



AER approval of the minimum disconnection amount

QCROSS submission

March 2012

About QCOSS Inc

Queensland Council of Social Service (QCOSS) is the peak body for over 600 welfare and community sector organisations in Queensland. For over 50 years QCOSS has worked to promote social justice and exists to provide a voice for Queenslanders affected by poverty and inequality. We act as a State-wide Council that leads on issues of significance to the social, community and health sectors. We work for a Fair Queensland and develop and advocate socially, economically and environmentally responsible public policy and action by community, government and business.

QCOSS is funded by the Department of Employment, Economic Development and Innovation (DEEDI) and the Department of Justice and Attorney-General (DJAG) for an energy consumer advocate project in Queensland. The objective of the QCOSS Energy Consumer Advocacy Project is to examine and provide quality input into Queensland Government energy policies for all residential consumers in Queensland and with special consideration of the needs of pensioners, low income earners and energy consumers experiencing financial hardship. This work is supported by an advisory group involving other key consumer groups.

Preliminary comments

Comparison of jurisdictional disconnection data shows that Queensland has consistently had one of the highest rates of customer disconnection for non-payment of an electricity account in Australia for the past several years. The number of electricity customers disconnected in Queensland continues to rise, with an increase of 37% between 2009-10 and 2010-11. Data recently released by the Queensland Competition Authority for the September 2011 quarter suggests that the number of disconnections could rise by a further 20% in the current financial year.

As a result of our concerns about the high disconnection rate in Queensland, QCOSS conducted a survey of 70 community sector workers in 2011 to gather information about the factors contributing to disconnection. We will be publishing the results of this survey, along with analysis of case studies and issues recorded in a log of calls received by QCOSS over a 13 month period, in a forthcoming report. We believe that some of the findings of this project are relevant to the AER's consideration of the minimum disconnection amount, and a summary of these results is provided below.

QCOSS agrees with the AER and other consumer groups that the minimum disconnection amount is only one of a suite of protections for customers who are experiencing payment difficulties. It is important to note that loss of supply is only one of the potential consequences for customers who cannot afford their energy bills. For example, a housing support worker who provided case studies to QCOSS for our disconnections project pointed out that when consumers who cannot pay their energy bills do not receive appropriate assistance and are forced to choose which payments to prioritise, another outcome is homelessness. QCOSS therefore believes that the minimum disconnection amount should be seen as a last line of defence against one possible outcome of energy hardship, where the rest of the consumer protection framework has failed. It should not be treated as a threshold at which retailers start trying to manage customers' debts.

This point is important when considering the argument raised by some retailers at the AER stakeholder forum on the minimum disconnection amount, that customers may increase retailers' costs by playing the system. QCOSS has heard similar arguments used elsewhere, and is concerned that regulatory and policy decisions may be influenced by this assumption. As discussed below, there is not a clear distinction between customers who are experiencing hardship and any who may simply be avoiding payment. The results of QCOSS's disconnection survey show that customers who end up seeking assistance from the community sector have often been affected by retailers' breaches of regulatory obligations to customers experiencing payment difficulties. Breaches of these obligations and other examples of poor performance by retailers are likely to increase retailers' costs and risk of bad debt. Therefore QCOSS does not believe that the risk of customers 'playing the system' should be considered a factor in determining an approach to the minimum disconnection amount or any other of the AER's retail functions unless evidence can be provided as to the extent of this issue.

QCOSS disconnections project – summary of results

Interaction between retailers and consumers experiencing payment difficulties

The QCOSS disconnections survey asked community sector workers how often they observe particular situations when assisting clients who have been or are likely to be disconnected. More than half (55%) of the survey participants said that they 'often' or 'always' saw clients who had not contacted their retailer about their payment difficulties. Mobile phone call costs were identified as a significant barrier to contacting retailers, with 63.3% of participants saying they often or always saw clients for whom this was the case. However, it was clear from responses to other questions that many customers who are at risk of disconnection due to payment difficulties experience disempowerment in their dealings with retailers to an extent that prevents them from seeking or receiving adequate assistance. One-quarter of survey participants said their clients were always unaware of available assistance or retailer obligations to customers experiencing payment difficulties, with a further 56.7% often seeing clients who were unaware of these consumer protections. Customers feeling uncomfortable identifying their financial difficulties to retailers and lacking skills to self-advocate or negotiate, negative experiences with call centre staff, difficulties negotiating affordable payment plans, and the need for resources to inform customers of their rights were common themes running through the responses to several open-ended questions. Not only was clients not having contacted their retailer about their payment difficulties a significant issue, but nearly half (45%) of participants said that their clients often or always had not received adequate assistance when they did contact their retailer.

Retailers' compliance with hardship obligations

Results from the QCOSS disconnections survey, case studies and other feedback from community sector workers, and an analysis of calls to QCOSS from consumers suggest that non-compliance with broad obligations to assist customers with payment difficulties by retailers is a significant and widespread issue contributing to disconnection. More than half (56.7%) of survey participants said that clients who had been or were likely to be disconnected often or always had very high debts built up over multiple billing periods. This suggests that retailers are not identifying customers in hardship through their credit

management processes, or are not offering appropriate assistance to customers who are experiencing payment difficulties. Forty per cent of participants said that their clients were often or always offered payment plans that did not take into account information provided to the retailer about their capacity to pay. Difficulties obtaining application forms for the Home Energy Emergency Assistance Scheme (HEEAS) and in having clients referred to hardship programs were also problems often observed by a significant number of community sector workers.

In February 2011, QCOSS started keeping a log of issues raised in calls to the Low Income Consumer Advocacy team from consumers seeking assistance with energy and water issues. Many calls are from consumers seeking advice about payment difficulties, who do not indicate whether they have contacted their retailer or not. However, during the 13 month period to the end of February 2012, information was provided by the caller indicating that poor performance by a retailer had prevented a customer experiencing payment difficulties from receiving adequate assistance in 29% of the 51 contacts (50 calls and 1 email) recorded. Issues included call centre staff denying that HEEAS forms were available through the retailer, providing incorrect information suggesting that HEEAS did not apply, customers being unable to arrange payment plans because their retailers demanded instalment amounts that were too high or refused to agree to any payment plan, and barriers to accessing hardship programs. In a further 12% of calls where no direct information about retailer performance was given, customers had either been given an extension of time to pay or were on a payment plan, but needed a higher level of assistance than they had received.

Retailers' performance in relation to HEEAS seems to be particularly problematic. This scheme, funded by the Queensland Government, provides a one-off grant of up to \$720 to customers who are unable to pay an electricity or gas bill due to a financial crisis. Application forms can only be obtained through retailers, who must cease any collection action while an application is being processed, and if granted payment is made directly to the retailer. The scheme is seen by community sector workers as an important means of assisting clients with energy bills, as it clears most of the client's energy debt, allowing them to focus on meeting future payments. It is also beneficial to retailers who receive a lump sum payment rather than a series of small instalments. However, community sector workers have told QCOSS that their clients are frequently not told about HEEAS. Call centre staff also appear to have poor knowledge of HEEAS, resulting in a number of issues including a range of false information about eligibility being provided, eligible customers being denied access to the scheme, and community workers having to contact hardship teams to obtain application forms for their clients because frontline call centre staff are unaware of the scheme. Some of the issues raised by community sector workers have also been reflected in calls to QCOSS from consumers. Thirty percent of community sector workers participating in the QCOSS survey said that when assisting clients at risk of disconnection, difficulties obtaining HEEAS forms had often or always occurred.

Can't pay versus won't pay

QCOSS has observed in our systemic advocacy work that retailers often attempt to draw a distinction between customers who 'can't pay' and 'won't pay', and argue that the regulatory framework should protect them from customers in the latter category. We suggest that this is not a useful distinction. Even assuming that there may be some customers who avoid making payments that they can afford, retailers do not usually have enough information

about their customers to be able to positively identify which customers are able but unwilling to pay. Attempting to make such distinctions on an individual level will almost certainly result in customers who are unable to pay their bills being denied appropriate assistance. It also results in poor customer service and stigmatisation of customers experiencing payment difficulties, which in turn discourages customers from contacting retailers about their payment difficulties. This is reflected in the findings of our disconnections research and stories told to QCOSS by consumers.

To illustrate the difficulty in distinguishing between customers who can't or won't pay, and the impacts of attempts to make such a distinction, following is a hypothetical example based on calls and case studies received by QCOSS. A customer on a Centrelink payment who has recently experienced a crisis is unable to pay their electricity bill and contacts their retailer to arrange to pay in instalments. The retailer's call centre does not elicit information from the customer that would indicate they were experiencing hardship and transfers the customer to the credit department. The customer tells the credit department what they can afford to pay, but this is not acceptable to the retailer, who insists that the customer will be disconnected if they don't pay a higher amount nominated by the credit department. The customer, who is unaware of the retailer's obligation to take into account their capacity to pay, faced with the threat of disconnection agrees to the higher payment. When the payment is due, they cannot afford it. However, anxiety about their payment difficulties has added to the stress they were already experiencing as a result of the recent crisis and the customer feels too overwhelmed and intimidated to deal with the retailer again. Instead of contacting the retailer to explain their circumstances and attempt to renegotiate the payment plan, they miss the deadline for payment and, when a disconnection notice arrives, start seeking other avenues of assistance. In this example, the retailer is likely to view the customer as being unwilling to pay, when in fact the customer is experiencing severe hardship. If in this hypothetical example the credit department had identified what the customer said they could afford to pay as an indication of hardship, and transferred the customer to the hardship team, they may have been assisted to apply for HEEAS, or received attention that enabled the customer to maintain an affordable payment plan and the retailer to manage future risks arising from this customer's inability to pay. This illustrates the danger that false assumptions about customers' willingness to pay may have negative outcomes for both sides. Similarly, if too much weight is placed on the belief that retailers need to be protected from customers who won't pay when making policy or regulatory decisions, the result will lead to increased risks for both retailers and consumers.

Response to questions asked in the consultation letter

Question 1: Should the AER publish the approved minimum disconnection amount?

QCOSS supports the AER's proposal to publish the approved minimum disconnection amount. As discussed above, results from the disconnections survey show that consumers' lack of knowledge about assistance available and difficulties in dealing with retailers are significant factors contributing to disconnection for non-payment of bills. Greater public awareness of consumer protections, including the minimum disconnection amount, is likely to result in more consumers receiving assistance when they have payment difficulties. Knowledge of the minimum disconnection amount may also empower consumers when

negotiating payment plans, reducing the likelihood that they will feel pressured into agreeing to unaffordable instalment amounts.

QCOSS notes the concerns raised by other stakeholders that publication of the minimum disconnection amount may give customers an incentive to maintain debt just below that amount, and that this could increase retailers' costs or risk of bad debt. Although we are pleased that the AER regards this risk as small, we see a need to put this argument in context in order to put it to rest. As discussed above, retailers' non-compliance with hardship obligations, particularly concerning HEEAS, is a problem commonly encountered by customers who experience payment difficulties. When eligible customers are not informed of HEEAS or are denied access to the scheme as a result of poor knowledge of call centre staff, retailers forego a guaranteed lump sum payment covering most that customer's debt. Demanding higher instalment amounts than customers can afford to pay increases the risk of default on payment plans. Engaging debt collection agencies to recover debt from customers who were willing to pay, but could not afford the minimum instalment amount that their retailer was willing to accept increases retailers' costs. Thus poor performance by retailers in relation to customers experiencing hardship increases their costs and risk of bad debt. Given the extent to which community sector workers reported problems with retailers' dealings with customers experiencing payment difficulties in the QCOSS disconnections survey, it is likely that this poor performance increases risk more than customers avoiding payment.

In addition, Rule 116 of the Retail Rules qualifies the prohibition on disconnection for a debt less than the minimum disconnection amount by requiring that the customer has agreed with the retailer to repay that amount. If a customer was to consistently maintain a debt level just below the threshold, and refuse to engage with any attempts by the retailer to offer hardship assistance or seek full payment, the retailer would still be permitted to limit their risk by disconnecting that customer. In order to maintain the debt below that level while still consuming energy, the customer would have had to make part payments towards the account which the retailer might not otherwise have received were the customer not aware of the minimum disconnection amount. In this situation, knowledge of the minimum disconnection amount would have limited the retailer's exposure to bad debt.

Furthermore, consistently making small payments to maintain debt just below the minimum disconnection amount could be an indicator that a customer is experiencing hardship, and is unable to pay their account in full. Retailers who did not identify such customers and offer information about assistance available in case of hardship would be in breach of their obligations under the NECF. Therefore any risk of bad debt or increased costs in this situation would at least partly result from the retailer's poor performance rather than from publication of the minimum disconnection amount.

QCOSS also notes the AER's recognition that it is important those who are assisting customers at risk of disconnection have access to information about the minimum disconnection amount. The roles for which QCOSS is funded by the Queensland Government include building capacity within community groups as well as systemic advocacy on behalf of energy consumers. As part of this work, we have produced a number of resource materials for the community sector which are published on either our website or an external website managed by QCOSS. Currently this material includes information about Queensland's minimum disconnection threshold, which is not published by the Queensland Competition Authority. It is likely that even if the AER were to decide against publishing the

minimum disconnection amount, an organisation with a similar role to QCOSS may still include it in publically available material.

Question 2: Should the minimum disconnection amount be the same for both gas and electricity?

QCOSS does not have a fixed view about whether there should be a single or different minimum disconnection amount for gas and electricity. We recognise that in Queensland, a minimum disconnection amount that is appropriate for electricity may be generous for gas. However, in keeping with our view that knowledge of the minimum disconnection amount may improve some consumers' capacity to negotiate with their retailers, we consider it important that the minimum disconnection amount is set in such a way that it is easy for consumers to understand. Assuming that a single national amount is set, it is also necessary that the amount is appropriate for jurisdictions where gas consumption is higher.

Question 3: Should the AER apply the same minimum disconnection amounts to all states and territories applying the Retail Rules?

QCOSS supports the AER's proposal to approve a single national minimum disconnection amount. As stated above, we believe it is important that consumers are aware of the minimum disconnection amount and understand what that amount is for the applicable energy account. Setting different amounts in each jurisdiction would create an unnecessary level of complexity.

QCOSS also acknowledges that differences in energy usage profiles between jurisdictions could result in a single national amount providing less protection for consumers in some jurisdictions than others. For this reason, we believe that the AER should ensure that it has regard to the jurisdictions with the highest average bills when setting the minimum disconnection amount.

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

QCOSS believes that the AER should consider where the minimum disconnection amount sits within the broader framework of obligations to customers experiencing payment difficulties when setting the amount. As discussed above, we are concerned by views expressed at the stakeholder forum that the minimum disconnection amount should be set with regard to management of customers who are seen as gaming the system. There is no suggestion that retailers should not expect to receive payment for energy consumed by their customers. Therefore, when a customer is experiencing payment difficulties, obligations that enable customers to manage their debt and retailers to receive at least part payment should come into play before the minimum disconnection amount. These obligations include providing customers with information about grants such as HEEAS, arranging payment plans that are sustainable for customers, and facilitating access to further assistance through hardship programs where appropriate. However, the results of our disconnections research show that a substantial number of energy customers who receive assistance from the community sector have been affected by retailer non-compliance with these obligations.

Where a customer in hardship has to rely on the minimum disconnection amount to prevent loss of supply, the broader consumer protection framework has failed. In this situation, the AER should be concerned less with managing customer behaviour than with addressing the failure of the consumer protection framework.

Question 5: Do stakeholders consider minimum disconnection amount of \$300 (GST inclusive) to be appropriate?

QCOSS does not have a firm position on what amount is appropriate as a minimum debt for disconnection. However, we would not support a figure any less than \$300. As noted in the consultation letter, a lower figure would represent a diminishment of customer protections for electricity consumers in Queensland.

QCOSS supports the principle that a customer should not be disconnected for being one quarterly bill behind. This would suggest that the minimum disconnection amount should be higher than \$300, as this amount is significantly lower than the average quarterly electricity bill. However, we also recognise that this principle could also be given effect through improving retailers' compliance with hardship obligations.

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

QCOSS believes that the minimum disconnection amount should be reviewed at least every three years. However, it is also important that where the AER's retail market performance monitoring reveals evidence of a significant increase in hardship, there is not a lengthy period until the next review. Should this situation arise, the AER should consider a special review of the minimum amount.

When a review of the minimum disconnection amount is conducted, it is our view that the AER should take into account the extent of price increases since the amount was previously approved, changes in disconnection rates and other hardship indicators, and evidence about retailers' performance in relation to customers experiencing payment difficulties.