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Australian Energy Market Commission
Level 15, 60 Castlereagh St
Sydney NSW 2000

Dear Sir or Madam,

Strengthening Standards for Payment Difficulty Assistance (RRC0074)

AGL Energy (AGL) welcomes the opportunity to provide feedback to the Australian Energy Market Commission's (AEMC) Consultation Paper on Strengthening Standards for Payment Difficulty Assistance (Consultation).

AGL appreciates the work the Australian Energy Regulator (AER) has undertaken as part of their Review of payment difficulty protections in the National Energy Customer Framework, to produce these rule changes, ensuring that the rule changes are considered with industry feedback.

As one of Australia's largest energy retailers, we continue to recognise and support customers experiencing payment difficulty, understanding the growing impact energy bills can have on their day-to-day lives. We support customers in several ways including providing direct financial assistance, including bill credits, payment matching and debt relief for customers experiencing financial difficulty.

AGL supports the focus on improving support for customers facing payment difficulties and ensuring they receive the appropriate assistance, however, we have raised several areas of concern based on the questions posed in the Consultation and the drafting of the AER's proposed rule changes, noting that the AEMC has not issued rule drafting at this stage in the process.

Key elements of our feedback include:

- Not allowing a complete ban on providing documentary evidence, as this may be useful to retailers in exceptional circumstances, particular in offering assistance above regulatory requirements.
- Encouraging retailers to consider information from customers and third parties on a customer's circumstances when forming payment plans, and to review the appropriateness of a payment plan when updated information is provided. However, any review must consider the full scope of the customer's position, and that an update should *not* be required where new information has been provided, unless it is considered appropriate that the arrangement be updated within this broader context.
- Retailers should have discretion over how information from customers or third parties is received. It should not be mandated that this must occur via digital means, allowing retailers the flexibility to serve customers in the most appropriate way while balancing customer experience and cost.

About AGL

Proudly Australian since 1837, AGL delivers around 4.6 million gas, electricity, and telecommunications services to our residential, small and large business, and wholesale customers across Australia. AGL operates the largest electricity generation portfolio in Australia of any ASX-listed company, with a total operated generation capacity of almost 8000 MW across Australia. AGL is Australia's largest privately-owned hydro power station operator and operates the largest portfolio of renewables and storage assets of any ASX listed company. Since 2006, AGL has invested billions of dollars in the construction and delivery of over 2 GW of renewable and firming capacity in the National Electricity Market.

If you would like to discuss any aspect of AGL's submission, please contact Brandon Hoogendorp at bhoogendorp@agl.com.au

Yours sincerely,

Liam Jones

Senior Manager Policy and Market Regulation

AGL Energy

Ban on requiring documentary evidence

Question 1: What are the impacts of not requiring documentary evidence from customers in accessing payment difficulty assistance?

AGL agrees that documentary evidence should not be mandatory where customers are seeking assistance required under regulatory obligations. However, AGL does not support an absolute ban on retailers being able to request or receive documentary evidence for certain types of payment assistance and believes this should be permitted in exceptional circumstances where the retailer deems it necessary, or additionally where the customer chooses to provide this independently.

We do not view it as common industry practice that a retailer would seek documentary evidence to access payment assistance such as payment plans, and that while introducing this change may lower barriers slightly for certain edge case scenarios, we do not expect this will have a material positive impact on customer support outcomes more broadly. On the other hand, we do however believe the rule change could have negative unintended consequences as it may inhibit existing exceptional circumstances in which retailers may seek documentary evidence to support customers, with some examples including, but not limited to:

a. Where the retailer offers assistance over and above the minimum required regulatory support and needs to assess a customer's full circumstances to reasonably assess eligibility or suitability for the provision of that support.

b. Where retailers are required to, or voluntarily support customers to complete applications for government rebates that require documentary evidence.

c. Instances of multiple failed payment arrangements and the customer is seeking to form a new arrangement, outside the regulatory requirements and retailers wish to assess a customer's full situation to ensure the arrangement is suitable and sustainable in the context of their overall position.

Each of the above scenarios is discussed in further detail below.

a. Assistance exceeding minimum regulatory requirements:

Where retailers are seeking to help customers over and above any minimum regulatory requirements, or to provide discretionary aid such as debt waivers, documentary evidence should be able to be requested by the retailer, if they reasonably deem it appropriate. Retailers may need to actively assess customer suitability or eligibility, outside of the information that they hold in their systems, given there may be a limited number of spots or budget available in these programs, and retailers may want to ensure they are able to prioritise aiding those most in need and/or who are most vulnerable.

Examples may include:

- Significant debt waivers, including customers who have received a debt waiver previously, and seek an additional waiver in the future, requiring retailers to assess their suitability for the additional waiver and;
- The provision of energy efficiency upgrades which may require documentary evidence to support applications such as for example information about the customer's premises including ownership status and/or suitability for certain upgrades such as solar panels.

b. Government grants

A complete ban on documentary evidence could impact the completion of government grants, which retailers may support customers in filling out (either voluntarily or mandatorily), and may require receiving accompanying documentary evidence to support these processes. In this scenario, the retailer is not the recipient or beneficiary of the supporting evidence, but instead, is merely the means by which they are captured and shared with the assessing agency.

With the evolving landscape in affordability and initiatives from government departments to assist customers in their energy needs, it is possible that there may be future grants that require retailers to obtain certain documentation from customers to assist in the submission of the grants. For example, in recent times the Essential Services Commission Victoria has required Victorian retailers to support customers applying for the Utility Relief Grant Scheme. In such circumstances, we would not want this rule change to create a conflict of obligations, (which may require a *further* rule change to clarify that a retailer can in fact receive documentation for this purpose), or to create inefficiencies as retailers navigate their compliance obligations and are placed in a position where they cannot support the customer appropriately.

c. *Multiple failed payment arrangements*:

Where the customer has already received access to multiple payment arrangements and are seeking an additional arrangement (over and above the minimum required by the NERR), the provision of documentary evidence may in fact support meaningful and transparent conversations with the customer to ensure their energy bills, in tandem with their overall situation, is thoughtfully considered by both parties with the outcome being the formation of a reliable and sustainable payment plan. While retailers may not require this evidence in all cases - depending on the specific situations of the customer or at their discretion - a complete ban on this being able to be requested may serve to decrease the formation of successful arrangements due to retailers not being able to work collaboratively with the customers in detail – especially where the documentary evidence reveals material information that might have contributed to the failure of the previous payment plans.

However, if a rule is introduced around prohibiting documentary evidence, we would recommend that rather than prescriptive examples of when this is permitted, this could be framed as a principles-based approach and that documentary evidence is only required where reasonable and/or in exceptional circumstances, outside the context of direct regulatory requirements, or that this is also permitted where other regulatory requirements require the retailer to receive documentation from customers.

This would meet the requirements of the AER's proposed rule change to ensure customers are not facing barriers in receiving their required regulatory assistance; while permitting flexibility on retailers to ensure they support their customers in the best way possible where further information may be needed.

Question 2: Would banning retailers from requiring evidence to access payment difficulty assistance reduce barriers customers face in seeking support?

While this may reduce barriers to payment difficulty assistance for some customers, this must be tempered with the ability for retailers to still request documentary evidence in certain extenuating circumstances outlined in question one, where it is in the interest of both parties to communicate openly and honestly while providing the appropriate support.

Retailers and customers need to collaborate where issues of payment difficulty arise, and by removing the ability for retailers to seek certain documentation, in exceptional circumstances, it may hinder the assessment of an appropriate payment plan, when done in coordination with the customer.

Question 3: Should retailers be able to require documentary evidence for some kinds of payment difficulty assistance? Does this matter for some types of assistance more than others?

As outlined in our response to question one, we believe that there should be certain situations in which documentary evidence is still available to the retailer, upon request, or where the customer volunteers this.

We do not believe that this should be a common practice for the establishment of payment assistance with retailers actively seeking to work with customers on the most suitable arrangement. However, where there are multiple broken arrangements, and retailers are seeking to ensure the customer is on the most appropriate arrangement for their circumstances, documentary assistance could provide a retailer with appropriate tools to have these conversations in a nuanced manner.

In these circumstances, the documentary evidence acts not as a barrier, but rather as a bridge between retailers and customers to collaborate and establish the right support for the customers situation.

Requiring retailers to consider information or representations by customers (or third-party) and changes of circumstances in determining capacity to pay/developing payment plans

1. How should retailers consider information provided by consumers including via newer digital means (i.e. chatbots etc)?

AGL is supportive of considering information from customers and third parties in the formation or review of payment plans. We believe that all factors, including a customer's circumstances, their arrears and ongoing consumption are important in ensuring the arrangement is appropriate in a way that meets the customers' needs while minimising any growth to their ongoing debt. Although we note that in some cases, customers' (or their authorised third parties), understanding of their financial situation can sometimes be limited and may not accurately consider the ongoing impact to their energy accounts when forming the arrangements or requiring reviews, so retailers should still have the scope to consider the information provided in the broader context of a customer's energy arrears and consumption.

AGL believes that retailers should not be required to consider information received through digital means, unless they elect to and/or are capable of doing so. Retailers should have discretion in how this information is received from customers to ensure it is the most appropriate avenue that they believe will support customers. AGL have observed higher rates of payment arrangements not being maintained where established through digital channels, and by allowing retailers to choose the methods in which they receive this information it can ensure a higher level of engagement as there may be higher nuance to conversations through non-digital means.

Requiring this to be received and actioned through digital means would introduce higher costs to retailers to build digital solutions with enough sophistication to interpret customer/third party information in a way that is meaningful to the customer's overall situation including arrears and ongoing consumption and complementary system changes. While many retailers currently offer digital service options, these channels may not always be suited to the nuance and sensitivity of conversations about payment difficulty. Requiring retailers to expand these services to cater for these conversations could result in disproportionate implementation costs and may not align with the "Market Efficiency" criteria outlined in the Consultation's assessment framework.

Retailers will naturally gravitate to ways that offer efficiency and simplicity for both them and their customers, so we would strongly encourage the AEMC to *not* mandate the way in which retailers need to receive this information to allow flexibility in the solutions they think will best meet customer needs.

2. How should retailers consider information from third-party representatives (including, but not limited to, financial counsellors and community advocates) in determining a customer's capacity to pay? How is this information balanced against other factors, such as energy consumption and arrears?

We agree that retailers should consider information provided by customers, or authorised third parties, in the context of their payment plans or what they can afford, however we also note that this needs to be considered in the broader context of their overall energy needs and arrears. AGL supports receiving information from authorised third parties, including providing direct avenues for Financial Counsellors who can engage AGL on behalf of customers, once suitable authorisation is provided, through dedicated phone numbers and emails, to ensure that customers can receive the appropriate support when they are utilising these services.

We view it as practical that if there is a change in customer circumstances, and that retailers are informed of this by either the customer or the authorised third party in methods that the retailer accepts this information through, that the payment plan should be reviewed for its appropriateness in line with the information provided.

AGL has two key concerns with the AER's drafting of the proposed rule, which we would seek to be addressed:

1. The current drafting may create a possible interpretation that retailers may need to proactively monitor energy consumption and adapt payment plans accordingly. This poses significant risks to retailers in how this would be managed, with material changes to systems and processes being required, including consideration of appropriate definitions to what changes in consumption require amendments to customers' accounts, and the frequency at which this would need to occur. These calculations would prove complex to implement and would prove equally complex, if not frustrating, for customers with these arrangements to understand.
   There is also considerate risk in changing a customer's payment arrangement without a discussion or their consent, particularly as these customers are already at a state of heightened risk and they may not wish to alter their arrangement or be able to afford the change in the arrangement. Customers on these payment arrangements are often highly focused on budgeting and may be reliant on a fixed income. This can limit their capacity to accommodate changes to their payment arrangements, unless they expressly indicate to the retailer that a variation is appropriate or necessary.
   We would seek clarification in the drafting of the rule that payment plans should only need to be reviewed if the customer, or authorised third party, indicates a change in their energy consumption needs or circumstances to the retailer, otherwise adapting payment plans based on factors such as seasonal fluctuations may nullify the benefits of a consistent payment plan. While a small change in drafting, the impacts may otherwise be very broad and complex to retailers as they would need to consistently monitor consumption or any avenues in which the customer might indicate this information. We don't believe this is the intent of the AER's drafting, however inserting *"upon notification by the customer or a third party acting on behalf of the customer"* to the end of the AER's proposed amendment of the rule would serve this clarification and help provide certainty to retailers around their obligations on when reviews are required.

2. Additionally, we have concerns with the requirement that retailers must update payment plans based on the information provided by customers or their third parties, without the consideration of all other aspects involved in a customer's energy account, such as debt and arrears. All these factors, including the customers circumstances, play pivotal roles in the development of an appropriate arrangement and need to be considered if changes to an existing arrangement are requested.

   We believe that retailers will genuinely work with customers where there has been a change in their circumstances and where new information is provided to ensure the plan is still suitable, as it is not logical for retailers to deliberately set up payment plans that are outside of a customer's means or designed to fail.

However, the customer’s situation must still be considered in the context of their overall energy spend and arrears, and it may not always be suitable or required to adjust a payment plan or that the payment plan must be established exactly how the customer, or their authorised third party, has indicated it must be established, with a delicate balance being struck to ensure all factors are considered. Customers and their third parties may not always have an adequate understanding of a customer’s energy arrears and consumption, which may impact a customer in the long term as their energy debt increases and makes recovering from this position more difficult.

By forcing a requirement that the arrangement must be updated upon provision of new information, this could be perceived as placing a higher value on the information from the customer or the third party than other information and while AGL believes retailers will consider this information openly and honestly, it must be holistic.

Instead, a suitable requirement may be that if any information is provided by the customer, or the customers authorised third party, regarding a change to their circumstances and they request a review of their arrangement based on this information, that the retailer performs a review for the appropriateness of the arrangement. Retailers may also use this as an opportunity to explain any potential implications of the changes a customer is seeking, such as how much a customer’s debt may increase or decrease which can provide further information to a customer or their third party in the full scope of the change.

By requiring that retailers perform a review upon the receipt of new information, this will ensure that the amount and frequency is suitable, considering all relevant factors and updating the arrangement, if deemed to be appropriate.

Question 3 Assessment framework: Do you agree with the proposed assessment criteria? Are there additional criteria that the Commission should consider or criteria included here that are not relevant?

AGL agrees that the assessment criteria the AEMC has used are appropriate.

In line with these criteria of market efficiency and implementation considerations we recommend that that the AEMC do not create overly prescriptive solutions and rather introduce general principles that strike the appropriate balance of offering sufficient guidance for retailers to deliver positive customer outcomes while allowing appropriate flexibility in their implementation approach. This can be referenced to the question regarding receiving information via digital means, which may complicate aspects of how retailers deliver solutions currently, and could ultimately create higher costs and complexities that could otherwise be avoided if there is retailer discretion in how they receive this information.

We would also encourage that for ‘implementation consideration’s, the AEMC provide at least a twelve-month implementation lead time from the date of the final decision at a minimum. Retailers are already facing a significant amount of regulatory change, and by providing at least twelve-months to implement these changes it will ensure that retailers can appropriately plan and implement these changes while minimising costs, which ultimately impact customers.