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Mr John Pierce
Chairman
Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

Dear Mr Pierce

RRC0017 – Strengthening protections in the National Energy Retail Rules for customers in financial hardship

The Energy and Technical Regulation Division (the Division) of the Department of the Premier and the Cabinet thanks you for the opportunity to make a submission on the *Strengthening protections in the National Energy Retail Rules (NERR) for customers in financial hardship 2018* consultation issued on 24 May 2018 (RRC0017).

Maintaining an energy system that is secure, reliable and affordable continues to underpin all policy decisions. The South Australian Government recognises the impact the cost of living, including energy costs, has on South Australian consumers and in particular, those who are vulnerable.

According to data published by the Australian Energy Regulator (AER) for the September quarter of 2017/18, South Australia currently has the highest level of customers receiving assistance through hardship programs and payment plans. Whilst this acknowledges retailers operating in South Australia are utilising these methods to assist customers in financial difficulties, it is important that they are applied consistently and that the process for accessing them is relatively simple. This ensures as many customers experiencing hardship as possible are receiving the assistance. Being able to accurately report on implementation of a retailer's hardship policy is also crucial to determining whether this is occurring in practice.

Consequently, solutions that provide hardship customers with improved access to programs and better management of customer debt are always encouraged and supported.

In principle, the Division supports broadening Rule 75 of the NERR to allow for the development of a Customer Hardship Policy Guideline (Hardship Guideline), as proposed by the Rule Change request submitted by the AER.

Broadly speaking, the Division sees more clearly articulated retailer obligations through a Hardship Guideline as having three key benefits:

Firstly, a Guideline enables customers to better identify their rights in relation to the provision of assistance by retailers. Customers can also be confident that assistance is being applied consistently.

Secondly, the development of a Guideline with specific requirements provides a single point of reference for retailers. This enables them to better design their hardship policies ensuring the minimum requirements of the National Energy Retail Law (NERL) are met or ideally, exceeded, for the benefit of customers.

Thirdly, the AER, as regulator, is better able to monitor and enforce retailers' compliance with those minimum requirements and with the hardship principles of the NERL more generally.

In response to the Consultation Paper, the Division provides the following views for the Australian Energy Market Commission (AEMC) to consider as part of this rule change.

Rationale for rule change-adequacy of current approach to hardship

As an example, a non-legally binding *Memorandum of Understanding* (MoU) exists in South Australia between some energy retailers, the Minister for Energy and Mining, the Minister for Families and Communities and the former Energy Consumers' Council. The MoU, which was officially signed on 11 January 2008, commits its signatories to the objective of assisting energy customers experiencing hardship to manage their payments so that they remain connected to an energy supply.

The MoU also records the Parties' commitment to the implementation and maintenance of better practices and a commitment to use their reasonable endeavours to achieve the objective outlined above. Retailers are required to report annually.

Whilst the South Australian MoU is not legally binding, it does seek a commitment from retailers to acknowledge the importance of addressing hardship, independent of the legal obligations they may have under the national energy laws.

That said, as useful as a general objective may be, the more specific a requirement is, the more likely it will be complied with and hence the better the result for the end customer. This does however need to be balanced with any compliance costs which could ultimately be passed onto the customer.

The lack of detail on what is required of a hardship program has, in the Division's view, led to instances where the overarching objective has not been met as well as it could be. Variations in the calculation of payment plans by some retailers, for example, has on occasion been brought to the attention of the Division, at least anecdotally. It is appreciated similar evidence was obtained by the AER as part of its enforcement and compliance work.

Hardship Indicators

The AER's retail market reporting provides a useful tool for policymakers both in terms of monitoring the retail market for the adequacy of current policy and in the development of future policy. Importantly, when combined, the AER indicators provide policy makers with a broader perspective on the retail market with respect to customer hardship and affordability. Where possible, it is most useful to not only know how many customers are affected but also some indication as to the rationale. For example, the rate of customers disconnections, when combined with other data such as how many customers reconnect within seven days or how many have been disconnected more than once in the previous 24 months, provides further information which assists in the analysis of the underlying issues.

The indicators contained in the proposed Guideline will provide further information and, in particular, more detail on the practical implementation by retailers of their hardship programs. It is important to be able to monitor the success of these mechanisms by reporting on how many customers successfully complete their hardship programs and payment plan obligations as well as those that do not. Data as to why programs are not completed is also extremely useful.

A proposed Guideline should be consistent with those indicators irrespective of where the obligation sits.

Proposed approach

In the view of the Division, customers experiencing financial stress should be able to readily access clear, consistent and concise information on the options available to them. It is equally important that retailers be required to be proactive in identifying such customers through their own systems. This includes methods to better manage customer debt as well as assistance to customers to help reduce their overall energy consumption. In the case of South Australia, this would be consistent with retailers' obligations through the South Australian Retailer Energy Efficiency Scheme.

Including standard statements in the Hardship Guideline would be useful for both the customer as well as assisting retailers in the development of their hardship program. This does however need to be balanced with the need to ensure this does not result in significant compliance costs.

It is noted that the AER is required to undertake a public consultation process in the development of Guideline. It is expected this would provide the industry with the opportunity to put forward its views on the specifics of the Guideline noting the overall intention of the Guideline's development.

Enforceability

The Division is of the view that the Guideline should be enforceable. Energy customers should be confident that the retail market is obligated to assist customers who either self-identify or are identified by the retailer as experiencing financial difficulties. This includes knowing the AER will, when necessary, take appropriate action.

Costs and Benefits

There are clear benefits to customers by improving the practical implementation of hardship policies across retailers. As noted above, retailers are in a better position to comment on any specific costs associated with the proposed approach. The Division remains cognisant however of any impact these costs may have on end customers through retail prices.

A clear commitment to customers experiencing hardship underpins Division 6 of the NERL and as well as Part 7 of the NERR. This includes a general principle that disconnection is a last resort option. The Division considers early intervention as key to the achievement of this principle.

An enforceable Hardship Guideline provides a clear reference point both for customers and retailers as well as for the regulator. The ultimate success of a retailer's Hardship Policy however is through its practical implementation and the extent to which the customers for whom the policy has been designed receive the assistance they require in a timely and consistent manner.

Thank you again for the opportunity to comment on the Consultation paper. Should you have any questions in relation to this submission, please contact Pina Bria, Senior Policy Officer, on (08) 8429 3307.

Yours sincerely



Vince Duffy

Executive Director, Energy and Technical Regulation