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7 December 2018

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

Submitted electronically: AERConsumerandPolicy@aer.gov.au

Dear Ms Proudfoot,

Re: Issues Paper - Standardised statements for use in customer hardship policies

Red Energy and Lumo Energy (Red and Lumo) welcome the opportunity to respond to the Australian Energy Regulator's (the AER's) Issues Paper on Standardised statements for use in customer hardship policies (the issues paper).

The issues paper and draft standardised statements go some way towards alleviating our concerns about the AER's approach to monitoring retailers' hardship policies. In particular, we note that the draft statements that have been issued for consultation have taken on board the concerns about the previous version on which the AER consulted in September. They are more consistent with the hardship provisions of the National Energy Retail Law (NERL) and National Energy Retail Rules (NERR). Our concern was that standardised statements would dictate the content of hardship policies, and remove the flexibility currently provided for under the NERL (i.e. defining hardship).

Retailers have always and should retain some discretion in offering assistance, subject to minimum levels of protection. Retailers can draw on their knowledge of what forms of assistance are successful (and in what circumstances) and revise them when it becomes apparent that some are more effective than others. Flexibility also means retailers can offer assistance in a way that suits their customer base.

Red and Lumo are proud of the service and additional support we offer to all of our customers, particularly those facing payment difficulties. The AER will be aware that both Red and Lumo are industry leaders in the early identification of payment difficulty. As an example, the most recent Annual Report on Compliance and Performance of the Retail Energy Market found that 84% and 83% respectively of customers entering our hardship programs held debts of less than \$500.¹

¹ Australian Energy Regulator (2017), *Annual Report on Compliance and Performance of the Retail Energy Market 2016-17*, page 37

In our view, this is a function of the flexibility the current legislation provides, not only in terms of tailored support but also the way we communicate with our customers. We believe the primary purpose of a hardship policy is to reassure customers that support is available and that they should feel comfortable speaking to us about assistance that reflects their individual circumstances.

Therefore, we welcome the AER's statement that standardised statements will '*not remove a retailer's flexibility in offering programs and initiatives to its hardship customers that may go beyond what is provided for in the minimum requirements*'.

The issues paper also states that standardised statements are necessary to address other problems, namely, reduced ability of the AER to take action against retailers, and a lack of clarity for consumers and their representatives about the assistance they can expect. In our view, these perceived deficiencies are actually an important and positive feature of an effective hardship framework. We make the following observations:

- There is a risk that consumers will misinterpret or not engage with legalistic or overly detailed and prescriptive policies. For example, they could conclude they are ineligible for assistance unless they display specific characteristics or that assistance will take a very specific form.
- In our view, there are few obstacles to the AER taking enforcement action against retailers whose hardship policies don't contribute to the purpose in section 43(1) of the NERL, namely, to '*identify residential customers experiencing payment difficulties due to hardship and to assist those customers to better manage their energy bills on an ongoing basis*'.
- Table 1 in the issues paper states that one of the benefits of standardised statements is that they would allow 'customers to be able to more readily compare different hardship policies'.² We think it is unlikely that many customers will seek to do this or choose their retailer on this basis.

These observations apply to both the current draft statements and any changes the AER might consider in the future. The AER must ensure that any subsequent versions seek only to inform consumers of the minimum legislative requirements - rather than giving effect to them, and ensure that retailers retain discretion to assist their customers in the most effective way.

Specific comments

Despite these comments, we have no significant problems with the standardised statements as proposed in the issues paper.

However, we encourage the AER to reconsider the tone of some of these statements to reflect the interactive nature of managing hardship. While many consumers welcome an offer of assistance, others are highly sensitive to the suggestion they are struggling and prefer to seek assistance on their own terms. In our experience, consumers respond to simple and inclusive language in hardship policies, rather than statements that could be considered condescending.

² Australian Energy Regulator (2018), *Issues Paper - Standardised statements for use in customer hardship policies*, page 11

In other cases, we cannot offer effective support until we better understand our customer's needs and circumstances.

We would prefer our consultants to be able to exercise some judgement about when and how they might initiate a discussion about our hardship program while ensuring our customers are aware of what is available to them. Successful hardship management depends on the engagement of both the retailer and customer.

- **NERL minimum requirement 2** - the statement should be amended to state that a retailer '*may*', rather than '*will*' recommend that a customer speak to a staff member about entry into a hardship program if:
 - payment patterns show late payments and requests for payment extensions
 - the retailer has issued disconnection warning notices,
 - the customer has applied for or used relief grant or other emergency assistance to pay their bills, or
 - the customer mentions personal circumstances that suggest hardship support may be needed.

The inclusion of these factors illustrates to a customer that support is available if they occur and they can request help if they need it. However, it also leaves it to the retailer to determine the point at which the customer might be receptive to this advice.


- **NERL minimum requirement 2** - the statement '*If you are accepted onto our hardship program, we will tell you*' should be more qualified and explain that a retailer would '*discuss*' matters such as the most suitable plan and how the customer could reduce their current and future energy usage. Retailers cannot offer definitive and effective advice on these matters until they understand a customer's needs.
- **NERL minimum requirement 5** - the statement should be qualified to avoid creating the customer perception that they will receive *all* the services listed in a policy. Retailers should have the flexibility to offer some or all of the listed services, depending on our customer's specific needs and to provide additional services that are not listed but would be helpful for some customers.
- **NERL minimum requirement 7** - similar to our view on minimum requirement 2, retailers need to understand our customer's circumstances - and how they might change in the future - before they can offer effective advice about energy efficiency. Otherwise, any such advice might be misleading or harmful.

About Red and Lumo

We are 100% Australian owned subsidiaries of Snowy Hydro Limited. Collectively, we retail gas and electricity in Victoria, New South Wales, South Australia and Queensland to approximately 1 million customers.

Red and Lumo thank the AER for the opportunity to respond to the issues paper. Should you have any further enquiries regarding this submission, please call Geoff Hargreaves, Regulatory Manager, on 0438 671 750.

Yours sincerely



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