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Dear Retailer

AER enforcement outcomes related to hardship obligations

Improving outcomes for customers experiencing vulnerability, including by improving retailer hardship policies and access to hardship and payment plan protections is a current priority area for the Australian Energy Regulator (**AER**).¹

Hardship policies are vital in setting out how retailers identify and support customers experiencing payment difficulties due to hardship. Effective hardship policies and practices are critical to ensuring customers can access the protections they are entitled to.

The purpose of this letter is to:

- inform you about two recent enforcement outcomes, involving Red Energy Pty Limited (**Red Energy**) and M2 Energy Pty Ltd (trading as Dodo Power & Gas) (**Dodo**), concerning contraventions of various hardship obligations under the *National Energy Retail Law* (**Retail Law**) and the *National Energy Retail Rules* (**Retail Rules**), and
- outline the AER's expectations of retailers concerning the identification and treatment of hardship customers.

Enforcement outcomes

Red Energy

In February 2025, Red Energy paid penalties totalling \$474,600 following the issue of 7 infringement notices by the AER for alleged failures to adequately identify and assist customers experiencing payment difficulties and hardship. Specifically, the AER was concerned that Red Energy's systems and processes were inadequate when a hardship customer moved to a new residence but remained a customer of Red Energy. This resulted in customers losing their hardship support when they moved, for instance being denied immediate access to suitable payment plans, leaving them vulnerable to disconnection and debt collection processes, including credit default listings.

The AER alleged that Red Energy breached sections 43(2)(c) and 50(1) of the Retail Law. These alleged breaches involved failing to offer payment plans and failing to implement a hardship policy, both of which are required to assist customers experiencing payment difficulties due to hardship in managing their energy bills on an ongoing basis.

In addition to the penalties, the AER accepted a court enforceable undertaking from Red Energy requiring it to review and improve its hardship policy, retrain staff and implement new systems to track customer hardship cases. The court enforceable undertaking includes an admission by Red Energy that it breached its obligations under sections 43(2)(c) and 50(1) the Retail Law.

Further details about this matter are contained in the AER's [media release](#).

¹ [Compliance and Enforcement Priorities for 2024-2025](#)

Dodo

In March 2025, Dodo paid penalties totalling \$406,800 following the issue of six infringement notices by the AER for alleged failures to comply with its obligations to support customers experiencing payment difficulties due to hardship.

The AER's investigation into Dodo's conduct was prompted by findings from a proactive hardship compliance review of Dodo's hardship and payment plan practices.

Following the investigation, the AER alleged that Dodo failed to:

- inform three customers of its hardship policy as soon as practicable after the customers informed Dodo they were experiencing payment difficulties and were impacted by hardship circumstances (e.g. family violence or unemployment), thereby identifying themselves as hardship customers, as required by rule 71(1) of the Retail Rules. This may have resulted in the customers not being aware of Dodo's hardship program or the protections that were available to them.
- establish payment plans for three customers experiencing hardship and/or payment difficulties, having regard to their capacity to pay, as required by rule 72(1)(a) of the Retail Rules. This may have resulted in the customers paying higher instalment amounts than what they could afford and may have consequentially compromised their ability to purchase other essential goods and services or put them at risk of not meeting instalments under the plan.

In addition to the penalties, the AER accepted a court enforceable undertaking from Dodo requiring it to, among other things, appoint an independent expert to review its hardship policy and compliance with hardship obligations, and establish and maintain a compliance and training program on hardship obligations.

The court enforceable undertaking also incorporates broader concerns identified by the AER, including:

- Dodo's call scripts and workflows not adequately referencing its hardship policy or being adhered to by call operators when establishing payment plans, and
- some instances of Dodo not appearing to identify a customer as a hardship customer, where the customer displayed hardship indicators but agreed to a (non-hardship) payment plan.

The court enforceable undertaking includes an admission by Dodo that it breached its obligations under rules 71(1) and 72(1)(a) of the Retail Rules and an acknowledgement of the AER's broader concerns.

Further details about this matter are contained in the AER's [media release](#).

AER expectations

Identification of customer hardship

Customers experiencing payment difficulties due to hardship are entitled to receive the hardship protections that are applicable under the hardship framework and a retailer's hardship policy.

Where a customer displays hardship indicators, retailers are required to identify the customer as a hardship customer and provide the customer with applicable hardship supports on an ongoing basis, and not simply offer a non-hardship payment arrangement. Retailers must be aware that customers may inadvertently feel pressured into accepting an offered payment plan arrangement calculated only factoring in usage and debt (i.e., due to

fear of disconnection or feeling like they have no other choice), even if it may be unaffordable or unsustainable. Customers experiencing payment difficulties due to hardship are entitled to a payment plan that holistically considers their individual circumstances and their capacity to pay.

Identification of customers as hardship customers where they are experiencing payment difficulties due to hardship or display hardship indicators is critical to ensure these customers receive other important protections such as waiving of late fees, being told information about government rebates, energy audits, possible retailer contributions towards the debt, and energy plan comparisons.

Informing customers of the retailer's hardship policy

The AER expects retailers to have internal processes in place to ensure customers are informed of the retailer's hardship policy as soon as practicable after the customer is identified as a hardship customer. As part of this the AER expects retailers to provide their agents with training to ensure they are aware of hardship indicators and able to effectively identify hardship customers.

Where a retailer's agent fails to inform customers experiencing payment difficulties due to hardship of the retailer's hardship policy, the customer may be unaware of the options and protections available to them under the retailer's hardship policy and program.

Establishing payment plans and consideration of capacity to pay

Ensuring customers are offered and placed on payment plans that consider their capacity to pay is a fundamental component of the hardship requirements.

Establishing payment plans that have adequate consideration of capacity to pay requires a holistic consideration of the customer's individual circumstances. The AER considers this should be reflected in all elements of establishing a payment plan, including determining the payment amount, instalment frequency and commencement and duration of the plan.

As highlighted above, customers may feel pressure to accept unaffordable payment arrangements that do not adequately consider their capacity to pay. This can lead to customers failing to make payments towards their payment plan and could result in customers not being offered future payment plans or other supports and continuing to increase their debt.

The AER expects retailers to have policies and processes in place to ensure inadvertent pressure is avoided and that customers are placed on payment plans that consider capacity to pay. Examples of potential approaches include:

- When establishing a payment plan, agents asking customers what they can afford to pay as a starting point, rather than proposing specific plans or instalment amounts at the outset.
- Agents undertaking comprehensive budget assessments with the customer, subject to the customer being comfortable with this, to consider broader living expenses to best determine affordability of a payment arrangement.
- If a retailer uses automated systems to calculate instalment amounts, agents emphasising that such calculations are flexible, and that customers do not have to agree to that instalment amount if they cannot afford it.

Change of address

Customers are entitled to receive ongoing support when experiencing payment difficulties due to hardship and it is important that they continue to receive any applicable hardship protections when they change address or leave a retailer.

Retailers are required to continue to provide customers the benefits of any hardship protections in place when a customer changes their address. Consistent with this, a retailer's hardship policy must not contain terms that limit the application of hardship protections to customers who have ongoing supply of energy at a specific premise. Retailers should also have internal systems and processes to ensure the customer's membership in the retailer's hardship program is maintained after a change of address when remaining with the retailer.

Leaving a retailer (debt-only customers)

Retailers are required to continue to provide customers the benefits of hardship protections for any outstanding debt owed when they leave the retailer, in a manner consistent with the hardship framework. This includes that the customer will not incur late payment fees or be referred to debt collection for that debt, and any payment plan for the debt will be developed with consideration of the customer's capacity to pay. These protections are important so that customers are not disincentivised from or penalised for shopping around and switching to another retailer to get a better deal.

Relevant protections for debt-only customers should be included in retailers' customer hardship policies to ensure that these customers have access to appropriate payment arrangements.

Hardship policies

A focus area for the AER is on improving retailers' hardship policies. Hardship policies should contain a positive statement about the protections available for debt-only customers. Further, the AER will not approve hardship policies that contain inappropriate restrictions on the application of hardship protections.

We consider that many current customer hardship policies can be improved and encourage retailers to undertake a proactive review of their policy to ensure it is consistent with the AER's [Customer Hardship Policy guideline](#) requirements and includes the protections noted above. If updates are required, please submit an amended draft policy with changes tracked to the email address below for AER approval.

Monitoring

The AER is actively monitoring industry compliance with the hardship obligations. We will consider taking enforcement action against any retailer who engages in practices that do not extend hardship protections to customers.

Please contact retailcompliance@aer.gov.au if you have any queries in relation to the matters raised in this letter.

Yours sincerely

Rebecca Holland
A/g General Manager
Compliance and Enforcement