20 June 2016

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

By email: AERInquiry@aer.gov.au

Dear Ms Proudfoot

AER approval of minimum amount owing for disconnection, r. 116 of the National Energy Retail Rules

The Public Interest Advocacy Centre (PIAC) welcomes the opportunity to provide feedback to the Australian Energy Regulator (AER) to assist its review of the minimum amount owing for disconnection.

Under Rule 116(1)(g) of the *National Energy Retail Rules*, a retailer must not disconnect a customer for non-payment of a bill where the amount outstanding is less than an amount approved by the AER, provided the customer has agreed to repay it. The current approved amount is $300 (GST inclusive) for both electricity and gas, which took effect from 1 July 2012. The current consultation is the first time the amount has been reviewed.

The key question in the current consultation is whether the level of consumer protection afforded by the minimum disconnection amount of $300 is no longer appropriate given increases in energy prices since 2012 and, if so, what the new amount should be. As stated in our comments to the initial AER consultation in 2012, PIAC acknowledges that the inherent challenge of setting a minimum disconnection amount lies in the need to strike an appropriate balance between protecting consumers from disconnection for relatively low levels of debt, and ensuring that debt does not accumulate to unmanageable levels.[1] Equally, the current consultation is occurring at a time when more consumers are struggling to pay their energy bills, as is reflected in higher disconnection numbers as well as higher numbers of customers seeking payment plans and accessing hardship programs.[2]

Consideration of this issue must be guided by the general principle that disconnection should be a last resort, and that no customer should be disconnected from an essential service due to inability to pay. Disconnection is a very blunt weapon, and should be avoided wherever possible. By contrast, alternative measures – including hardship programs and debt reduction incentives such as payment matching – are more equitable, sustainable and practical ways to deal with payment difficulty and non-payment.

[1] See PIAC submission at <https://www.aer.gov.au/system/files/Submission%20-%20Public%20Interest%20Advocacy%20Centre.pdf>
[2] AER Retail performance data, accessed from <https://www.aer.gov.au/retail-markets/retail-statistics>

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PIAC notes the AER has proposed to retain the current minimum disconnection amount of $300 (GST inclusive) as it considers that it is providing an adequate level of protection for consumers.[3] This assessment is based on the AER's review of jurisdictional data including:

- changes in the estimated average energy bills since the minimum disconnection amount commenced
- disconnection rates
- disconnection complaints
- retailers' levels of compliance with the minimum disconnection amount.[4]

PIAC does not support retaining the current minimum disconnection amount. Instead, as explained in our response to Questions 4 and 5 below, PIAC proposes that the minimum amount should be increased to $520.

PIAC will respond to selected questions asked in the AER's letter, based on PIAC's experience and expertise.

Question 2: What other data (if any) should the AER consider when reviewing and approving the minimum amount owing for disconnection?

While PIAC agrees that there is no definitive measure of the appropriateness of the minimum disconnection amount, we consider that it would be useful to review data over the length of time that the minimum disconnection amount has been in operation. We note from the AER's letter that this approach was applied to average energy bills but not disconnection rates – that is, the AER appeared to only compare 2014/15 disconnection figures with the previous year rather than the full period between 2012/13 to 2014/15.[5]

This has led the AER to comment that electricity disconnection rates have stabilised and decreased. While this is true when comparing back one year, it would have been more accurate to point out that disconnections increased steeply from 24,888 in 2012/13 to 32,940 in 2013/14, before falling slightly to 31,979 in 2014/15. From this perspective, disconnection numbers still remain very high. Hence, PIAC urges the AER to avoid taking a short-sighted approach to reviewing data as the longer-term trends provide more comprehensive insight into whether the current consumer protections are operating effectively.

Question 4: Do stakeholders consider retaining a minimum disconnection amount of $300 (GST inclusive) to be appropriate? Why / why not?
Question 5: If stakeholders do not favour retaining the current minimum disconnection amount, should it be:

a. **increased? Why and to what amount (inclusive of GST)?**
b. **decreased? Why and to what amount (inclusive of GST)?**

PIAC agrees with the AER that, in principle, customers should not be disconnected from an essential service for owing a relatively small amount or for being one quarterly bill behind.[6] The AER maintains that average energy bill data in most jurisdictions shows that 'electricity bills are lower now than when the minimum disconnection amount was introduced and that quarterly gas bills, although increasing, are still less than the minimum disconnection amount'.[7] While this

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[3] AER letter, dated 23 May 2016, p.5.
[4] Ibid, p.3.
[5] The NSW disconnection rates pre-1 July 2013 (ie prior to the commencement of the NECF) are available from IPART.
[6] AER letter, dated 23 May 2016, p.2.
[7] Ibid, p.3.

may be the case, the data (presented below) also demonstrates that $300 no longer offers an adequate level of protection for low income (without concession) households, who are generally considered to be the 'working poor', and are paying $346 for their electricity each quarter.

This table provides figures for average electricity and gas bills in NSW by household type[8]:

	Income level	**Annual bill ($)**	**Quarterly bill ($)**
Electricity	Low income – with concession	1111	277.75
	Low income – without concession	1386	**346.45**
	Middle income	1796	449
	High income	1796	449
Gas	Low income – with concession	923	230.75
	Low income – without concession	923	230.75
	Middle income	923	230.75
	High income	923	230.75

Furthermore, the AER's data indicates that the average quarterly electricity bill in NSW ranges from $347.50 (annual bill is $1,390) in Ausgrid and Endeavour Energy's distribution zones, to $513.50 (annual bill is $2,054) in Essential Energy's distribution zone.[9] PIAC notes that Essential Energy's distribution zone covers the vast majority of regional, rural and remote NSW where customers experience extremes of climate and higher network costs, and are therefore more likely to incur higher energy bills.

Recent research by St Vincent de Paul Society found that the number of disconnections in NSW that occur in non-urban areas is much higher than in other jurisdictions.[10] A significant majority of the NSW postcodes that experience higher rates of disconnection were located in Essential Energy's distribution zone.[11] Together, the disconnection statistics and average electricity bill amounts appear to suggest that the minimum disconnection amount of $300 has not been an effective protection against disconnection as customers in Essential Energy's distribution zone would automatically be at risk of disconnection for failing to pay one bill.

PIAC therefore recommends revising the minimum disconnection amount, as it no longer aligns with the principle that customers should not be disconnected for being one quarterly bill behind. We also consider that the current amount is no longer appropriate in light of continuing high electricity disconnection rates, and the steep 54% rise in residential gas disconnections from the previous year.

Logically, a consumer protection that addresses the needs of those who require it the most would also sufficiently protect those who are less vulnerable. On the basis that customers in Essential Energy's distribution zone on average face the highest bills in NSW, PIAC recommends that the minimum disconnection amount should be increased to $520. To ensure the value of this figure is not eroded over time, PIAC also supports annual indexation of this amount to average electricity bill increases, such that the amount rises in line with upward price movements and remains the same if prices decrease.

PIAC shares the AER's concern that increasing the minimum disconnection amount may potentially result in customers incurring unmanageable levels of debt before seeking assistance from their retailer.[12] However, as PIAC has previously argued, customers with payment difficulty

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[8] AER Annual Report on the Performance of the Retail Energy Market, 2014-2015, p.47.
[9] Ibid, p.44-45.
[10] Households in the dark: Mapping electricity disconnections in South Australia, Victoria, New South Wales and South East Queensland, Report by the St Vincent de Paul Society and Alviss Consulting, May 2016, p.34.
[11] Ibid, p.63.
[12] AER letter, dated 23 May 2016, p.6.

need assistance, not action that further disadvantages them when they are vulnerable.[13] This is where proactive measures, such as sustainable payment plans and early identification of customers for hardship programs, can be useful. PIAC hopes that the AER's Sustainable Payment Plans Framework will strengthen the assistance that retailers are required to provide to customers with payment difficulties under the *National Energy Customer Framework*. This could address concerns about the potential for debt accumulation if the minimum disconnection amount is raised. Improvement to industry practices regarding payment plans, as guided by the Sustainable Payment Plans Framework, should encourage retailers to proactively address payment difficulties earlier in the process, rather than at a later point when customers are threatened with disconnection.

PIAC would like to see retailers use disconnection trends, such as those presented in the recent research by St Vincent de Paul, to identify customers at risk and develop proactive ways to engage with these customers and their representatives.

Question 6: When should the AER next review the minimum disconnection amount?
The AER has proposed to conduct another review of the minimum disconnection amount in five years. PIAC considers that this timeframe is too long in the context of an unstable gas market and ongoing high disconnection rates. PIAC considers that there would be value in conducting the next review in tandem with a review of the AER Sustainable Payment Plans Framework, which would enable the AER to assess how effectively the suite of consumer protections (minimum disconnection amount, payment plans and hardship programs) are operating together to benefit consumers. As mentioned in our response to the initial consultation in 2012, PIAC also hopes that setting a higher minimum disconnection amount will provide a healthy incentive for retailers to be proactive in striving to operate best practice hardship programs that work flexibly to assist consumers in hardship. Following this, PIAC would support periodic reviews of the minimum disconnection amount every 24 months. We consider this to be is an appropriate timeframe for determining whether changes in market conditions have eroded the protection.

Once again, PIAC thanks the AER for the opportunity to provide comment on its review of the minimum disconnection amount. If you would like to discuss PIAC's submission further, please contact us.

Yours sincerely

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[13] See PIAC submission at <https://www.aer.gov.au/system/files/Submission%20-%20Public%20Interest%20Advocacy%20Centre.pdf>