



D18131060

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 – Draft Determination**

The Energy and Technical Regulation Division (the Division) of the Department for Energy and Mining welcomes the opportunity to make a submission on the *Strengthening protections in the National Energy Retail Rules (NERR) for customers in financial hardship 2018-Draft Rule Determination* issued on 6 September 2018 (RRC0017).

The information provided by the Australian Energy Regulator's (AER) performance monitoring reports, its 2017 Hardship Review, as well as anecdotal evidence the Division has been made aware of through its energy advisory role, clearly suggest that improvements to the current arrangements are needed. The Division commends the AER and the Australian Energy Market Commission (AEMC) on the work being done to facilitate these improvements.

I expect all stakeholders would be in agreement that the overarching objective of the hardship provisions in the National Energy Retail Law (NERL) and the NERR is to ensure accessibility of assistance to energy customers who need it. Much work went into the development of these provisions when establishing the National Energy Customer Framework.

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, to the detriment of some customers.

As noted in the Division's submission to the earlier Consultation Paper, the Division considers the potential benefits of a Hardship Guideline as threefold:

Firstly, a Guideline, including some standardised statements, enables customers to better identify their rights in relation to the assistance to which they are entitled. Customers can also be confident that there is greater consistency in the assistance they are being offered, both within their chosen retailer and between retailers.

Secondly, the development of a Guideline with specific requirements provides a single point of reference for retailers. This provides additional guidance to retailers to better design their hardship policies ensuring the minimum requirements of the 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.

On this basis, the Division supports the preferred Rule issued by the AEMC and does not consider the changes being proposed as beyond the scope of the AER's powers, as suggested by some retailers as part of this consultation process, including at the recent joint AEMC/AER workshop.

The Division does note that the detail of the Guideline itself, including the wording of any standardised statements, requires further work by the AER in consultation with the industry and other key stakeholders, and this will occur in accordance with the AER's retail consultation procedure. The Division does request that the non-homogeneous nature of energy customers be considered by ensuring the language and form of those statements is cognisant of those differences.

The Division would tend to agree with the AEMC in that the Guideline serves to better articulate what are already retailer obligations contained in the NERL's minimum requirements. As such, considerable additional compliance costs would not be anticipated. As is always the case, a situation where additional costs are ultimately transferred to customers should be avoided.

#### *Civil Penalties*

Should the final Determination include the proposed civil penalties, thereby requiring amendments to the National Energy Retail Regulations, the AEMC is requested to engage with the Division as soon as practicable, given South Australia's role as lead legislator.

#### *Proposed amendments to the National Energy Retail Law*

The Division appreciates that the current disparity between the obligations existing and new retailers face with respect to the submission and implementation of their hardship policies warrants further consideration by the COAG Energy Council.

As noted by the AEMC, any changes to the NERL can only be made on the unanimous approval of energy Ministers through the COAG Energy Council. Should this recommendation for a legislative amendment proceed, consideration must be given to the time required for the COAG Energy Council and South Australian Parliamentary processes to be pursued.

Thank you for the opportunity to put forward the Division's views on the Draft Determination. Should your officers wish to discuss any part of this submission further, please contact Ms Pina Bria, Senior Policy Officer, on (08) 7429 3307.

Yours sincerely



Vince Duffy  
Executive Director, Energy and Technical Regulation

22 October 2018