
SUBMISSION TO AER CONSULTATION

APPROVAL OF MINIMUM AMOUNT
OWING FOR DISCONNECTION

(R. 116 OF THE NATIONAL ENERGY
RETAIL RULES)

March 2012

VCOSS Submission



ABOUT VCOSS

The Victorian Council of Social Service (VCOSS) is the peak body of the social and community sector in Victoria. VCOSS members reflect the diversity of the sector and include large charities, peak organisations, small community services, advocacy groups, and individuals interested in social policy. In addition to supporting the sector, VCOSS represents the interests of vulnerable and disadvantaged Victorians in policy debates and advocates for the development of a sustainable, fair and equitable society.

VCOSS respects the land we live in, recognises its Indigenous custodians, and is committed to reconciling all injustices with Indigenous Australians.

VCOSS is committed to social equity and justice, and envisages a society that:

- ❑ sees social wellbeing as a national priority;
- ❑ ensures everyone has access to a fair share of community resources and services;
- ❑ involves all people as equals, without discrimination; and
- ❑ values and encourages people's participation in decision-making about their own lives and their community.

Authorised by:

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SUMMARY

- ❑ VCOSS **supports** the AER's proposal to publish the minimum disconnection amount, in the interests of clarity, transparency, and facilitating compliance monitoring.
- ❑ VCOSS **supports** the AER's proposal to use the same amount for gas and electricity in the interests of simplicity and transparency.
- ❑ VCOSS **supports** the AER's proposal to use the same amount across jurisdictions in the interests of simplicity and transparency.
- ❑ VCOSS **proposes** that other factors that should be considered when approving a minimum disconnection amount include its relationship with typical energy bills, parity with existing amounts in NEM jurisdictions, and its role as a basic, residual protection.
- ❑ VCOSS **supports** the AER's proposal that \$300 is an appropriate minimum disconnection amount.
- ❑ VCOSS **proposes** that annual indexation and four-yearly review is appropriate to ensure that the amount retains its value and thus meets its purpose.

PROTECTING VULNERABLE HOUSEHOLDS FROM DE-ENERGISATION

The Victorian Council of Social Service is committed to protecting the interests of disadvantaged and vulnerable households in energy markets. In particular, VCOSS seeks to ensure as much as possible that vulnerable households have secure affordable access to sufficient energy to provide basic quality of life at the community standard. Central to this is the principle that no-one should be disconnected solely due to incapacity to pay. Significant structural change over the last two decades – and unprecedented price increases over the last five years – has led to an increased need for a sophisticated and comprehensive customer framework to deliver this outcome.

Because energy is an essential service, fundamental to basic household needs such as health, hygiene, and security, VCOSS believes that punitive de-energisation is a barbaric practice that represents an extreme use of power by a private company – almost unheard of outside the utilities industry – to compel debt repayment. VCOSS believes that the customer framework provides plenty of opportunity for an innovative and responsible energy retailer to work compassionately with customers in hardship to reach mutually agreeable arrangements to meet both parties' needs. That such arrangements may involve sacrifices on both sides – not just the customer's – is unremarkable.

Nevertheless VCOSS accepts that, at least currently, the threat of de-energisation is accepted by most stakeholders as an appropriate, though extreme, debt-collection strategy. Accordingly we support having a minimum disconnection amount in the NERR as a basic measure to constrain inappropriate use of such a strategy.

Should the AER publish the approved minimum disconnection amount?

YES

Publication of the minimum disconnection amount helps customers in hardship and their advocates secure their energy supply when negotiating payments. It also assists with compliance monitoring, particularly with regard to wrongful disconnections – this is important because of the degree to which the identification of non-compliance by third parties (such as advocates and Ombudsmen) is a part of the compliance framework. Certainly in Victoria, which has seen a steep increase in wrongful disconnections in recent times, such transparency is critical.

In Victoria, we are not aware of any evidence that publication of the minimum disconnection amount has led to “gaming” by customers. In our opinion, for customers to deliberately maintain their debt to a level just below a given threshold would require a degree of financial capacity and control not generally experienced by households in hardship. In any case, if a hardship customer was able to maintain a relatively low level of debt while staying on top of ongoing usage, we would consider it a pretty good outcome – and one fairly in line with retailers' role within the broader hardship framework to help customers manage and minimise their debt on the way to the ultimate goal of repaying it.

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

YES

While there may appear to be some merit in having different amounts for gas and electricity – especially if the amount is set with reference to the size of a typical quarterly bill (for example, if using the principle that a household should not be disconnected for a single unpaid bill) – it's difficult to imagine such an approach achieving its implicit outcomes with any consistency. For example, setting a lower amount for gas on the basis that gas bills are generally lower would poorly serve those households whose life circumstances and fuel mix lead to higher gas than electricity bills. It also raises the question of whether the amount should be different for single and dual fuel households, or in summer and winter; and leads ultimately to the question of whether the amount should be set on a per household basis according to actual bill amounts – a level of complexity that is clearly implausible. Even in its simplest form, it presupposes that the differential between gas and electricity prices will not materially change – a risky assumption.

Using the same amount for gas and electricity creates a consistency that enhances transparency and minimises confusion. Whatever virtue there may be in having different amounts for different fuels does not seem to be a strong enough argument against this.

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

YES

Similarly, while there may be some merit in applying different minimum disconnection amounts in different jurisdictions (to account for the impact of different prices and climates on household energy costs), it is likely that the consistency, simplicity and transparency of a single national amount is of greater value.

What other factors should the AER consider when approving a minimum amount owing for disconnection?

RELATIONSHIP WITH TYPICAL BILL

PARITY WITH EXISTING AMOUNTS

ROLE AS A BASIC, RESIDUAL PROTECTION

In determining the application (including the level) of the minimum disconnection amount the AER should consider the underlying purpose of the ruling. If it is (as, in our view, it should be) to ensure that households are not disconnected from supply for a trivial amount, the amount should not be less than a level of debt at which a low-income household might all too easily find itself incurring. Something roughly equivalent to a single typical household bill seems appropriate here.

Furthermore, setting it at a level below that already applied in a NEM jurisdiction would lead to a degradation of consumer protections in that jurisdiction. Such an outcome is undesirable and may well lead to further fragmentation of the NECF as affected jurisdictions seek to offset its impact.

Additionally, the AER should consider how the minimum disconnection amount provision sits within the broader hardship framework. In particular, we have some concerns about the rule (as it currently stands) limiting application of the minimum disconnection amount to those circumstances in which a customer has also agreed to pay the total debt. Since the framework (in Rule 116d) already prohibits disconnection when a customer has undertaken

to pay their debt (by agreeing to a payment plan), it is not clear how the minimum disconnection clause comes into play. If the underlying purpose of the rule is to ensure that households are not de-energised for a trivial amount, it should apply irrespective of customers' engagement with other elements of the hardship framework.

Do stakeholders consider a minimum disconnection of \$300 (GST inclusive) to be appropriate?

YES

Determining an appropriate amount is a non-trivial task. Setting it too low limits its value as part of the hardship framework; while setting it too high could lead to increased debt levels among the most vulnerable customers – though it must be said that just as the minimum disconnection amount is but one element of a comprehensive hardship framework, the threat of disconnection should be just one element (and a last resort at that) of an energy retailer's suite of strategies for dealing with customers in hardship.

Considering the principles that vulnerable customers should not face the grave penalty of disconnection from an essential service for a level of debt too easily incurred as a result of a temporary financial difficulty (i.e. a single unpayable bill) and that no jurisdiction should suffer a degradation of their existing hardship framework, VCOSS considers that the proposed level of \$300 (GST inclusive) is appropriate.

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

ANNUAL INDEXATION AND FOUR-YEARLY REVIEW

With the sustained increase in energy prices over the last several years and the certainty that it will continue into the foreseeable future, the minimum disconnection amount will lose value (and thus its effectiveness in meeting its objective) if it does not keep pace. This has certainly been the case for the Victorian threshold, which is a much lower proportion of the average household energy bill than it was even a few years ago. To avoid this, the amount should be indexed to household energy costs (most appropriately, the average annual combined electricity and gas cost) and increased yearly. The AER should review this after two years (to verify the appropriateness of both the initial amount and the initial indexation) and thereafter every four years (to monitor the effectiveness of the indexation regime, and to identify any unintended or perverse outcomes).

Conclusion

Because energy is an essential service, a comprehensive customer framework is essential to ensure that all households have secure access to sufficient energy for their basic needs even if they lack capacity to pay. While the cause of incapacity to pay is fundamentally insufficient income (in particular, the low level of some statutory incomes), it is appropriate that energy retailers take some responsibility for facilitating access to energy for the most vulnerable households, even if this comes at some cost. The threat of disconnection gives retailers considerable power to compel payments from customers in hardship; the minimum disconnection amount helps to ensure that these powers are not used disproportionately.

CONTACT DETAILS

For further information regarding the VCOSS submission to the *AER consultation: approval of minimum amount owing for disconnection*, contact:

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