a growth in bad debt.

### **Question 7: Form of rule**

**(a) Are there amendments that could be made to the proposed rule to better achieve the intent of the rule change request?**

The proposed rule allows for the AER to design the guideline in a collaborative way with stakeholders. Powershop does not have any suggested amendments.

### **Question 8: Other issues**

**(a) Please identify broader issues with regards to hardship and affordability that may not be addressed by this rule change, if made.**

As detailed throughout this submission, Powershop encourages the AER to:

- align the guideline with the PDF;
- persist with the application of good practice principles; and
- avoid implementing a compliance heavy reporting regime that does not focus on customer outcomes.

If you have any queries or would like to discuss any aspect of this submission please do not hesitate to contact me.



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Yours sincerely,

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