

9 March 2012

Ms Sarah Proudfoot  
A/g General Manager  
Retail Markets Branch  
Australian Energy Regulator  
GPO Box 520  
Melbourne VIC 3001

By email: [AERInquiry@aer.gov.au](mailto:AERInquiry@aer.gov.au)

Dear Ms Proudfoot,

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

The Consumer Utilities Advocacy Centre Ltd (CUAC) is an independent consumer advocacy organisation. It was established to ensure the representation of Victorian consumers in policy and regulatory debates on electricity, gas and water. In informing these debates, CUAC monitors grass roots consumer utilities issues with particular regard to low income, disadvantaged and rural consumers.

We welcome the opportunity to comment on the Australian Energy Regulator (AER)'s approval of minimum amount owing for disconnection paper ("paper"). We appreciate that deriving a figure for the actual minimum amount is complex. CUAC attended the AER public forum on 24 January 2012. While the stakeholders present supported a minimum disconnection amount, there were divergent views expressed as to what the actual amount should be.

Prior to addressing the specific questions in the paper, CUAC would like to provide some contextual comments. We are concerned about the decline in customer service by energy retailers in Victoria as evidenced in the Essential Services Commission's Comparative Performance Report (2010-11) and mirrored in the Energy and Water Ombudsman (Victoria)'s 2011 Annual Report. Electricity complaints made by customers directly to retailers more than doubled to 110,047 compared with the previous year. With electricity prices increasing it was also disappointing that for the same period, customer participation in hardship programs decreased by 16 per cent. Concurrently, electricity disconnections increased by 33 per cent in 2010-11 from 0.59 to 0.77 per 100 customers. In total, 17, 871 electricity customers were disconnected in 2010-11.<sup>1</sup> CUAC believes that retailers should

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<sup>1</sup> Essential Services Commission, Energy Retailers Comparative Performance Report: Customer Service (2010-11). Available at <http://www.esc.vic.gov.au/NR/rdonlyres/6FBA510F-4821-4CEC-8D20->  
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commit to improving their level of customer service, including innovative and proactive strategies to improve customer service levels and increase the likelihood of early customer self-identification of payment difficulties. This is in addition to meeting their current regulatory obligations and future obligations under the Retail Law and Rules.

We refer the AER to the Hall and Partner's|Open Mind Report on customers in financial hardship,<sup>2</sup> and CUAC's research report about the experiences of Aboriginal energy and water customers,<sup>3</sup> both of which highlight the importance of good customer service and engagement. Retailers need to ensure that they have:

- Well-trained and specialist staff to assist the most vulnerable;
- Frontline staff who are able to readily identify such customers and smoothly transfer them to specialists;
- Staff training in relation to customer care and gentle negotiation and use of plain English, and opportunities for face-to-face contact;
- No barriers to good customer service such as phone costs and waiting times;
- Respectful communications with customers.

We agree, therefore, that the minimum disconnection amount is only one of a suite of consumer protections which should act to ensure disconnection is a last resort.

## Interpretation of the Current Retail Law and Rules

### *Issuance of a disconnection notice*

It is unclear whether the Retail Law and Rules allow a retailer to send a customer a disconnection notice when the amount the customer owes is less than the minimum disconnection amount. CUAC believes that sending a disconnection notice when the outstanding amount is less than the minimum disconnection amount is misleading and contrary to the intent of having a minimum disconnection amount provision. We understand that this may be the current practice of some retailers in Victoria and we seek clarification from the AER regarding this.

We note that the AER has stated (at page 6 of the paper) that “an overly high amount (such as \$500) may exacerbate any hardship issues that a customer may be experiencing, particularly where the disconnection action is what prompts the customer to approach a retailer for assistance.” We believe that every attempt should be made to engage with the customer while the customer's outstanding amount is still relatively low. A customer's debt level should not be left to accrue until it exceeds the minimum disconnection account before steps are taken to address the outstanding

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<sup>2</sup> Hall & Partners|Open Mind, Customers of water and energy providers in financial hardship: A consumer perspective, A report submitted to the Essential Services Commission (May 2011). Available at <http://www.esc.vic.gov.au/NR/rdonlyres/E96F1C11-3237-4420-9C24-D1B758F98383/0/RPTHallandPartnersfinancialhardship.pdf>

<sup>3</sup> Consumer Utilities Advocacy Centre, Wein, Paen, Ya Ang, Gim: Victorian Aboriginal Experiences of Energy and Water (December 2011).

amount, such as arranging for a payment plan. Early identification of customers with payment difficulties is key to keeping their debt levels more manageable.

### ***Rule 116(1)(h), Retail Rules***

According to Rule 116(1)(h) of the Retail Rules:

Despite any other provisions of this Division but subject to subrules (2), (3) and (4), a retailer must not arrange for the de-energisation of a customer's premises to occur - for non-payment of a bill where the amount outstanding is less than an amount approved by the AER **and** the customer has agreed with the retailer to repay that amount.

We have concerns about the manner in which this provision is drafted. We note that it is phrased differently from the Victorian Energy Retail Code (ERC) which does not have a reference to a customer agreeing with a retailer to pay the outstanding amount. Clause 14(a) of the ERC states that:

[d]espite clause 13, a retailer must not disconnect a domestic customer for non payment of a bill where the amount payable is less than \$120 (exclusive of GST).

Our understanding of Rule 116(1)(h) is that the minimum disconnection amount by itself will not protect a customer from being disconnected for non-payment. The wording suggests that a customer with arrears of less than the minimum disconnection amount will not be disconnected only if that customer has agreed with the retailer to repay that amount. We understand from discussions at the public forum that this could be through a payment plan. But, in order for there to be an agreement regarding payment, there needs to be a conversation between the retailer and the customer first and payment arrangements agreed upon. This makes the minimum disconnection amount provision superfluous as a protection for consumers who have not done so. It also appears to be a restatement of Rule 116(1)(d) which states that de-energisation of a customer's premises should not occur "where the customer is a hardship customer or residential customer and is adhering to a payment plan."

CUAC believes that if the intent of Rule 116(1)(h) is to protect consumers from being disconnected for a minimum amount, an amendment to the rule is required to delete the reference to "and the customer has agreed with the retailer to repay that amount." We recommend that the AER submit a rule change to the Australian Energy Market Commission with regard to this issue.

Ideally, we would like to see a re-draft and clarification of this rule before responding to any of the questions posed in the paper. However, we note the 1 July 2012 timeframe which the AER and jurisdictions are working towards. Our comments below should be read in the context of what we have stated in relation to disconnection notices and Rule 116(1)(h).

### **Questions posed in paper**

Question 1: Should the AER publish the same minimum disconnection amount? Why/why not?

Yes, we agree for the reasons stated in the paper. That is, “greater transparency across the market, and is consistent with good regulatory practice.”

Question 2: Should the minimum disconnection amount be the same for both gas and electricity? Why/why not?

Yes, on the basis of consistency and simplicity as mentioned in the paper, the minimum amount can be the same. Currently the minimum disconnection amount for gas and electricity is the same in Victoria.

Question 3: Should the AER apply the same minimum disconnection amounts to all states and territories applying the Retail Rules? Why/why not?

Yes, we agree with the AER that the benefits of a single national figure outweigh potential benefits from having different amounts for each jurisdiction.

Question 4: What other factors (if any) should the AER consider when approving a minimum amount owing for disconnection?

Question 5: Do stakeholders consider a minimum disconnection of \$300 (GST inclusive) to be appropriate? Why/why not?

Question 6: If no, what alternative amount do you consider would be more appropriate and why? Please ensure all amounts are GST inclusive in your response.

Question 7: How often should the AER review the minimum amount owing for disconnection?

The AER has stated that:

\$300 (GST inclusive) provides an appropriate balance between the level of debt that most customers can afford to repay (and the level of debt that retailers can be expected to manage) and the principle that energy is an essential service (and that disconnection can have significant impacts on households).

We agree to this GST inclusive amount as a starting point for the minimum disconnection amount. However, in view of the upward trend in energy prices and the fact that price rises may occur several times a year, the minimum disconnection amount needs to be reviewed and indexed/adjusted so that it continues to be relevant. We suggest an annual review rather than a periodic one. We also recommend that the AER monitor the performance of retailers with regard to the minimum disconnection amount (that is, the extent to which customers are, disconnected for an amount lower than the minimum disconnection amount) and enforce any non-compliance.

Thank you for the opportunity to participate in the AER's consultation. If you have further queries on our submission, please do not hesitate to contact us at (03) 96397600.

Yours sincerely,



Jo Benvenuti  
Executive Officer



Deanna Foong  
Senior Policy Officer