

25 February 2011

Mr Tom Leuner
General Manager Markets Branch
Australian Energy Regulator
GPO Box 520
Melbourne VIC 3001

By email: AERInquiry@aer.gov.au

Dear Mr Leuner,

Guidance on AER approval of customer hardship policies (December 2010)

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 Guidance on AER approval of customer hardship policies (December 2010) (“Guidance”). Before we comment on the AER’s Guidance, we have provided:

- (1) An overview of recent trends in energy affordability with regard to low income and vulnerable customers in Victoria, including their access to payment plans and financial hardship programs.
- (2) A best practice hardship response model.

We ask that the AER considers the above in deciding the guidance to provide to retailers on the type of information to include in retailers’ customer hardship policies.

Increasing financial hardship

Data from the Energy and Water Ombudsman of Victoria (“EWOV”) and the Essential Services Commission of Victoria (“ESCV”) clearly shows that there are an increasing number of customers experiencing payment difficulties in Victoria.

In its 2010 Annual Report, EWOV reported that “[p]eople who may have been coping previously have found themselves needing our help, or the help of a welfare agency or financial counsellor, to sort out affordable payment arrangements.”¹ This is evident from the increase in the number of credit cases, that is, cases relating to the capacity of a customer to pay their bills and remain on supply:

In 2009-10, 15% of all the issues customers raised with us were about credit — up from 12% the year before. We believe the elevation of Credit to our second most common issue after billing to be a clear indicator of growing customer financial hardship.²

Our case trends point to increasing financial hardship. In 2009-10, customers raised 28% more issues about payment difficulties than in 2008-09. We helped negotiate 2,473 payment plans, 31% more than in 2008-09 and 143% more than four years ago.....EWOV cases about the actual disconnection of energy supply were up 330% from five years ago, and between January 2010 and June 2010, they increased by 143%. We’re also seeing more electricity and gas disconnection cases where a ‘wrongful disconnection payment’.....should have been made — raising questions of whether retailers are following all the steps they should before disconnection, such as identifying customers experiencing hardship and assessing capacity to pay.³

The ESCV reported a significant increase in disconnection rates for the reporting period 2009-10:

Electricity and gas disconnections increased in 2009-10, with 0.59 per cent of all electricity customers and 0.85 per cent of all gas customers disconnected. In total, 13,486 electricity customers (up by 3,918 from 2008-09) and 15, 473 gas customers (up by 5,396) were disconnected in 2009-10. This was an increase of 40 per cent for electricity and 54 per cent for gas.⁴

While the disconnection rate of customers on hardship programs decreased during the ESCV’s reporting period, “approximately half the retailers showed increases in the

¹ EWOV, 2010 Annual Report, at 6.

² EWOV, 2010 Annual Report, at 31.

³ EWOV, 2010 Annual Report, at 33.

⁴ ESCV, Energy Retailers Comparative Performance Report Customer Service (2009-10), at 26.

proportion of concession card holders or customers previously on budget instalment plans disconnected and reconnected in the same name.”⁵

The ESCV has expressed concerns over the data reported and as such has taken some initiatives to assess how well retailers are assisting vulnerable customers. This includes: (a) regulatory audits in 2010-11, that will examine retailers’ disconnection processes and how well each retailer complies with its own hardship policy, and how effectively it allows access to the program and maintains supply to customers who have the willingness, but not the ability, to pay their bills; (b) a qualitative review of energy businesses’ hardship practices focusing on customers’ experiences. The ESCV’s chairperson will also be writing to the Chief Executive Officers of energy retailers seeking their assurance that all customers identified as experiencing financial hardship are provided the opportunity to participate in their hardship program. In addition, some retailers will be required to report quarterly to the ESCV for the next 12 months on the rate of disconnection and reconnection for these customers, and the extent of assistance provided prior to their disconnection.⁶

We are concerned about the growing number of customers experiencing hardship and share the same sentiments expressed by the ESCV regarding the data reported. In CUAC’s experience, low income and vulnerable customers are experiencing an array of energy debt issues which extend to difficulties negotiating affordable payment plans and gaining access to hardship assistance.

In 2009, the Financial Consumer Rights Council (“FCRC”) undertook research on the impacts of energy reform and deregulation on low income and vulnerable consumers based on information collected from financial counselling case studies (“FCRC 2009 research project”). This project was funded by a CUAC grant. One of the key findings of the project was that vulnerable customers in financial hardship experienced difficulties when negotiating payment plans with their retailers. Almost 19% of energy case studies involved culturally and linguistically diverse (“CALD”) consumers experiencing financial hardship and difficulties in accessing assistance from energy retail representatives.⁷

Many cases highlighted difficulties in reaching an agreed payment amount per fortnight which reflected a client’s capacity to pay...Financial Counsellors also noted a considerable length of time spent speaking with and being placed on hold by utilities representatives from multiple departments, including those in hardship departments....32% of electricity and gas cases noted negotiations between 20 and 40 minutes long via telephone. Retailers were seen to promote amounts based on energy usage only, without consideration to a client’s

⁵ ESCV, Energy Retailers Comparative Performance Report Customer Service (2009-10), at IV.

⁶ ESCV, Energy Retailers Comparative Performance Report Customer Service (2009-10), at 38.

⁷ Financial and Consumer Rights Council (FCRC), Still an Unfair Deal: Reassessing the impacts of energy reform and deregulation on low income and vulnerable consumers (2009), at 6.
<http://www.cuac.org.au/database-files/view-file/3874/>

notice to the retailer of their lack of capacity to pay, and in some instances, Financial Counsellors failed to negotiate an instalment amount based on what a client could afford even though the customer's financial information had been provided both verbally and through financial statements. One particular case study presented a number of issues, the most concerning of which involved an energy retail hardship team representative's demand to disconnect a customer's electricity supply. This occurred due to the representative's demand that the customer speak to their Financial Counsellor within a 24 hour period, the unpaid debt was approximately \$1,000. This case demonstrated the most amount of breaches under ESC industry codes including a lack of assessment for a client's capacity to pay who was experiencing financial hardship.⁸

In another research project funded by a CUAC grant, the Victorian Council of Social Service ("VCOSS") examined the experiences of 11 people who had accessed emergency services from five service providers across metropolitan Melbourne ("VCOSS 2009 research project"). While the sample size is small, it acknowledges the importance of people's experience in managing utilities costs on a limited income. A key finding of the project was that:

All the households surveyed can be considered to be having payment difficulties. However, in at least 70 per cent of the instances where households had contacted a company for additional time to pay, they had not been offered any additional assistance, such as provisions under the hardship programs. In fact when asked about their experience in contacting a retailer to make a payment arrangement one participant replied "they only give you two weeks." Where households were in contact with a hardship team...these households recognised the value of that assistance and felt positively towards their retailer.⁹

Best practice model

CUAC believes that no consumer should be disconnected from their energy supply due solely to an inability to pay. All households should be able to access affordable, reliable and sustainable energy services and to participate fully in the competitive retail energy market. Affordable payment plans and effective hardship policies help to keep customers on supply. This is especially important in the context of rising energy prices as more and more consumers find themselves with payment difficulties.

We note that the AER's Guidance is intended to provide guidance only, and does not replace the obligations in the National Energy Retail Law ("NERL") and National Energy Retail Rules ("NERR") regarding customer hardship policies. We are pleased that the

⁸ Financial and Consumer Rights Council (FCRC), Still an Unfair Deal: Reassessing the impacts of energy reform and deregulation on low income and vulnerable consumers (2009), at 26-27.
<http://www.cuac.org.au/database-files/view-file/3874/>

⁹ Victorian Council of Social Service (VCOSS), A snapshot of electricity and gas services and their impact on households seeking emergency relief (December 2009), at 20.
<http://www.cuac.org.au/database-files/view-file/4034/>

AER's Guidance does not limit the assistance retailers can provide to customers under their customer hardship policies and programs.¹⁰

Due to the essential nature of energy supply, CUAC expects a retailer's hardship policy submitted for AER approval, to offer residential customers in financial hardship practical options to assist them to maintain supply consistent with, and including elements of "best practice" which are additional to, the National Energy Customer Framework ("NECF") requirements. An effective and robust hardship policy will also need to be flexible and broad to accommodate the varied needs of customers who may be experiencing temporary or long-term financial hardship. For example, one-off grants or short term changes in debt payment terms may be more appropriate for people with temporary hardship, while payment plans may be more useful for customers with chronic financial difficulties. Accurate identification of the nature of a customer's hardship is necessary for targeted responses. Hardship policies should facilitate active engagement between retailers and customers so that customers are able to confidently engage with their respective retailers in times of financial hardship.

Currently, in Victoria, energy retailers' financial hardship policies are approved by the Essential Services Commission of Victoria ("ESCV") and Guideline No. 21¹¹ provides guidance to retailers in preparing financial hardship policies. We note that when the NERL and NERR are operational in Victoria, retailers will be required to seek AER approval of their hardship policies.¹² CUAC will continue to advocate, to ensure that in the transition to the national framework, Victorians do not lose the customer protections which they currently enjoy. In the development of Guideline 21, the ESCV¹³ referred to the "best practice hardship response model" which was articulated by the Committee of Melbourne in the Utility Debt Spiral Project.¹⁴ This project, which was partly funded by a CUAC grant, harnessed the expertise and involvement of business, government, regulators, and civil society project partners to examine and identify potential means of ameliorating the impact of utility bills as a direct cause of, or exacerbating factor in the debt spiral.

¹⁰ AER, Guidance on AER approval of customer hardship policies (December 2010), at 1.

¹¹ ESCV, Guideline 21, Energy Retailers' Financial Hardship Policies (January 2011).

¹² AER, Guidance on AER approval of customer hardship policies (December 2010), at 15.

¹³ ESCV, Energy Retailers' Financial Hardship Policies Framework Paper (December 2006), Appendix A, Proposed elements of a best practice hardship response program, at 21.
<http://www.esc.vic.gov.au/NR/rdonlyres/EBB5355C-6818-4352-BCFE-083937043222/0/FrameworkPaperEnergyRetailersFinancialHardshipPoliciesco618498200612.pdf>

¹⁴ Committee of Melbourne, Utility Debt Spiral Project (November 2004),
<http://www.cuac.org.au/database-files/view-file/2264/>

We commend the Committee of Melbourne's "best practice hardship response model" to the AER in their development of this Guidance. This is presented in Figure 1 below:

Box 1: Best practice hardship response model¹⁵

Drawing primarily on Victorian experience, a best practice 'hardship response model' for an energy and water provider includes the following features:

- **Transparency and accessibility** – having a hardship policy, which is clearly communicated to customers, with copies available on request, on a website and in brochure format, distributed to community agencies and referenced in customer charters and on a brochure enclosed with key bills.
- **Extensive and ongoing staff training** – to all parts of the business, on:
 - the causes of financial hardship;
 - the identification of customers experiencing financial hardship;
 - the proactive identification of customers that may be facing financial hardship (for example, as a result of the unexpected closure of a business);
 - how to talk with customers experiencing financial hardship;
 - when to refer customers to the 'hardship response program';
 - socio-economic research into indicators of disadvantage by postcode;
 - literacy and access issues experienced by some customers.

This training is in addition to knowledge of the minimum regulatory and legal requirements for responding to customers experiencing financial hardship.

- **Respect** – an articulation of the rights of customers experiencing financial hardship and an acknowledgment that a wide range of adults and children experience financial hardship.
- **Specialist Team** – a well-resourced team that is especially skilled in responding to customers experiencing financial hardship. Ready referrals to the team from the Call Centre and other parts of the business. Customers able to directly contact the team, preferably via a freecall phone number but at least via a local call phone number. Home visits by a member of the specialist team where it has been difficult to contact a customer by phone or in writing.
- **Core focus on energy / water efficiency** – an acknowledgment that energy and water efficiency improvements are an essential part of assisting energy and water customers in hardship, the provision of expert advice, materials and home audits on how to reduce usage and improve energy and water efficiency

¹⁵ Committee of Melbourne, Utility Debt Spiral Project (November 2004), at 219-220.
<http://www.cuac.org.au/database-files/view-file/2264/>

- **Links to energy / water efficiency programs** – run by the provider, local Councils, government and/or community agencies.
- **Links to financial counselling agencies** – funding of financial counselling services, liaison with these services via workshops, presentations and information sharing. An acknowledgment that a wide range of social issues may result in a person experiencing financial hardship and that financial counselling services are well-placed to provide assistance. Respect for a financial counsellor's advice about their client's capacity to pay.
- **Links to concessions, government assistance programs and non-government support services** – with information accessible by postcode or area.
- **Links to dispute resolution services**
- **Affordability** – the implementation of appropriate, affordable and agreed payment arrangements.
- **Flexibility in options** – a range of options tailored to suit each customer – including Centrepay, incentive plans (whereas disconnection action may be viewed as a 'disincentive plan', an incentive plan links the continuous payment of agreed arrangements to credits and the write-off of outstanding long term debt), partial or complete waiver of debt, review of fees.
- **Suspension of disconnection, debt collection and legal action** – whilst the customer is on the 'hardship response program'
- **Clarity** – a clear and fair articulation of the circumstances in which the provider may move a customer off its 'hardship response program' and onto its normal collection procedures, with discretion for particular customer circumstances.

This information must be provided to the customer.

- **Customer focus groups** – focus groups involving customers who have experienced financial hardship provide an opportunity for direct feedback on hardship programs and to identify opportunities for improvement.
- **Business modelling** – integration of the hardship response program into the provider's business planning processes – an articulation of the 'business case' (economic benefits) of having an effective hardship response program.

Continuous review – learning from others, comparing the 'hardship response program' against local, interstate and overseas developments and having regard to comparative performance reporting undertaken by regulatory authorities.

Background and hardship obligations: Minimum requirements for retailers' customer hardship policies; regulatory guidance for approving customer hardship policies; how the AER intends to have regard to these principles

A retailers' customer hardship policy needs to be transparent, accessible and communicated to customers, financial counsellors and community service organisations who may be acting on the customer's behalf.

Research indicates that customers from culturally and linguistically diverse ("CALD") communities experience difficulties in accessing hardship assistance. As mentioned in the FCRC 2009 research project, almost 19% of energy case studies involved CALD customers experiencing financial hardship and difficulties in accessing assistance from energy retail representatives.¹⁶

Financial counselling case studies highlight language and literacy difficulties as a barrier to retailers fulfilling their obligation to contact a customer before disconnecting their energy supply unless there are accessible interpreter facilities made available during the process.¹⁷

In addition to a hardship policy being "written in plain language" and "clear and easy for customers to understand",¹⁸ the retailer needs to demonstrate that the policy is accessible to *all* customers, particularly those with English language difficulties or from CALD communities. The hardship policies should address how retailers will communicate to customers with language difficulties who may be experiencing financial hardship. For example: translated copies of a retailer's hardship policy should be available in the main languages spoken in Australia; interpreter services should also be available.

Appropriate training of staff is particularly important in ensuring a successful hardship program, which has led to its inclusion in the Committee of Melbourne's best practice hardship response model and the ESCV's Guideline No 21 Energy Retailers' Financial Hardship Policies.¹⁹ Without appropriately trained staff, the policies will be meaningless as they will not be implemented effectively on the ground by staff.

¹⁶ Financial and Consumer Rights Council (FCRC), *Still an Unfair Deal: Reassessing the impacts of energy reform and deregulation on low income and vulnerable consumers* (2009), at 6.
<http://www.cuac.org.au/database-files/view-file/3874/>

¹⁷ Financial and Consumer Rights Council (FCRC), *Still an Unfair Deal: Reassessing the impacts of energy reform and deregulation on low income and vulnerable consumers* (2009), at 28.
<http://www.cuac.org.au/database-files/view-file/3874/>

¹⁸ AER, *Guidance on AER approval of customer hardship policies* (December 2010), at 5.

¹⁹ ESCV, *Guideline No 21 Energy Retailers' Financial Hardship Policies*, clause 2.2(vii): ...the Commission expects a retailer's policy to require the retailer's staff to be made aware of the policy and require all staff involved in the administration of the financial hardship program to have the necessary skills to sensitively engage with domestic customers about their payment difficulties and in offering assistance...

Staff training should be included in the AER's Guidance. When reviewing a retailer's hardship policy for approval, the AER should consider how the policy ensures that staff is made aware of the hardship policy, and have the necessary skills to sensitively engage with customers about their payment difficulties and to offer the assistance available. This includes training on financial counselling and hardship, issues associated with income security, and the resources available to industry and consumers.

For example, a number of retailers have established partnerships with financial counselling agencies which involve the agency assisting the retailer with the development of its hardship programs and with training staff in how to deal with customers experiencing financial difficulties. In these partnerships, the retailer may also refer customers to the agency for financial counselling, paid for by the retailer.²⁰ The service providers who were interviewed as part of the VCOSS 2009 research project agreed that the introduction of hardship teams can improve accessibility of low income households to essential services.²¹ Call centre (or frontline) staff training is also important. The VCOSS 2009 research project found that the broader the assistance frontline staff can provide when dealing with financial hardship, the more likely households will be to recontact their retailer when they have payment difficulties and reduce unpaid bills.²²

Consideration of the customer hardship policy minimum requirements

Processes to identify customers experiencing payment difficulties Processes for early response by the retailer

In assessing whether a hardship policy meets the minimum requirements stipulated in the NERL, the AER should examine the processes that a retailer has in place to allow early identification of customers with payment difficulties as well as to facilitate self-identification by customers. Early identification of customers experiencing payment difficulties is important as it helps to prevent debt levels from escalating. We are concerned that some customers demonstrating signs of payment difficulties have not been identified early in the retailer's process and given the appropriate financial assistance to manage payments. The FCRC 2009 research project found that:

²⁰ Committee of Melbourne, Utility Debt Spiral Project (November 2004), at 14.
<http://www.cuac.org.au/database-files/view-file/2264/>

²¹ Victorian Council of Social Service (VCOSS), A snapshot of electricity and gas services and their impact on households seeking emergency relief (December 2009), at 25.
<http://www.cuac.org.au/database-files/view-file/4034/>

²² Victorian Council of Social Service (VCOSS), A snapshot of electricity and gas services and their impact on households seeking emergency relief (December 2009), at 23 (see case study of Lisa).
<http://www.cuac.org.au/database-files/view-file/4034/>

Low income earners presented high utility debts ranging from \$1,000 to \$4,500 in 18 Financial Counselling case studies, with \$4,500, the highest debt amount of all case studies collected. The occurrences of such high debts seems inconsistent with the Energy Retail Code's section (11.2(b)) relating to a retailer's obligation to offer an assessment and assistance where a retailer otherwise believes a customer is experiencing repeated difficulties in paying their bill, or requires payment assistance. The vulnerable clients presenting with high debts appear to have been either ignored or undetected by retailers, particularly at a time where the debt was at a lower amount and a short term payment plan would have been preferred.²³

Data from the ESCV's Energy Retailers Comparative Performance Report also shows that some customers are entering hardship programs with large debts. During the 2009-2010 reporting period, the ESCV reported that the average electricity debt upon entry into the hardship program for four retailers was \$1,532 (Victoria Electricity, now called Lumo Energy), \$1,175 (Neighbourhood Energy), \$1,423 (Powerdirect) and \$999 (Simply Energy).²⁴ In the case of four retailers, the average debt of customers exiting the hardship program was higher than the debt level upon entry into the hardship program.²⁵ We find this a worrying trend. In our view, the regulator should examine how such outcomes can arise from approved hardship programs.

Hardship policies should facilitate active engagement between the retailer and the customer so that customers are able to confidently engage with the retailer in times of financial hardship. Processes to facilitate early identification of customers in financial difficulties, and strategies to maximise accessibility and ease of communication for customers in financial difficulties to approach their retailers for assistance, are essential elements in hardship policies. A positive relationship between retailers and their customers will encourage customers to contact their retailer when they need assistance to manage payments and also to renegotiate their payment plans if there has been a change in their circumstances preventing them from meeting the agreed arrangements.

Flexible payment options

We agree with the factors which the AER may consider on pages 8-9 of the Guidance.

Payment arrangements need to be appropriate, affordable, and flexible to suit the needs of each customer. Customers should be afforded an opportunity to participate in developing a payment arrangement to address their financial obligations and energy consumption. This

²³ Financial and Consumer Rights Council (FCRC), Still an Unfair Deal: Reassessing the impacts of energy reform and deregulation on low income and vulnerable consumers (2009), at 29.
<http://www.cuac.org.au/database-files/view-file/3874/>

²⁴ ESCV, Energy Retailers Comparative Performance Report – Customer Service 2009-10, Appendix A, at 53-56.

²⁵ ESCV, Energy Retailers Comparative Performance Report – Customer Service 2009-10, Appendix A, at 53-56.

should be set out in the Guidance - A hardship policy should sufficiently demonstrate that the payment arrangements are appropriately designed with input from the customers and/or the financial counsellor. An assessment of the customer's capacity to pay by the financial counsellor should be respected. A hardship policy should provide for the regular review of payment arrangements as the customer's circumstances may change.

Hardship policies should help customers address their accumulated debt burden, as well as manage, their customers' current and future energy consumption. Where payment plans have large arrears, the likelihood of a customer staying on the plan is reduced. Therefore, in addition to payment plans and Centrepay which are mentioned in the Guidance, we would like to see other forms of payment assistance in hardship policies, such as incentives for customers to pay their instalments and partial or complete debt waiver.

Programs that the retailer may use to assist hardship customers

Given that third parties including financial counsellors may be acting on the customer's behalf, a hardship policy should explain how the retailer will discuss and agree with the customer and/or financial counsellor which form of assistance is most appropriate in their circumstances. It may also be appropriate for the retailer to refer customers experiencing financial hardship to other support agencies. The circumstances in which the retailer refers customers experiencing hardship to other support agencies or other schemes should be set out in a hardship policy.

Processes to review the appropriateness of hardship customers' market retail contracts

As mentioned above, in some cases, financial counsellors act on the customer's behalf and they would be the party involved in working with the retailer to agree which is the most appropriate retail offer appropriate for the customer's circumstances.

We agree that the proposed hardship policy should explain how the retailer will discuss with the customer the range of retail offers and contracts available. A review of the appropriateness of a customer's market retail contract should include a consideration of what the most appropriate tariff is for the customer at the time of entry to the financial hardship program.²⁶ We recommend a provision similar to clauses 2.2(xiv) and (xv) of the ESCV's Guideline No 21 Energy Retailer's Financial Hardship Policies (January 2010):

...the [ESCV] expects a retailer's policy to:

- (xiv) recommend the most appropriate tariff at the time of entry to the financial hardship program, bearing in mind:

²⁶ AER, Guidance on AER approval of customer hardship policies (December 2010), at 10.

- (A) cost effectiveness;
 - (B) whether the customer has dedicated off-peak appliances;
 - (C) the customer's previous tariff (including network charge); and
 - (D) the customer's overall power usage; and
 - (E) any other relevant information provided by the customer.
- (xv) require the retailer to monitor their behaviour and consumption during their participation in the financial hardship program to ensure that they continue on the most appropriate tariff and facilitate a change if necessary.

Strategies to improve energy efficiency

Assisting customers manage their energy consumption through energy efficiency measures can be an effective way to minimise energy bills and manage future consumption. Some of the strategies to improve energy efficiency that we would like to see in a hardship policy and offered to customers, are onsite energy audits, energy efficiency advice, appliance replacements, and referral to government or community energy efficiency (including appliance replacement) programs. These are some of the programs or processes which the AER should look for in accessing whether a proposed hardship policy meets the minimum requirement of assisting customers with strategies to improve energy efficiency. In practice, very few Victorian retailers offer such assistance to customers. Box 2 in the next page consists of data from the ESCV's Energy Retailers Comparative Performance Report 2009-2010. According to the ESCV, during 2009-2010, very few customers participating in a hardship program had free energy audits or appliance replacements offered to them by their retailer. The number of customers who managed to obtain appliance replacements from programs they had been referred to was also very low.²⁷

The hardship policy should set out the circumstances in which onsite energy audits will be wholly or partially funded by the retailer. We expect onsite energy audits to be provided free to customers experiencing hardship in circumstances where they have accumulated large arrears and where affordability is clearly going to be an ongoing issue, or where retailers have contributed to the customer's financial hardship, for example, through billing error.

Customers experiencing financial hardship are generally unable to afford to replace energy-inefficient appliances. Replacing inefficient appliances with energy efficient ones will contribute to reduced levels of energy usage and therefore lower bills. Merely referring customers to community or government schemes is inadequate. This is as some customers may be ineligible for the scheme that they have been referred to (see Box 2 – Referred customers who obtained an appliance replacement). Instead, retailers should proactively assist customers to source energy efficient appliances which could be provided by the retailer themselves or through a third party, at no or minimum cost to the customer.

²⁷ ESCV, Energy Retailers Comparative Performance Report – Customer Service 2009-10, Appendix A, at 53-56.

Box 2: Data on energy audits and appliance replacements²⁸

2009-2010	AGL	APG	Click	CE	EA	VE	NE	OE	PD	Red	SE	TRU
Hardship program participants	6,305	24	36	859	254	145	245	6,713	88	804	1,475	7,319
Energy audits at no cost to customer ²⁹	996	7	0	0	2	13	1	448	1	3	2	79
Appliances provided under a hardship program	857	0	0	0	0	0	0	2	0	0	0	2
Customers referred to other appliance replacement programs	0	0	0	0	4	25	0	0	0	0	0	79
Referred customers who obtained an appliance replacement	0	0	0	0	2	1	0	0	0	0	0	0

Other hardship obligations

Apart from information on the waiver of late payment fees and prohibition of security deposits for customers experiencing hardship, we suggest that the AER consider these initiatives taken by some retailers to assist customers experiencing financial difficulties:

- A loyalty program that rewards customers who consistently make regular payments to reduce their arrears;

²⁸ Extracted from ESCV, Energy Retailers Comparative Performance Report – Customer Service 2009-10, Appendix A, at 53-56. APG = Australian Power & Gas; Click = Click Energy; CE = Country Energy; EA = Energy Australia; VE = Victoria Electricity now called Lumo Energy; NE = Neighbourhood Energy; OE = Origin Energy; PD = Powerdirect; Red = Red Energy; SE = Simply Energy; TRU = TRUenergy.

²⁹ No energy audits were provided at partial cost to customers during the 2009-2010 reporting period.

- Referral to no interest loan schemes for customers experiencing financial difficulty needing to borrow money for emergency purposes.

Process for approving customer hardship policies

Approving customer hardship policies variations

Independent of any variation required by the AER of a hardship policy, retailers should also incorporate a regular review and amendment process into their hardship policies to ensure that their hardship policies align with best practice, and are responsive to changing regulatory, energy market and customer circumstances.

Customer hardship policy governance and compliance

Hardship compliance and performance audits

We had, in our submission on the AER's Approach to compliance with the NERL, Rules and Regulations, Draft Decision (December 2010), supported the AER's approach in combining audits of retailer compliance and performance of hardship programs, for the reasons outlined in that Draft Decision.³⁰

AER's approach to compliance under the Customer Framework

Please refer to our submission dated 11 February 2011 for our views regarding the AER's approach to compliance under the NECF.

A: Customer hardship policy approval submission checklist

In addition to the current items listed in the checklist, the suggestions that we have made above should also be incorporated:

- Third party identification of customers eligible for inclusion in the hardship program (3.1);
- Incentive schemes and debt waiver (complete or partial) (3.3);
- Processes to identify and notify customers of community organisations and financial counsellors (3.4);
- Processes to ensure that the customer is on the most appropriate retail offer and tariff, as well as the availability of Centrepay (3.6);

³⁰ AER, AER's Approach to compliance with the NERL, Rules and Regulations, Draft Decision (December 2010), at 12.

- Onsite energy audits, energy efficiency advice, appliance replacements, referral to government or community energy efficiency (including appliance replacement) programs (3.7);
- Loyalty programs and referrals to no interest loan schemes (3.7);
- Clear communication and promotion of the customer hardship policy to residential customers including those who are non-English speaking (3.9).

We note the reference in the checklist to “disconnection of a hardship customer’s premises is a last resort option” which is from section 47 of the NERL. As a matter of principle CUAC takes the view that no customer should be disconnected from their energy supply due solely to an inability to pay their bills.

Thank you for the opportunity to participate in the AER’s consultation. If you have any queries, please contact the undersigned.

Yours sincerely,



Jo Benvenuti
Executive Officer



Deanna Foong
Senior Policy Officer