



EnergyAustralia

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Ms Sarah Proudfoot
General Manager, Consumers and Markets
Australian Energy Regulator
GPO Box 520
Melbourne VIC 3001

EnergyAustralia Pty Ltd

ABN 99 086 014 968
Level 33
385 Bourke Street
Melbourne Victoria 3000

Phone +61 3 8628 1000
Facsimile +61 3 8628 1050

enq@energyaustralia.com.au
energyaustralia.com.au

Lodged electronically: AERConsumerandPolicy@aer.gov.au

Dear Ms Proudfoot

AER's Hardship Guideline Issues Paper

EnergyAustralia welcomes the opportunity to make this submission to the AER's 'Hardship Guideline' issues paper. EnergyAustralia is one of Australia's largest energy companies with around 2.6 million electricity and gas accounts in NSW, Victoria, Queensland, South Australia, and the Australian Capital Territory. We also own, operate and contract an energy generation portfolio across Australia, including coal, gas, battery storage, demand response, wind and solar assets, with control of over 4,500MW of generation in the National Electricity Market (NEM).

We are confident our current hardship program actively supports the AER's intended outcomes which aim to improve vulnerable customer's awareness and access to hardship programs, reduce debt levels of customers entering hardship programs, and to increase the proportion of customers successfully completing hardship programs. Further, EnergyAustralia is accelerating support for our vulnerable customers through our Hardship Investment Program. This initiative is designed to encourage financial inclusion through early interventions and proactive management. In 2018, we waived \$3.3M of debt for customers who genuinely needed it, and who had shown sufficient commitment and tenure to the hardship program. This resulted in a 26 per cent YTD increase in hardship graduations, which is approximately 750 customers.

We are continually investigating new ways to improve our hardship program, and welcome the AER's attention on this issue. However, we are concerned that the AER's guideline could limit our ability to offer innovative hardship policies in the future. The commitment of the customer is vital to achieve successful and sustainable completion of a hardship plan; therefore, we do not support AER's proposed banning of:

- *"exclusionary or blanket statements that prevent entry or re-entry into a hardship program, particularly where the retailer states that they will determine customer eligibility to a hardship program on a case by case basis"* - We agree that customers should be treated fairly, however the success rate of customers graduating from hardship program relies on promoting and/or requiring mutual participation.

- *"conditions to entry or re-entry to a hardship program that are reliant on a customer meeting a certain obligation, such as attending financial counselling or being represented by third party such as a financial counsellor, submitting to an energy audit, or paying a certain number of instalments on their debt"* – these are options available to improve the likelihood of participation, improve understanding of circumstances, and achieve a higher chance of successfully completing the hardship program. We understand that these should not be a requirement for most customers; however, it is a particularly effective tool on the small percentage of customers that have been unsuccessful with the program on numerous occasions.

Enforceability

Throughout the AEMC process the AER promoted the importance of enforceable hardship provisions.

It would appear that in many areas, the issues paper is proposing the AER guideline go beyond the scope of section 44 of the NERL. We list these specific examples, and our concerns, below (Appendix A). The guideline reaching further than the NERL provisions presents two problems to us. Firstly, introducing requirements in a binding guideline that go beyond the provisions in the Rules may create confusion and disengagement by retailers to provide genuinely helpful hardship policies. Secondly, requirements that go beyond the minimum requirements in the Rules may unnecessarily restrict innovation and flexibility. The AEMC explicitly considered, "the AER should not be given a broader scope when developing the Hardship Guidelines than exists under the NERL".

In order to promote exceptional hardship policies, the AER could include aspirational measures or set examples of hardship best practice. But to avoid stifling innovation these should be clearly distinct from the NERL requirements.

As the AER has acknowledged, the guideline will not be able to address all of the broader issues surrounding hardship. We consider the best approach will be to focus on actionable statements that the AER can effectively enforce, and ensure all retailers are consistent with the minimum requirements. Looking more broadly at affordability issues, the Default Market Offer will play an important role as will the continued encouragement of customers off Standing offers and onto market offers.

If you would like to discuss this submission, please contact me at +61 3 8628 1805 or Sarah.Ogilvie@energyaustralia.com.au .

Yours sincerely

Sarah Ogilvie
Industry Regulation Leader

Appendix A – Where the proposed Hardship Guideline is out of scope of S.44 NERL

- a) Online materials: specifying that *'content should be designed for clarity and readability, using 'white space', high contrast, key information up front, and other approaches to maximise accessibility'* is not considered by Section 44 and is difficult to enforce;
- b) Contact points: *'include in their hardship policy that contact details for informed and appropriately trained personnel to handle hardship queries'* – we currently offer this; however, there is no minimum requirement for a separate phone number or prescribed level of training with section 44. It is unclear how this will be enforced; will a retailer be in breach if a customer was transferred from front of house staff to the hardship area because they had originally discussed with someone not 'appropriately trained'?
- c) *Customer summary* – this is not considered within section 44 and introduces a third document in addition to the policy and standardised statements, increasing the amount of information a hardship customer is expected to digest.
- d) General accessibility – It is unclear how adding to our hardship policy that our hardship *'policy is readily accessible both online and offline'* will assist a customer, as they will need the hardship policy to read it.
- e) CALD accessibility – we agree that this is beneficial, but it is unclear how it is covered by section 44 and to what extent (e.g. how many languages) a retailer might be expected to provide. Hardship policies should be in the language the customer prefers and this should be provided by the hardship representative, this is an example where 'one size fits all' does not apply as it will add unnecessary length to the document.
- f) *'Identify that the retailer's hardship personnel have undergone dedicated hardship training before handling hardship enquiries, and are able to answer questions'* –section 44(a) only states retailer have a process to identify hardship customers; specifying the level of training hardship representatives have had is above the minimum requirements of section 44;
- g) *'State that the retailer regularly review its hardship personnel training'* – It would be difficult and out of scope of section 44 to define "regularly".
- h) *"Identify that the retailer has systems in place to support the delivery of the retailers' obligations under the law, rules, the Guideline and their own hardship policy"* – it is not clear which area within section 44 this would fall under and how this would be documented in a hardship policy in a customer-friendly manner.
- i) *'Exclusionary or blanket statements that prevent entry or re-entry into a hardship program, particularly where the retailer states they will determine customer eligibility to a hardship program on a case by case basis', and, 'Conditions to entry or re-entry to a hardship program that are reliant on a customer meeting a certain obligation, such as attending financial counselling or being represented by a third party such as a financial counsellor, submitting to an energy audit, or paying a certain number of instalments on their debt.'* – Although we agree that there should be protections on customers not being treated fairly, the success rate of customers graduating from hardship programs also relies on promoting and/or requiring mutual participation. it is also apparent as a retailer that these options should be available as a way of educating or promoting

participation, but we agree this should never be an option for customers initial entries into a hardship plan. Notwithstanding, this is also beyond the scope of section 44.

- j) That '*retailers will have internal complaints handling and dispute resolution processes specifically for hardship customers*' – this is also beyond the scope of section 44.
- k) '*Adoption of the AER's sustainable payment plans framework as a good practise framework for assessing customers' capacity to pay, or other relevant authoritative guidance*' – we agree with this practice and believe that a relevant authoritative guidance would be the advice of an appropriately accredited financial counsellor. The specific request is not a minimum requirement under section 44.
- l) Include a '*Note to the effect that, in offering flexible payment options to hardship customers, the retailer will consider whether debt waivers or payment matching appropriate*' – this is not within the minimum requirements of section 44 and it is not clear how this would be enforced. It might also mislead customers into having an expectation that a retailer will waive debt; this might also lead to unintended detrimental effects for customers who most genuinely require it.

Appendix B – Detailed response to consultation questions

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

The AER has recommended that retailers must include in their hardship policies that hardship materials will be presented in an accessible way and available via an appropriately named and clearly marked URL/hyperlink from the retailer's homepage. The AER has also recommended that retailers should include in their hardship policy how they will effectively communicate their hardship policy to customers without internet access, and has also noted it is relevant to consider the following objectives and market outcomes: a hardship policy and supporting information should be capable of communicating with diverse audiences, including culturally and linguistically diverse communities, customers with cognitive disabilities, and those without internet access.

We agree that the hardship policy on the internet should be made as easily accessible as possible. As foreshadowed by the AER, how a customer experiences hardship is due to a variety of reasons. Similarly, there are diverse reasons why a customer may not be able to access the hardship policy on the internet; this might include visual impairment, literacy, linguistic differences, no access to internet, or a variety of other reasons. Subsequently, customers will also have a different preference for how they choose to access an offline version of the hardship policy depending on what is impeding the customer from accessing it online. By prescribing how the retailer will effectively communicate the hardship policy to customer without internet access, this will limit the options available to customers. We recommend that a blanket statement saying *"We must/will make it accessible to you and consider your circumstances, including if you don't have access to the internet"* is sufficient.

The AER also recommends that the hardship policy is a *'consumer friendly one-stop-shop document'*. Customers experiencing hardship have a diverse range of backgrounds and needs, and ideally, the hardship policy would be able to tailor information to achieve the objective and market outcome of *"in developing their hardship policies, individual retailers should give particular consideration to the needs of the market they are serving, and develop innovative ways of serving the market"* where needed. We recommend that the hardship policy should provide sufficient information to the customer so that they know where to look for it and where to go if they need detailed information that is specific to their circumstances.

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

The AER has recommended that requirements be included to *"describe the types of systems the retailer has in place to assist in early identification and assistance for customers experiencing hardship"*. We also note the AER's comment that *"it is evident that the general quality of retailers' hardship policies does not currently commit or guarantee the retailer will act in a certain way of live up to these obligations"*.

EnergyAustralia is committed to continually exploring new ways to improve our hardship program. In 2019 we will be exploring:

- the use of data insights
- vulnerability scorecards
- ways to build trust and engagement
- the adoption of credit & collections technology, that will provide new capability to better manage our collection strategies.

A key component of EnergyAustralia's early identification and assistance strategy is through our sponsorships program, where we partner with charities, financial counselling agencies, and other non-profit institutions to identify customers with hardship more holistically who may not be experiencing just energy hardship. Subsequently, we are constantly seeking new and innovative ways to identify customers experiencing hardship early. We recommend that any requirement to describe the type of systems used remain broad so that innovative new strategies in identifying hardship can be tried and tested, and methods that have lost their effectiveness can subsequently be removed.

The AER also recommends that the hardship guideline contain the requirement to *"identify that the retailers' hardship personnel have undergone dedicated hardship training before handling hardship enquiries and are able to answer questions"*.

We agree that training of specialist staff is needed for staff to be able to exercise judgement where flexibility is accorded. As mentioned above, our early identification and assistance strategy includes our sponsorships program, where we partner with charities, financial counselling agencies, and other non-profit institutions to identify customers with hardship more holistically who may not be experiencing just energy hardship. We have been working with our community partner 'Uniting Kildonan' since 2014 which has included conversation training/coaching of EnergyAssist agents. In 2017, we engaged them to deliver 'respectful conversation' training and in 2018 we employed a Training Design & Delivery Specialist to create Hardship Specific training for all new EnergyAssist inductees which is current being rolled out. We support this, although we note it is currently out of scope of s. 44 and therefore believe it should not be included in the Guideline.

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

The AER has recommended that hardship policies cannot include *"exclusionary or blanket statements that prevent entry or re-entry into a hardship program, particularly where the retailer states that they will determine customer eligibility to a hardship program on a case by case basis"*.

The AER has also recommended that hardship policies cannot include *"conditions to entry or re-entry to a hardship program that are reliant on a customer meeting a certain obligation, such as attending financial counselling or being represented by third party such as a financial counsellor, submitting to an energy audit, or paying a certain number of instalments on their debt"*.

A main strategy for hardship customers to get good outcomes and graduate successfully from hardship programs is dependent on the trust and engagement fostered between EnergyAustralia and the hardship customer. As mentioned above, EnergyAustralia staff made discretionary decisions to waive debt or match payments based on the mutual commitment to the hardship program shown by the customer, which has resulted in positive outcomes for customers and a significant increase in hardship graduations. Therefore, it is evident that positive customer outcomes can be achieved when there is mutual trust and agreement between EnergyAustralia and the customer.

Removing our ability to have conditions to entry or re-entry, may increase our hardship numbers. This may impact our ability to tailor hardship assistance as needed for customers' diverse needs. There is a real possibility that retailers current offers will be reduced due to the increases in costs from an expanding hardship portfolio.

We also note that section 44 of the NERL specifically states that it must contain:

“(d) processes to identify appropriate government concession programs and **appropriate financial counselling services** and to notify hardship customers of those programs and services; and

....

(g) processes or programs to assist customers with **strategies to improve their energy efficiency**, where such processes or programs are required by a local instrument;”

We have found that financial counselling and energy assessment & efficiency strategies are considered to be effective tools for customer participation and success in achieving a positive customer outcome after a customer has experienced hardship. This is also currently considered fair and reasonable to request by the Energy and Water Ombudsman of Victoria (EWOV) From EnergyAustralia’s experience financial counselling is a very useful tool for customers that have been unsuccessful with completing a hardship plan on numerous occasions.

EnergyAustralia understands removing unfair processes that are limiting customer’s access to hardship assistance; however, we see risk in removing all capacity of a retailer to require reasonable participation for a customer; as there are unfortunately a small percentage of customers that have no willingness to participate, this will ultimately lead to the detriment of retailers’ customers.

We are also concerned that requiring retailers to remove any conditions to entry to the hardship program is beyond the remit of the Hardship Guideline and inconsistent with section 44(d) and (g) above.

The requirements of entry are and should only be requested when a customer has failed on numerous occasions to participate in the hardship program, the request is made not to refuse entry but to instil the participation of the customer or provide professional and independent advice on a customer’s affordability.

We recommend that hardship policies include **“fair and reasonable conditions to entry or re-entry to a hardship program that are reliant on a customer meeting a certain obligation, such as attending financial counselling or being represented by third party such as a financial counsellor, submitting to an energy audit, or paying a certain number of instalments on their debt”**.

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

The AER provided overall statistics in its issues paper of 40 per cent of customer not completing hardship programs and only 27 per cent of electricity and 20 per cent of gas customers successfully completing hardship programs. This provides rather damning evidence of how unlikely it is for customers to graduate hardship programs, this is true from EnergyAustralia’s perspective and this is telling as we were ranked #1 hardship policy by the Financial and Consumer Rights Council (in their 2016 ‘Rank the Energy Retailer’ report), to expand on this our graduations were less than the percentages above; 16% of our EnergyAssist customers graduated in 2018. It is worth noting that the percentages listed in the AER issues paper are easily skewed, for example some tier 3 retailers will waive debt and request a customer transfer to a tier 1 retailer (these are then listed as customers successfully completing the tier 3 hardship plan).

There is a concern that the hardship guidelines can be written with a belief that all hardship customers will participate and achieve graduation given an appropriate level of information and allowance, this does not factor in the reality that many hardship customers that are not in a position where they are able to participate (based on their financial situation or occasionally by choice). This is something that we firmly believe should be considered when writing the Guidelines.

Given the delicate nature of hardship, flexibility is crucial for the trust and engagement between EnergyAustralia and its customers, where an intervention that goes beyond obligations, such as waiving a customer's debt or payment matching schemes, is warranted and can be used where the circumstances are deemed appropriate according to the judgement of a trained professional. Waiving debt or payment matching may not be the best option for all customers; we are concerned that the AER's recommendation that retailers include *"a note to the effect that, in offering flexible payment options to hardship customers, the retailer will consider whether debt waivers or payment matching are appropriate"* will create an expectation that debt will be waived or lowered and create the wrong incentives/lower flexibility when retailers can consider whether these options are appropriate.

The risk with the AER's recommendation is that it discourages customer participation or commitment to the program. We expect that, if implemented, this will eventually lead to a significant increase in customers on hardship plans and possibly growing insurmountable debts for these hardship customers. Increased debt write-offs will also impact costs for all retail customers.

It is our understanding that the most effective way to promote a customer's successful completion of the hardship plan is ensuring quality conversations, setting them up on affordable arrangements, working with the customer to lower their costs through energy efficiency advice, ensuring they are on the best energy plan, and guaranteeing no pay-on-time discounts are missed from late payment.