



GUIDELINE NO. 21

**ENERGY RETAILERS' FINANCIAL
HARDSHIP POLICIES**

Issue 1a

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REPEALED AS OF 1 JANUARY 2015

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Amendment Record

Issue No.	Date	Nature of Amendment
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1. BACKGROUND

1.1 Purpose

This guideline has been issued to assist *retailers* in preparing financial hardship policies.

The guideline should be considered in conjunction with the Final Decision: Energy Retailers' Financial Hardship Policies, published by the Essential Services Commission (the Commission) in April 2007.¹ The Final Decision sets out the reasons for the obligations contained in clause 2.2 of the Guideline and provides additional guidance to the *retailers* in meeting these obligations.

1.2 Authority

Section 43 of the *Electricity Industry Act 2000* (the Electricity Act) and section 48G of the *Gas Industry Act 2001* (the Gas Act) require *retailers* to prepare financial hardship policies and to submit them to the Commission for approval.

This guideline is issued under section 44 of the Electricity Act and section 48H of the Gas Act.

1.3 Legislative intent and context²

The Commission understands the intention in creating the obligation on *retailers* to develop financial hardship policies was to provide greater support for *domestic customers* in financial hardship.

The Commission understands that this obligation is placed upon *retailers* because they have the principal relationship with *domestic customers* and should continue to have the major responsibility to respond to *domestic customers* in financial hardship. The Commission considers this to be a shared obligation and *domestic customers* are expected to pay their energy bills in full and to contact *retailers* concerning any bill payment difficulty.

1.4 Application date

This guideline takes effect from 1 January 2011.

¹ Published on the Commission's website at WWW.ESC.VIC.GOV.AU

² Brumby, J (Treasurer) 2006, *Energy Legislation (Hardship, Metering and Other Matters) Bill, Second Reading Speech*, Hansard, p.2371.

2. FINANCIAL HARDSHIP POLICIES

2.1 Approval by the Commission

A financial hardship policy must include the matters set out in section 43C of the Electricity Act or section 48GC of the Gas Act.

In determining whether to approve a *retailer's* hardship policy, the Commission will consider whether it is appropriate and will have regard to:

- (a) the factors set out in section 45(2) of the Electricity Act or section 48I of the Gas Act; and
- (b) the objects set out in section 42 of the Electricity Act or section 48F of the Gas Act, including the promotion of best practice in energy delivery.

2.2 Contents of the policy

- (a) Nothing in this clause requires a *retailer* to offer all the options covered by its financial hardship policy to all of its *domestic customers* in financial hardship. The *retailer* must however, provide its *domestic customers* in financial hardship with equitable access to the options appropriate to their individual circumstances.
- (b) In meeting the obligations set out in clause 2.1, the Commission expects a *retailer's* policy to:
 - (i) reflect that a *domestic customer* in financial hardship is a *domestic customer* who has the intention but not the capacity to make a payment within the timeframe required by the *retailer's* payment terms;
 - (ii) enable *domestic customers* in financial hardship:
 - (A) to identify themselves to the *retailer*,
 - (B) to be identified by financial counsellors to the *retailer*; or
 - (C) to be identified by the *retailer*;
 - (iii) provide details of the processes and criteria the *retailer* will use to identify *domestic customers* in financial hardship;
 - (iv) provide details of the options that will be provided to *domestic customers* in financial hardship and how *domestic customers* will be assisted to maintain their participation in instalment plans or any other option offered to them;
 - (v) provide details of the processes the *retailer* will use to work with the *domestic customer* and where appropriate a financial counsellor to assess the appropriate options to be provided by the *retailer*;

- (vi) offer fair and reasonable payment options with fair and reasonable instalment intervals that accommodate the particular circumstances of *domestic customers* in financial hardship and to monitor the *domestic customer's* payments, including the accumulation of debt;
- (vii) provide details of:
 - (A) how and in what circumstances the *retailer* will make field audits of electricity or gas usage available to *domestic customers* experiencing financial hardship,
 - (B) in what circumstances the field audits will be available at partial or no cost to the *domestic customer* and
 - (C) how the *domestic customer's* agreement to partially fund a field audit will be obtained and how the benefits of the *domestic customer's* expenditure will be demonstrated.
- (viii) provide details of how and in what circumstances the *retailer* will provide assistance to *domestic customers* in financial hardship to replace electrical and gas appliances, including whether the *retailer* will sell or supply the appliances itself or nominate a third party to do so;
- (ix) provide for the referral of *domestic customers* in financial hardship to other support agencies and schemes where appropriate;
- (x) set out the process *retailers* will follow to advise *domestic customers* of their rights and obligations in respect of their agreement under the *retailer's* hardship program;
- (xi) set out the circumstances in which a hardship arrangement between a *domestic customer* and the *retailer* will cease;
- (xii) 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; and
- (xiii) be transparent, accessible and communicated to *domestic customers*, financial counsellors and community assistance agencies.
- (xiv) recommend the most appropriate tariff at the time of entry to the financial hardship program, bearing in mind:
 - (A) cost effectiveness; and
 - (B) whether the *customer* has dedicated off peak appliances; and
 - (C) the *customer's* previous tariff (including network charge); and
 - (D) the *customer's* overall power usage; and

- (E) the *customer's* previous bills, if available; and
 - (F) 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.
- (c) This clause 2.2 does not limit the requirements of section 43C of the Electricity Act or section 48GC of the Gas Act or the requirements of the *Energy Retail Code*.

2.3 Details of the financial hardship policy

A *retailer* must publish details of its financial hardship policy on its website in a way that is easy for a *customer* to access and provide details of the policy to a customer or financial counsellor on request.

2.4 Changes to hardship policies

The Commission expects *retailers* to periodically review their financial hardship policies in accordance with normal business practice.

Any request by the *retailer* for the Commission to approve a new or amended financial hardship policy under section 43B of the Electricity Act or section 48GB of the Gas Act must include a statement as to the nature, impact and reason for the change.

3. DEFINITIONS & INTERPRETATION

3.1 Definitions

retailer means a person who holds a retail licence under the *Electricity Industry Act 2000* or the *Gas Industry Act 2001*.

domestic customer means a customer who purchases electricity or gas principally for personal, household or domestic use at the relevant *supply address*.

supply address includes:

- (a) for electricity, the relevant market connection point (as defined in the National Electricity Rules) in respect of that supply address; and
- (b) for gas, the point where gas leaves the distribution system before being supplied to a customer, whether or not it passes through facilities owned or operated by another person after that point and before being so supplied.

3.2 Interpretation

In this guideline:

- (a) headings and footnotes are for convenience only and do not affect the interpretation of this guideline;

- (b) words importing the singular include the plural and vice versa;
- (c) words importing a gender include any gender;
- (d) an expression importing a natural person includes any company, partnership, trust, joint venture, association, corporation or other body corporate and any governmental agency;
- (e) a reference to a clause is to a clause of this guideline;
- (f) a reference to any statute including an Act, regulation, proclamation, order in council, ordinance or by-law, includes all statutes, regulations, proclamations, orders in council, ordinances or by-laws varying, consolidating, re-enacting, extending or replacing them and a reference to a statute includes all regulations, proclamations, orders in council, ordinances, by-laws and determinations issued under that statute;
- (g) a reference to a document or a provision of a document includes an amendment or supplement to, or replacement or novation of, that document or that provision of that document;
- (h) a reference to a person includes that person's executors, administrators, successors, substitutes (including, without limitation, persons taking by novation) and permitted assigns; and
- (i) other parts of speech and grammatical forms of a word or phrase defined in this guideline have a corresponding meaning.

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