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Ms Sarah Proudfoot
General Manager, Consumers and Markets Branch
Australian Energy Regulator
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Dear Ms Proudfoot

**Submission to the Australian Energy Regulator (AER):
Hardship Guideline**

The Energy and Water Ombudsman (SA) Limited ("EWOSA") welcomes the opportunity to comment on the Australian Energy Regulator's Issues Paper on the *Hardship Guideline*.

EWOSA is an independent Energy and Water Ombudsman Scheme in South Australia. It receives, investigates and facilitates the resolution of complaints by customers with regard to (*inter alia*) the connection, supply or sale of electricity, gas or water.

The recent release of the AER's *Annual Report on Compliance and Performance of the Retail Energy Market 2017-18* highlights the growing need for a binding Hardship Guideline. The wide disparities across energy retailers, in terms of the average level of debt of hardship customers, the level of debt customers have when they commence a hardship program and the success rate for hardship customers in completing a hardship program, are a significant cause for concern. The rise in the levels of debt when an electricity customer enters a hardship program, the increased cancellation of payment plans by energy retailers and a higher number of disconnections are also major issues.

It is likely that the development and implementation of a binding Hardship Guideline would help to improve the performance of energy retailers in dealing with hardship customers and particularly raise the proportion of energy customers who successfully exit a hardship program. The trends toward higher levels of debt for electricity customers upon entry to a hardship program and of customers who are not receiving assistance would be likely to reverse. The number of disconnections may also fall. EWOSA would expect to receive fewer complaints regarding financial hardship, credit reference and disconnection as a result.

We believe the use of standardised statements would provide for better application of the hardship protections for vulnerable customers and also provide clarity for retailers in how to effectively manage hardship customers and for energy customers to better understand their rights. This should improve consistency across retailers and lift underperforming retailers closer to industry best-practice.

The remainder of our submission provides responses to the questions posed in the Issues Paper.

Question 1: How should the Guideline best ensure that consumers are effectively informed about their rights?

We agree that requirements on retailers regarding the suggestions made in the Issues Paper – online materials, contact points, customer summary, general accessibility, CALD accessibility, jargon-free and customer representatives – will all improve the communication to energy customers of their rights and entitlements under hardship protections and should be included in the Guideline.

The Guideline itself should also be situated in an easily accessible and logical location on the AER website.

Question 2: How should the Guideline support consistent application of the Retail Law minimum standards?

We support the Guideline containing requirements on retailers to include in their hardship policies that they provide appropriate training for staff dealing with hardship customers and that the retailer regularly reviews the training provided to such staff.

We also agree that energy retailers should include an outline of the systems they use to identify customers in hardship and the assistance provided to these customers in their hardship policies and that such a requirement should be included in the Guideline.

One option that could be considered which would most likely support the consistent application of the minimum standards in the Retail Law is the inclusion of metrics regarding hardship in the Guideline, for application by retailers in their hardship policies. Metrics could be used to alert retailers to the possibility of a customer being in hardship and to action a conversation with the customer, followed by the allocation of the customer onto a hardship program if appropriate. Such metrics could include the number of bills paid late in a row, a sustained high level of debt over a number of quarters and the amount of debt relative to the quarterly bill the customer usually pays. Many retailers probably already use similar metrics and the inclusion of consistent metrics in the Guideline and retailers' hardship policies would increase the likelihood that customers in similar situations would be treated in a similar way across retailers.

However, we understand that there is a tight timeframe for developing the Guideline and any consideration of such metrics may require a longer consultation period than what is available, including whether there would be widespread support for metrics, which metrics should be included and whether they would be easily applicable from a retailer perspective. It may be more appropriate to consider the inclusion of metrics in a separate consultation or during a future review of the effectiveness of the Guideline.

Question 3: How should the Guideline support consumers most in need of hardship assistance to receive it?

We agree that the Guideline should assist in improving the early identification of customers in hardship and prevent retailers from unreasonably excluding customers from access to their hardship programs.

As discussed in our response to Question 2, we support the Guideline containing requirements on energy retailers to include in their hardship policies that they provide appropriate training for staff dealing with hardship customers and that the retailer regularly reviews the training provided to such staff.

We also agree that the Guideline should require retailers to include a short description of their processes for assessing the eligibility of customers for inclusion in their hardship program.

We support the Guideline containing provisions which would require retailers to exclude from their hardship policies blanket statements preventing entry or re-entry into a hardship program, as well as restricting conditions being imposed on entry or re-entry, where such conditions are reliant on a customer meeting a certain obligation.

We also support a requirement on retailers in the Guideline to include in their hardship policies that they will have internal complaints handling and dispute resolution processes specifically for hardship customers. This is also likely to assist the work of energy Ombudsmen when a complaint is escalated beyond the retailer.

Please also refer to the comments about metrics in our response to Question 2. We believe the inclusion of metrics in the Guideline for application by energy retailers in their hardship policies could help to improve the early identification of customers facing payment difficulties.

Question 4: How should the Guideline facilitate more customers completing hardship programs successfully?

We support the suggestion that the Guideline include a requirement that retailers specify in their hardship policies the steps they actively take to support energy customers to successfully complete hardship programs.

We believe that the AER's Sustainable Payment Plans Framework should become part of the Guideline, with the provisions adapted accordingly, rather than remain a voluntary initiative. Given the binding nature of the Guideline, this would increase the likelihood of more energy customers having suitable payment plans and completing hardship programs successfully.

Given that there is no requirement on energy retailers in the Retail Rules to provide support to a previous customer with debts owing and that in many cases this debt will become subject to debt-collection by an agency, with the prospect of the customer being default listed, we believe the Guideline should require retailers to alert customers to this fact in their hardship policies. This may encourage customers to more actively negotiate with their existing retailer and to agree to payment plans that are more suitable for the customer, which will ultimately reduce debt levels for both customers and retailers and lead to more customers successfully completing hardship programs.

We also believe that the Guideline should require energy retailers to include in their hardship policies a commitment to not encourage customers to switch retailers, simply to remove a customer who is having difficulty in paying off their debts from their books or if they find a customer difficult to deal with.

Should you require further information or have any enquiries in relation to this submission, please email me at antony.clarke@ewosa.com.au or telephone me on (08) 8216 1851.

Yours faithfully



Antony Clarke

Policy and Research Officer

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