



Ethnic Communities' Council of NSW Inc.

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Response to AER Hardship Guideline Issues paper December 2018

The Ethnic Communities' Council of NSW (ECC NSW) welcomes the opportunity to provide a response to the AER's Hardship Guideline Issues Paper 2018. ¹

Since its formation over 40 years ago the ECC NSW has been the peak body for culturally and linguistically diverse (CALD) community members and representative organisations in NSW. ECC NSW main activities are advocacy, education and community development. It is a member of the Federation of Ethnic Communities Councils of Australia (FECCA) and the Energy Advocacy role represents FECCA in the National Energy Market (NEM). ECCNSW has been undertaking energy advocacy, energy market research and CALD specific energy projects for more than a decade.

Through our Energy Advocate ECC NSW is a member of the customer councils of Ausgrid, Endeavour, Jemena (JGN) SA Power Networks (SAPN) and Transgrid. CALD issues and concerns are also represented through a Community Directorship of the Energy and Water Ombudsman of NSW (EWON) as well as active membership of AER, AEMC and AEMO community forums and the Energy and Water Consumer Advocacy Program (EWCAP) facilitated by the Public Interest Advocacy Centre (PIAC).

ECC NSW thanks the AER for the opportunity to provide input to this paper. While funding constraints prevent us from a more detailed submission on all of the complex issues raised in the Issues Paper ECC NSW would like to provide a CALD perspective on some of the issues where appropriate. ECC NSW welcomes initiatives to promote effective protections for customers including those experiencing payment difficulty.

ECC NSW responses to most of the questions posed in the Issues Paper are provided below:

¹ AER, Hardship Guideline Issues Paper, December 2018

Section 3.1: How should the Guideline best ensure that consumers are effectively informed about their rights?

1. What is the current consumer and consumer advocate experience of accessing information about retailer hardship policies and programs?

Energy retailers have consistently pointed to the difficulties in engaging some consumers who do not wish to be engaged.² Early engagement with a retailer when experiencing payment difficulties is crucial and a carefully crafted set of guidelines and accompanying documentation has the potential to provide support for engagement when utilised in concert with consumer and community support agencies. While attempts have been made in the past to make information accessible to a wide audience, we see little likelihood that individual CALD consumers on their own will find an English language version simple and easy to access and use. Based on recent Census data, approximately 27% of the NSW and Victorian population speak a language other than English at home,³ which often means verbal proficiency not literacy levels. This data also does not address specific CALD needs for communication in their first language, which varies considerably across language and cultural groupings.⁴

Research conducted by ECC NSW of CALD household and small business consumers in NSW and Victoria⁵ points to both a concerning lack of knowledge of payment assistance mechanisms in some CALD communities and a low take-up of those options even when there is knowledge in the community. This is particularly disturbing given that a range of CALD communities are over-represented in the lowest two income groups in ABS data from the 2011 and 2016 Census.⁶

2. Are there any serious practical impediments or barriers to implementing the changes described? If so, how could these be overcome?

Dispute resolution in a language other than English (LOTE) can be a costly and challenging process for all concerned. Energy businesses, welfare agencies, energy ombudsman schemes and others generally have translation and interpreter services available for CALD consumers, with widely varying effectiveness and availability. A major concern expressed by CALD consumers is that it can be too difficult (and these could be consumers in payment difficulty) to navigate through to genuine help that is delivered in a culturally appropriate way, and so it is not attempted.

3. In relation to the problems described in section 3.1, are there other steps that retailers could take to achieve the intentions of the hardship obligations?

² For example work done in ERAA Working Groups around engaging 'hard to engage' consumers, 2015

³ ABS Census 2016 Population data

⁴ See research conducted by ECC NSW, *Experiences of Energy Consumption for Culturally and Linguistically Diverse (CALD) communities*, 2012 and 2016 as well as *Energy Smart Ethnic Small Business (BEST) project* 2014 available at <http://www.eccnsw.org.au>

⁵ *ibid.*

⁶ ABS Census 2011/6 Income and Language data

Techniques for communicating and consulting with CALD communities around energy issues have been a focus for ECC NSW for more than a decade. Traditional approaches often do not work with some communities and language groups. ECC NSW has developed a set of guidelines (Cultural Connections ⁷) for energy businesses and agencies that set out techniques and methods that have been shown to work effectively. The utilisation and effectiveness of these guidelines by energy market businesses and agencies is currently being monitored and evaluated with a major report due later in 2019. Retailers have generally been slow to recognise the necessity (and value) in providing CALD accessible mechanisms and processes around information transfer and customer assistance, often relying only on hard to access translator services or translated written information for customers who speak a language other than English or customers who prefer communications in their first language.

4. Are there other risks or considerations should we be aware of?

The sensitivity and judgement of call centre staff and initial agency contact points for assistance are critical to the success of measures and mechanisms developed out of any binding guidelines. Appropriate communication and engagement of CALD consumers needing information, advice and guidance adds another layer to an already complex process and will rely heavily on training, monitoring and evaluation of the use of the guidelines in practice.

Language is a primary barrier and one which is not necessarily relieved merely by providing access to interpreters or providing information in language. Literacy in their first language can be an issue with some CALD communities, particularly newly arrived and refugee communities.

Section 3.2: How should the Guideline support consistent application of the Retail Law minimum standards?

5. What is the current consumer and consumer advocate experience of application of retailer hardship policies and Retail Law minimum standards?

There has been little definitive research conducted on the proportion of consumers who speak a language other than English at home who know about or are successful in accessing retailer hardship programs, however they are structured. The difference between programs offered by the range of retailers in the market only exacerbates an already confusing process.

Research conducted by ECC NSW ⁸ pointed to three distinct groups of CALD consumers with both domestic and small business energy connections:

- Those that did not know about the programs and so did not utilise them
- Those that knew about them, some of whom utilised them
- Those who knew about them yet did not utilise them.

⁷ ECC NSW, *Cultural Connections; Engaging CALD energy consumers*, 2015, digital version at www.eccnsw.org.au/what-we-do/Advocacy/Guidelines.aspx

⁸ ECC NSW research op.cit.

There are recognised methods and approaches to address the first of the above. The third is more problematic and requires analysis around the reasons for low take-up given appropriate, understandable and adequate information. ECC NSW applications for funding to research and explore this issue in detail with community participants (actual consumers and their support organisations) have to this date been unsuccessful. Our work with CALD energy consumers points to personal shame or embarrassment hampering communication with retailers or their representatives around payment assistance measures and programs. The term 'hardship' is not one with which CALD community members have any resonance and appears to be an active impediment to those consumers accessing such programs.

6. Are there any serious practical impediments or barriers to retailers implementing the changes described? If so, how could these be overcome?

A standard approach to the provision of support to consumers experiencing payment difficulty can only increase the opportunities for consumers to access them. ECC NSW has already indicated its support for utilising the Victorian Payment Difficulty Framework (PDF) mechanisms in any set of binding Guidelines established by the AER. The PDF provides clear (and reasonably automatic) processes for retailers and consumers and removes the necessity for consumers to seek 'hardship' provisions 'cap-in-hand'. Harmonisation with the existing PDF across the NEM could provide consistency and lower costs for consumers through retailer cost savings. Notwithstanding this, there would be additional costs associated with specific requirements for CALD consumers to utilise these programs if best practice in this area was undertaken.

7. Are there other risks or considerations should we be aware of?

Section 3.3: How should the Guideline support consumers most in need of hardship assistance to receive it?

8. What is the consumer and consumer advocate experience of accessing retailers' hardship programs on behalf of customers?

As indicated earlier, there are specific issues surrounding CALD consumers access and utilisation of payment assistance programs. In any discussion of the implementation of binding guidelines, the question of costs often centres around the possible automation of assistance mechanisms. While the automation of some delivery of assistance may provide cost savings for agencies and businesses, for CALD consumers it could result in a negative effect on their engagement. This is compounded by the recognition, supported by ECC NSW research over several years across domestic and small business consumers,⁹ that CALD consumers are yet to use the internet in the same way as others. The internet is not a regular source of information for CALD consumers, rather word-of-mouth, relatives and trusted sources are. If automated assistance delivery is web-based it will not reach quite large sections of the wider CALD consumer population.

9. Are there any serious practical impediments or barriers to implementing the changes described? If so, how could these be overcome?

⁹ See research findings ECC NSW, *op.cit.*

It will be most important that the low awareness of entitlements and the low take-up of payment assistance in a range of CALD communities be addressed. As indicated earlier, ECC NSW research points to a low to zero accessing of payment assistance by some CALD communities even when they have information about the assistance. Information about the reasons for, and techniques and mechanisms to change this are yet to be determined.

10. Are there other risks or considerations should we be aware of?

Section 3.4: How should the Guideline facilitate more customers completing hardship programs successfully?

11. What is the consumer and consumer advocate experience of customers' completion of hardship programs?

There has been no research conducted specifically into the proportion of CALD consumers who have participated in 'hardship' programs. Anecdotal advice to ECC NSW and evidence gleaned from other studies and research by our Energy Advocate point to rates of participation in these programs that are markedly lower than the CALD population density in the various jurisdictions.

12. Are there any serious practical impediments or barriers to implementing the changes described? If so, how could these be overcome?

ECC NSW research has indicated current issues with CALD understanding, access to and use of a variety of payment assistance programs. This, coupled with CALD communities' general low use of the internet, will mean that there will be a reduced CALD take-up of assistance if their engagement and understanding rests on web-based methods of information and access. Information and engagement processes that work in CALD communities have been extensively trialled and form the basis for the ECC NSW Guidelines, *Cultural Connection: Engaging CALD energy consumers, 2015*.¹⁰

13. What other Guideline requirements would assist in improving the rate of customers successfully completing hardship programs?

The restrictions inherent in the current Rule Change process are highlighted by comments made in the Issues Paper about the AERs inability to address all of the broader issues that have been identified in consultations with interested parties. It is imperative that issues such as the definition and the use of the term 'hardship', the arbitrary and poorly defined distinction between 'hardship customer' and customers facing payment difficulties due to hardship' as well as omissions in the energy law around language and cultural diversity are addressed. If the ramifications of the strict Rule Change mechanism preclude dealing with such important issues because they fall outside of energy law or the wording of the Rule Change request then alternative mechanisms need to be established so they can be dealt with appropriately.

¹⁰ ECC NSW, *Cultural Connections; Engaging CALD energy consumers, 2015*, digital version at www.eccnsw.org.au/what-we-do/Advocacy/Guidelines.aspx

We again thank the AER for the opportunity to be involved in the consultation process and to have our views considered.

If you require additional information please contact Iain Maitland, Energy Advocate on 02 9319 0288/0425 833 891 or email iain.maitland@eccnsw.org.au .

Sincerely yours,

Mary Karras

A handwritten signature in black ink, appearing to read 'M. Karras', with a horizontal line underneath.

Executive Officer
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