



Strengthening protections for customers in hardship

Publication of final determination and final rule

On 15 November 2018 the Australian Energy Market Commission (AEMC) made a final rule to help customers who are having trouble paying their bills due to hardship. The rule aims to improve retailers' hardship policies so customers can better understand their rights and get the help they need to pay their power bills.

The rule requires the Australian Energy Regulator (AER) to develop binding customer hardship policy guidelines (hardship guidelines) in order to strengthen retailer hardship policies, and make them more transparent and consistent.

Hardship requirements

Under the NERL, retailers must have hardship policies in place for residential customers. The policy must be approved by the AER and must contain, at a minimum, a number of requirements. These include:

- processes to identify residential customers experiencing payment difficulties due to hardship
- processes for how the retailer will respond early to customers who might be experiencing payment difficulties due to hardship
- flexible payment options
- processes to identify government concession programs and financial counselling services
- an outline of a range of programs that the retailer may use to assist hardship customers
- processes to review the appropriateness of a hardship customer's market retail contract
- processes to assist customers with strategies to improve their energy efficiency.

The final rule

The final rule requires the AER to create hardship guidelines that include standardised statements that retailers must include in their hardship policies. This will improve policies by requiring retailers to use consistent and transparent messages to help consumers understand their rights under the policy.

The rule also requires that retailers include in their policies clear and specific statements of the action they will take to identify customers who are experiencing financial hardship and assist those customers in managing their energy bills on an ongoing basis.

The final rule and transitional arrangements place requirements on both the AER and current retailers as follows:

- The AER must develop the hardship guidelines, in accordance with the retail consultation procedure, by 1 April 2019.
- Retailers who already have in place an approved hardship policy, will then have two months (no later than 1 June 2019) to submit their updated customer hardship policy that must comply with the hardship guidelines. It must also contain clear statements of the actions the retailer will take to meet the minimum requirements under the NERL.
- The AER will then have two months to approve the updated policies (no later than 1 August 2019).
- Retailers must have their policies implemented within two months of approval by the AER.

Under this timeline, all current retailers will have their updated hardship policies operational and on their websites by no later than 1 October 2019.

New retailers will have a slightly shorter timeframe to implement their hardship policies. They will have three months from the time they are granted retailer authorisation to submit

a complying hardship policy to the AER. The AER will have three months to approve the policies, and the retailer must then implement the policy as soon as practicable after approval.

With improved policies that are consistent and clear, the AER will be better able to monitor the performance of retailers and penalise any breaches.

New civil penalties and recommended law change

The final determination includes a joint AEMC/AER recommendation for new civil penalties, such as fines, to protect customers if retailers fail to comply with the new obligations.

We are also recommending that COAG Energy Council make a law to prevent new retailers from starting their business until they have approved hardship policies in place.

Where the new rules apply

The changes will be part of the National Energy Customer Framework (NECF) which applies in the ACT, Tasmania, South Australia, New South Wales and Queensland. The changes will not apply in Victoria as it has its own Energy Retail Code.

The rule change request

As part of its monitoring and enforcement work, the AER identified a number of issues relating to the way retailers are implementing their hardship policies. In response to this, the AER carried out a review in 2017 of the hardship policies of nine selected retailers. That review concluded that most retailers were deficient in at least one aspect of their policy. In the AER's view, there are discrepancies between hardship policies and what occurs in practice. Also, many policies contain general statements, and these general, non-specific policies offer customers a lower level of protection.

As a result of its hardship work, the AER proposed a rule that would require it to develop binding hardship guidelines.

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