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ENERGY RETAILERS' FINANCIAL HARDSHIP POLICIES

FRAMEWORK PAPER

DECEMBER 2006

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Preface

In 2005, the Victorian Government established the Committee of Inquiry into the Financial Hardship of Energy Consumers. A key recommendation of the inquiry was that energy retailers develop and implement best practice hardship policies.¹ The *Energy Legislation (Hardship, Metering and Other Matters) Act 2006*, assented to on 29 August 2006, amends energy legislation to require licensed energy retailers to prepare and seek approval of financial hardship policies. The legislation empowers the Essential Services Commission (the Commission) to develop guidelines to assist retailers and to approve their financial hardship policies.

This framework paper sets out the Commission's interpretation of the requirements in the legislation and its proposed approach to its new functions. It also sets out how the Commission will have regard to additional broad categories of principles which are consistent with those developed in the recent review of water businesses' hardship policies (but that account for differences from water in the energy regulatory context). These principles complement the legislative requirements for energy hardship policies and are considered to represent 'best practice'.

In developing this framework, the Commission has considered the substantial work into financial hardship that preceded the legislation. In particular, the Committee of Inquiry, the 2004 Utility Debt Prevention Project sponsored by the Committee for Melbourne under the auspices of the United Nations Global Compact, the Commission's own 2004 work in relation to Disconnections and Capacity to Pay² and its recent Review of Water Businesses Hardship Policies³ have informed the approach outlined in this paper.

The Commission has established a Financial Hardship Policies (Energy) Reference Group, comprising membership from retailers, consumer groups and other key agencies to provide advice on the requirements for financial hardship policies to be developed by the energy retailers. The views of the Reference Group have been taken into account in preparing this framework paper.

The Commission will prepare and issue guidelines in sufficient time to assist energy retailers in the development of financial hardship policies by 31 March 2007. Submissions received on the approach outlined in this paper will be considered in the preparation of the guidelines.

¹ Committee of Inquiry into the Financial Hardship of Energy Consumers, Main Report, September 2005.

² Disconnections and Capacity to Pay Report on Energy Retailers' Performance, Essential Services Commission, October 2004.

³ Review of Water Business Hardship Policies, Essential Services Commission, December 2006.

This paper seeks comment on the Commission's proposed approach.

Greg Wilson
Chairperson

How to respond

Comments received on the approach described in this paper will be considered in the formulation of guidelines for energy retailers' financial hardship policies and the explanatory note that will accompany them. The explanatory note will address comments received in the submissions.

Submissions are due by **Friday, 9 February 2007**, and can be

emailed to: gordana.marin@esc.vic.gov.au

or mailed to:

Energy Financial Hardship Policies Framework
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Submissions will be made available on the Commission's website in accordance with the Commission's website policy. Any material that is confidential should be clearly marked as such.

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1.1 Purpose of this framework paper

The purpose of this framework paper is to inform energy licensees, domestic customers and other stakeholders of the Commission's approach to its legislative obligation to approving financial hardship policies required to be developed by energy retailers. The principles and approach outlined will form the substance of the guidelines to be published in relation to the preparation and implementation by energy retail licensees of the hardship policies.

1.2 Commission's objective

The Commission was established formally on 1 January 2002 under the *Essential Services Commission Act 2001* (ESC Act).⁴ It is Victoria's primary economic regulator with responsibilities for pricing, service standards and monitoring performance and market conduct in a range of regulated industries including gas, electricity, water, ports, rail and grain handling.

In performing its regulatory functions and exercising its powers, the Commission is bound by its primary objective which is to protect the long term interests of Victorian consumers with regard to the price, quality and reliability of essential services. The Commission must also have regard to facilitating objectives including facilitating efficiency and financial viability of regulated industries, promoting effective competition where it is feasible and ensuring users and consumers (including low-income or vulnerable customers) benefit from the gains from competition and efficiency.⁵

1.3 Current regulatory context

The Commission is required under legislation to issue electricity and gas retail licences, which impose certain conditions and requirements on licensees, including requirements that all licensees comply with codes and guidelines issued by the Commission.

⁴ Prior to the Commission's establishment, the regulation of major infrastructure services in Victoria was undertaken by its predecessor – the Office of the Regulator-General.

⁵ Section 8 of the *Essential Services Commission Act 2001*.

As part of its regulatory functions, the Commission has an important consumer protection role that it performs by:

- regulating the prices and service standards of energy services provided under monopoly conditions;
- promoting effective competition in contestable retail energy markets;
- issuing enforceable codes of conduct and guidelines which establish minimum contract rights and terms and conditions for customers and supply obligations to be met by retailers; and
- monitoring and reporting publicly on retailers' compliance with these licence obligations.

In preparing for the introduction of competitive retail energy supply for small energy customers from 1 January 2001, the Victorian Government expressly provided by legislation that at least four 'fundamental' protections be contained in all relevant customer energy contracts for small customers.⁶

The legislation also enables the Commission to determine any other appropriate protections to apply for small consumers.⁷ The key instrument through which the Commission regulates energy retailers' responses to customers experiencing payment difficulties is the Energy Retail Code (the 'Code')⁸, which sets minimum standards for billing cycles, credit management, disconnection, contractual terms and explicit informed consent to contractual arrangements. This Code requires that energy retail businesses operating in Victoria assist customers with payment difficulties.⁹

While recognising the need to facilitate competition and to allow some retailer flexibility and capacity to innovate in the competitive retail energy market, the Commission sought through the Code to enhance the minimum standards of protections available for small customers, and particularly to those who are the most disadvantaged and vulnerable. In this regard, the Commission has been conscious that energy services are essential to daily life in today's society and that the terms and conditions of retail supply should recognise this essentiality, including for those experiencing financial hardship.

In addition, since 1997, the Commission has published annual performance reports on the affordability of retail supply to customers. The Commission monitors the use

⁶ Under sections 36(1)(a) of the Electricity Industry Act and 43(1)(a) of the Gas Industry Act 2001, these fundamental protections relate to disconnection of supply, access to information, confidentiality of records and access to meters.

⁷ Under sections 36(1)(b) of the Electricity Industry Act and 43(1)(b) of the Gas Industry Act 2001.

⁸ Energy Retail Code, Version 2, Essential Services Commission, February 2006.

⁹ Ibid., Section 11.

of refundable advances, the availability of payment plans, access to the Utility Relief Grant Scheme (which is Victorian Government emergency funding assistance available to customers who are experiencing difficulties in paying their bills), and the levels of disconnections and reconnections.¹⁰

From the 2004-05 *Energy Retail Businesses Comparative Performance Report*, the Commission has provided data on a broader set of access indicators for each retailer than previously published. New indicators include rates of disconnection and reconnection for those customers with characteristics likely to affect the affordability of energy¹¹ and therefore identify those customers likely to be in financial hardship.

1.4 Commission's new energy function

In August 2006, the Victorian Parliament amended the *Electricity Industry Act 2000* and the *Gas Industry Act 2001* to provide for the introduction and implementation of financial hardship policies.

The objects of the amendments are:

- (1) to recognise that financial hardship may be suffered by domestic customers; and
- (2) to promote best practice in electricity/gas service delivery to facilitate continuity of electricity/gas supply to domestic customers experiencing financial hardship.

A licence to sell energy – electricity or gas – is, as a result of the amendments, deemed to include a condition requiring the licensee to prepare a policy to deal with domestic customers experiencing financial hardship and submit it for approval to the Commission.

A licence is also deemed to include a condition that the licensee must not disconnect a domestic customer if that customer has entered into an agreement with the licensee under the terms of an approved financial hardship policy and the customer is complying with the agreement.

The role of the Commission is to consider financial hardship policies submitted to it by energy retailers for approval and, if necessary, to prepare and issue guidelines in relation to the development and implementation of financial hardship policies. Amendments to the respective Acts set out the matters to which the Commission

¹⁰ That is, the number of domestic customers whose supply was disconnected for non-payment of an amount owed, and whose supply was reconnected in the same name at the same premises within 7 days of a disconnection for non-payment.

¹¹ That is, rates of disconnection and reconnection for those customers previously repaying arrears through a budget instalment plan, those previously disconnected for non-payment of an account and those eligible for State Government administered energy concessions.

must have regard in deciding whether to approve a hardship policy, and minimum requirements for financial hardship policies submitted for approval.

1.5 Interim approvals of energy financial hardship policies

Section 46(2) of the *Electricity Industry Act* and section 48J of the *Gas Industry Act* provide that the Minister may, by notice in writing, require a licensee to submit a financial hardship policy to the Minister for approval within the period specified in the notice. The Minister requested AGL, Origin Energy and TRUenergy to submit financial hardship policies, and subsequently approved these policies in October 2006.

An energy retailer's financial hardship policy approved by the Minister remains in force until a policy is approved by the Commission under Section 45 of the *Electricity Industry Act* or under Section 48I of the *Gas Industry Act* in relation to that retailer. Licensed energy retailers who have interim financial hardship policies approved by the Minister are required to submit a financial hardship policy to the Commission for approval by 31 March 2007.¹²

1.6 Structure of paper

The remainder of this framework paper is structured as follows.

- Chapter 2 describes the Commission's interpretation of the principles for approval it is required to consider.
- Chapter 3 describes the required contents of financial hardship policies submitted for approval.
- Chapter 4 describes the Commission's policy approval process, compliance and monitoring of the energy hardship policy obligations and the intended function of the Commission's forthcoming guidelines.
- Chapter 5 sets out the Commission's consultation process in developing this framework paper and the schedule for finalisation of initial regulatory documents to establish its approval process.

¹² See section 5.4 for the Commission's approach to compliance by the retailers

2 | PRINCIPLES FOR APPROVAL

2.1 Legislative requirements

The *Electricity Industry Act* at section 45(2) and the *Gas Industry Act* at section 48(2) set out the matters to which the Commission **must** have regard when considering whether to approve a financial hardship policy submitted to it by a licensed energy retailer. These matters are:

- (a) the essential nature of the electricity/gas supply; and
- (b) community expectations that licensees will work with domestic customers to manage customers' present and future electricity/gas usage and associated financial obligations; and
- (c) community expectations that the electricity/gas supply will not be disconnected solely because of a customer's inability to pay for the electricity supply; and
- (d) the principle that the electricity/gas supply to premises should only be disconnected as a last resort; and
- (e) the principle that there should be equitable access to financial hardship policies and that those policies should be transparent and applied consistently.

2.2 Commission's approval approach

The Commission notes that the matters set out in the legislation reflect key outcomes of the Victorian Government's response to the *Committee of Inquiry into the Financial Hardship of Energy Consumers*.¹³

Consequently, in preparing this paper, the Commission has sought to draw on both the work of the Committee of Inquiry and the knowledge gained from the Committee for Melbourne's *Utility Debt Spiral Project*.¹⁴ The work of these reviews has considerably advanced the understanding of the approaches that can be used to assist energy customers experiencing financial hardship. In addition, the

¹³ Committee of Inquiry into the Financial Hardship of Energy Consumers, Main Report, September 2005.

¹⁴ Committee for Melbourne, Utility Debt Prevention Project, Report by the Debt Spiral Reference Group, 15 July 2004.

Commission's own 2004 work *Disconnections and Capacity to Pay*¹⁵ and its recent *Review of Water Businesses Hardship Policies*¹⁶ has also informed the approach outlined in this paper. In particular, the Commission has sought to be consistent in its approaches to approving energy financial hardship policies and assessing water businesses' hardship policies,¹⁷ to the extent this is consistent with the Commission's and licensees' obligations.

Initially, however, the Commission has considered its interpretation of the key elements and principles it will have regard to in approving financial hardship policies:

- the definition of financial hardship
- the essentiality of energy supply
- the shared obligation to respond to financial hardship
- the need to ensure equitable access to policies, and
- maintaining scope for innovation by energy retailers.

The approaches taken by the Commission in this regard are expanded below.

2.2.1 Financial hardship

Neither the *Electricity Industry Act* nor the *Gas Industry Act* defines 'financial hardship'.

The Commission considers the absence of any regulatory guidance on a definition of financial hardship may make it difficult for energy retailers to be consistent in their approaches to meeting their new obligation to 'prepare a policy ... to deal with domestic customers experiencing financial hardship'.¹⁸

The Commission has previously considered the issue of establishing a definition for a customer in financial hardship. Given that the assessment of hardship often requires subjective judgements, a comprehensive definition of hardship does not appear to be feasible. Nevertheless in the review of water hardship policies the Commission concluded:¹⁹

¹⁵ Disconnections and Capacity to Pay Report on Energy Retailers' Performance, Essential Services Commission, October 2004.

¹⁶ Review of Water Business Hardship Policies, Essential Services Commission, December 2006.

¹⁷ As required under clause 5.4 of the Water Customer Service Code.

¹⁸ Electricity Industry Act at Section 43(1) and the Gas Industry Act at Section 48G(1).

¹⁹ Review of Water Business Hardship Policies, Essential Services Commission, December 2006, p.14.

... the Commission considers that due to the regulatory obligations that are imposed on businesses regarding customers in hardship, and the rights that accrue to customers, it is necessary to have some workable definition of a customer in hardship that is sufficiently certain to be independently ascertainable.

Therefore, for the purposes of its functions in approving energy financial hardship policies and preparing guidelines on their development, the Commission will be guided by the definition of financial hardship used for the review of water hardship policies. This definition refers to difficulty paying within set timeframes and recognition that hardship is being experienced as identified by the customer, by the business or by an independent accredited financial counsellor.

The Commission will require that energy retailers submit for approval financial hardship policies for domestic customers which accord with the elements outlined in the above definition and meet the requirements set out in this framework paper.

2.2.2 Essentiality

Energy is an essential service, and as such, is a prerequisite to social participation and adequate standards of living. It is for this reason that disconnection ought to be considered a last resort in managing unpaid energy bills. This principle is reflected in sub-clauses (a) and (d) of the Acts and is consistent with current regulatory requirements administered by the Commission.

As described in section 1.3 of this paper, the Code is the Commission's key instrument in regulating energy retailers' responses to customers experiencing payment difficulties. The Code requires customers to contact their retailer if the customer anticipates that payment of a bill by a due date may not be possible. Retailers must take extra steps to assist these customers, including:

- providing appropriate debt management advice and assistance to households;
- referring customers to other available sources of assistance and seeking assistance from those sources if appropriate;
- implementing Government's community service obligations; and
- providing energy efficiency information, as a strategy to reduce high bills.

Retailers are obliged to contact domestic customers who have not paid their bill, ascertain if they are experiencing financial difficulties, and, taking into account their capacity to pay, assist them by offering affordable instalment plans to enable them to maintain supply while managing their debts in accordance with their capacity to pay. Disconnection should only be considered as a last resort.

The Commission expects a hardship policy it considers for approval to offer domestic customers in financial hardship practicable options to maintain supply consistent with, and in addition to, those required under the Code.

2.2.3 Shared obligations

Energy affordability (determined by household income, energy usage and energy prices) is affected by the activities of a number of parties — all of whom are

necessary to mitigate hardship, but none alone sufficient. Energy retailers are one of a number of parties who have responsibilities and interests in financial hardship related to energy bill payments.

While the community expects customers not to be disconnected due *solely* to an inability to pay (sub-clause (c)) and that energy retailers will work with domestic customers to manage customers' present and future energy usage and their financial obligations (sub-clause (b)), the Commission recognises that this must be balanced against the impact of non-payment on the efficiency and financial viability of energy businesses.

In proposing the amendments, the Victorian Government acknowledged that the effective implementation of financial hardship policies requires the active participation of domestic customers in financial hardship:

... the bill provides for a prohibition on the disconnection of energy supply by retailers on the grounds of consumers' incapacity to pay their energy bills. The proposed amendments provide, however, that the prohibition applies only where the consumer has entered a hardship agreement with the retailer, and is complying with that agreement.

Consumers are expected to pay their energy bills in full and to contact their retailer concerning any bill payment difficulty.²⁰

These expectations are consistent with the Code which requires customers to contact a retailer if the customer anticipates that payment of a bill by a due date may not be possible, and requires the retailer to take action if it 'believes the customer is experiencing repeated difficulties in paying the customer's bill or requires payment assistance'. Likewise the retailer is obliged to offer instalment plans and cease disconnection processes for customers who have agreed to plans. However, this obligation does not apply if the 'customer has in the previous 12 months failed to comply with two instalment plans and does not provide a reasonable assurance to the retailer that the customer is willing to meet payment obligations under a further instalment plan'.²¹

The Commission expects a hardship policy submitted to it for approval to offer domestic customers in financial difficulty sufficient opportunity to identify themselves to the retailer and to maintain their participation in instalment plans and other hardship responses. The policy should also set out how the retailer will monitor and proactively assist the customer if it believes assistance may be required.

²⁰ Brumby, J (Treasurer) 2006, *Energy Legislation (Hardship, Metering and Other Matters) Bill, Second Reading Speech*, Hansard, p.2371.

²¹ Section 11.2 of the Code.

A hardship policy should also clearly define the circumstances in which a lack of participation in financial hardship responses will result in disconnection.

2.2.4 Equitable access to policies

Many energy retailers have had financial hardship policies in place since the early 2000s. However, sub-clause (e) highlights that:

- the new licence obligation requires that *all* licensed energy retailers develop financial hardship policies and therefore responses to financial hardship are available to all Victorian domestic energy customers
- the policies and their application must be transparent to all domestic customers, and²²
- the policies are applied consistently.

As stated by the Treasurer, in the second reading speech for the *Energy Legislation (Hardship, Metering and other Matters) Bill*:

It is the government's view ... that there is also a strong case to provide greater transparency and consistency in the hardship policies of energy retailers.²³

The last point, in particular, places obligations on the Commission to be concerned with consistency among the domestic customers of each retailer, and across all domestic customers to a minimum level. It is recognised that there are significant differences in scale among Victorian licensed energy retailers, and the approach to implementing these minimum levels may differ because of these differences.

The Commission expects a hardship policy it considers for approval to offer domestic customers a basis for assurance that its coverage and application will be consistent with the required characteristics identified by the Commission (in chapter 3).

2.2.5 Innovation

Although it is not specifically included in the legislative requirements to which the Commission must give consideration, it is considered that the scope for innovation by energy retailers in the ongoing development of financial hardship policies is also relevant.

²² For example, the Commission notes the current Code requirement that, on request, the retailer must make available to the customer documentary evidence of the retailer's assessment of the customer's capacity to pay.

²³ Brumby, J (Treasurer) 2006, *Energy Legislation (Hardship, Metering and Other Matters) Bill, Second Reading Speech*, Hansard, p.2371.

As stated by the Treasurer, in the second reading speech for the amendments:

The government believes that best practice policies are necessarily evolving measures, that retailers should have the flexibility to develop unique and innovative approaches, and that hardship policies may be reviewed and replaced over time as improvements are pursued.²⁴

In seeking to meet the objective of promoting best practice financial hardship policies, the Commission will adopt an approval framework that encourages innovation. To this end the Commission will not be prescriptive in the processes and programs energy retailers may include in their policies. Rather the guidelines will be drafted to reflect the policy outcomes to be achieved, including the requirement that evidence is provided that the policy will be subject to continuous improvement.

In considering a policy for approval the Commission will acknowledge that the same required outcomes are able to be satisfied in different ways, and will expect policies to incorporate a review mechanism of the policy and its associated procedures, including circumstances in which the retailer would seek re-approval of the policy by the Commission.

²⁴ Brumby, J (Treasurer) 2006, *Energy Legislation (Hardship, Metering and Other Matters) Bill, Second Reading Speech*, Hansard, p.2371.

3 | ELEMENTS OF HARDSHIP POLICIES

3.1 Overview

The Commission expects that financial hardship policies submitted to it for approval will, as a minimum, offer domestic customers in hardship practical options to assist them to maintain supply in accordance with the legislative and regulatory requirements.

As well, consistent with its approach in the review of the water businesses' hardship policies, the Commission considers that an effective hardship policy will be broad and flexible and will include elements of best practice that are not incorporated in the legislation. In particular, the Commission has had regard to work completed in this area by the Committee for Melbourne in the Utility Debt Spiral Project (also referenced by the Committee of Inquiry)²⁵ and the Commission's review of water businesses' hardship policies.

This approach recognises that the causes and expression of financial hardship are often varied and diverse. A financial hardship policy that excels in one area, but neglects to meet requirements in another, is not likely to address all hardship cases adequately.

These elements that should be addressed in the hardship policies submitted for approval are set out below.

3.2 Legislative requirements

Section 43(2) of the *Electricity Industry Act* and section 48G(2) of the *Gas Industry Act* set out the minimum legislative requirements for the content of financial hardship policies submitted to the Commission for approval. A financial hardship policy submitted for approval must include the following:

- (a) flexible payment options for payment of electricity/gas bills; and
- (b) provision for the auditing of a domestic customer's electricity/gas usage (whether wholly or partly at the expense of the licensee); and

²⁵ This work developed a series of hardship responses most effective in addressing hardship — listed in Box 3.1 in Appendix a.

- (c) flexible options for the purchase or supply of replacement electrical/gas equipment designed for domestic use from the licensee or a third party nominated by the licensee; and
- (d) processes for the early response by both licensees and domestic customers to electricity/gas bill payment difficulties.

The Commission's consideration of these matters follows.

3.2.1 Flexible payment options

Payment options that accommodate the particular circumstances of customers experiencing financial hardship must be offered in energy retailers' financial hardship policies.

All retailers currently provide for instalment plans (as required by the Code) and many retailers provide other options, such as Centrepay. The contribution of these existing options to an effective response to financial hardship will depend on the degree to which instalments are determined by the amount a customer in financial hardship is able to pay and the nature of hardship experienced (that is, whether hardship is short term and event-specific or a chronic situation).

The Commission notes that, where payment plans have large arrears components, the likelihood of a customer staying on the plan is reduced. The Commission therefore expects that financial hardship policies will incorporate processes for customers in financial hardship to address their accumulated debt burden cooperatively with retailers. Options may include incentives for customers to pay their instalments or participate fully in other payment options, including extensions of time, or additional payment assistance, and may be integrated with the retailer's approach to cooperatively managing customers' present and future energy usage.

However, the Commission also recognises that the energy retailers have legitimate commercial objectives and are entitled to expect that customers will pay bills.²⁶ As discussed in section 2.2.3, financial hardship policies are not intended to promote or facilitate customers simply avoiding payment and responsibilities.

In assessing this requirement the Commission will be concerned with the extent to which individual customer circumstances can be accommodated within a licensee's financial hardship policy and that sufficient payment options are offered so that customers can meet their obligations, taking into account their capacity to pay.

²⁶ As reiterated by the Treasurer. Brumby, J (Treasurer) 2006, *Energy Legislation (Hardship, Metering and Other Matters) Bill, Second Reading Speech*, Hansard, p.2371. See section 2.2.3

3.2.2 Addressing usage

Energy usage (along with energy prices and household income) is a key determinant of the affordability of energy. Assisting a customer experiencing financial hardship to manage their energy consumption can be an effective way to minimise energy bills and manage future consumption. The work completed by the Committee for Melbourne's Utility Debt Spiral Project suggests that the use of efficiency advice in cases of customer hardship can be effective in reducing payment obligations.

The requirement that provision be made for auditing of a domestic customer's energy usage reflects a similar provision in the Code.²⁷ The Commission notes, however, that the new legislation requires provision of audits be 'wholly or partly at the expense of the licensee'.

The Commission expects licensees' financial hardship policies to address how licensees will make energy audits available to customers identified as experiencing financial hardship and that these audits are provided at least at less than full cost to those customers.

3.2.3 Appliance assistance

The requirement that financial hardship policies include flexible options for the purchase or supply of replacement domestic electrical/gas equipment recognises that energy efficient appliances contribute to lower levels of energy consumption and therefore lower bills. Customers experiencing financial hardship are generally unable to afford to replace old energy-inefficient appliances.

Assistance for the purchase or supply of replacement energy equipment designed for domestic use is currently available to customers from a number of sources.²⁸ In each of the interim financial hardship policies approved by the Minister, the three local retailers have provided for funding or a no-interest loans program for the replacement of appliances for those customers identified through comprehensive home audits as needing such assistance.

The Commission expects licensees' financial hardship policies to detail their approach to providing assistance for the replacement of energy-inefficient appliances to domestic customers identified as experiencing financial hardship.

²⁷ Energy Retail Code 2006, op. cit., Section 11.3

²⁸ For example, the Victorian Government, in addition to the Utility Relief Grant Scheme, also funds a Capital Grants program that assists households that hold a concession card to repair or replace major essential appliances. Retailers are able to refer customers to these programs.

3.2.4 Processes for early response

Energy financial hardship policies must include processes for early response to bill payment difficulties by both energy retailers and customers who do not have the capacity to meet their energy bill payments. (This requirement is strongly related to the principle of equitable access to policies discussed in section 2.2.4 of the previous chapter.)

The Commission considers this requirement has two elements: the processes in place for energy retailers to identify customers in financial hardship among all customers who do not pay their bills on time; and the accessibility and ease of communication for customers in financial hardship to “self-identify” themselves to retailers.

Clause 5.4 of the Customer Service Code for water businesses in Victoria provides an example of internal processes required to identify customers in financial hardship. Water businesses’ financial hardship policies must incorporate processes and procedures:

- to determine a customer’s eligibility using objective criteria as indicators of hardship, where criteria may include a customer’s eligibility for concessions, status as a tenant, previous payment history, previous applications for the Utility Relief Grant Scheme, and appropriate self-assessment by the customer
- designed to make an early identification of a customer’s hardship, and
- to determine the internal responsibilities for the management, development, communication and monitoring of the policy.

The most effective approach to timely response under a financial hardship policy is to maximise the opportunity for customers to “self-identify” their difficulties in paying bills. This will be influenced by the transparency of the policy itself and retailers’ strategies advising customers and community support services of its provisions. A key strategy will be to ensure all staff in direct customer contact are well-versed in the financial hardship policy and are able to sensitively engage with customers in offering a response under the policy.

The Commission would expect licensees to incorporate both processes and procedures to identify customers in financial hardship early, and strategies to maximise the accessibility and ease of communication for customers in financial hardship to “self-identify” themselves to retailers.

3.3 ‘Best practice’ additional requirements

As discussed in section 3.1, the Commission, in approving energy retailers’ financial hardship policies, will also have regard to additional broad categories of principles which are consistent to those developed in the review of water businesses’ hardship policies (but account for differences from water in the energy regulatory context). These principles complement the legislative requirements for energy hardship policies as it is considered that they represent ‘best practice’ (appendix a).

3.3.1 Informing customers and others

As discussed previously, energy retailers' financial hardship policies should be transparent and accessible to customers (including those from culturally and linguistically diverse communities) and their representatives. Policies should incorporate a strategy for proactive communication of the policy to community support services and financial counsellors relevant to the retailers' customers. To contribute to the assurance of equitable access to the assistance set out in the policies, communication should set out the customer's right to lodge a complaint with the Energy and Water Ombudsman (Victoria) if their hardship claim is not resolved to their satisfaction by their energy retailer.

3.3.2 Training for consistent and effective policy application

A key pre-condition for consistent application of approved financial hardship policies (as discussed in section 2.2.4) and for early response to hardship (discussed in section 3.2.4) is comprehensive staff training. Staff training programs should ensure staff are aware of the retailer's policy, and all staff in direct customer contact are well-versed in the policy and procedures in detail, understand the nature of customers in financial hardship, and have the skills required to sensitively engage with customers about their payment difficulties and to offer the assistance available.

3.3.3 Using other applicable assistance

Policies should ensure that retailers provide targeted assistance, including offering information and referral to government assistance programs and independent financial counsellors. (Some government assistance programs available to domestic energy customers are described in appendix b.) Government-funded programs do not impose high costs on business and should be considered early to alleviate the financial hardship of high-use customers.

The Commission considers that assistance to customers in financial hardship will be maximised when a coordinated approach is taken across government and businesses' own programs.

3.4 Mutuality of obligations

Further to the discussion in section 2.2.3, approved financial hardship policies should clearly detail the circumstances in which hardship policies cease to apply, including the implications of the lack of participation by customers in the financial hardship program.

3.5 Policy reviews

In order to ensure that the Commission's approvals remain relevant to the financial hardship response provided by retailers, and to accommodate the ongoing development of policies expected, the Commission considers that the policies should incorporate a review mechanism for the policy and its associated

procedures. The financial hardship policy should also state the circumstances in which the retailer would seek re-approval of the policy by the Commission.

4.1 Approval

The Commission will assess financial hardship policies submitted to it for consideration against the requirements set out in section 3. Its initial assessment will be based on evidence provided by each licensed energy retailer and the Commission will require clear documentation of the policy and related supporting materials.

The Commission will consult with retailers and, if necessary, other stakeholders during the approval process and will publish the approval correspondence on its website.

4.2 Categorisation of regulatory obligation

As set out in chapter 1, licensed energy retailers are obliged, under a deemed licence condition, to:

- prepare a policy to deal with domestic customers experiencing financial hardship including the minimum legislative requirements set out in section 43(2) of the *Electricity Industry Act* and section 48G(2) of the *Gas Industry Act*
- submit its financial hardship policy for approval to the Commission under section 43(1)(a) of the *Electricity Industry Act* and section 48G(1)(a) of the *Gas Industry Act*, and
- in the first instance, submit such a policy for approval to the Commission by 31 March 2007 under section 43(1)(b) of the *Electricity Industry Act* and section 48G(1)(b) of the *Gas Industry Act*.

The Commission will categorise these obligations in line with its approach to compliance reporting as outlined in its recently published *Compliance Policy Statement for Victorian Energy Businesses, November 2006*.²⁹

²⁹ Published at www.esc.vic.gov.au

4.3 Role of guidelines

Following receipt and consideration of submissions on this framework paper, the Commission will publish guidelines for energy retailers on the development and implementation of financial hardship policies.

The guidelines will also describe circumstances in which a new approval of a financial hardship policy or variation is preferred — this may include material changes in implementation, practice or policy features relative to the requirements set out in this framework paper or the financial hardship policy as previously approved by the Commission. The explanatory note accompanying the guidelines will set out how the submissions have been taken into account.

5.1 Reference group

The Commission has established the Financial Hardship Policies (Energy) Reference Group. The role of the group is to provide advice to the Commission on:

- matters it must have regard to in deciding whether to approve a financial hardship policy; and
- other matters relevant to the approval of a financial hardship policy.

The Commission will also seek the advice of the group to ensure that its public consultation process is comprehensive.

5.2 Public consultation

The Commission has, in the preparation of this framework paper, consulted with its Reference Group. It is intended that broader consultations with community groups, all licensed retailers, relevant government agencies and the Energy and Water Ombudsman (Victoria) will continue until February 2007. The Commission will ensure its consultation process includes rural and regional Victoria.

5.3 Timeframes

The guidelines will be finalised in accordance with the following timetable.

Submissions on framework paper received	9 February 2007
Draft Guidelines and Explanatory Note released	2 March 2007
Final guidelines	31 March 2007

5.4 Compliance

The Commission recognises that the proposed timeframe for finalising the guidelines will not provide sufficient opportunity for all retailers to submit their policies for approval by 31 March 2007. It is anticipated that the legislative requirements, this framework paper and the draft guidelines will provide a good indication as to the proposed direction and it will be expected that retailers will commence preparing their policies in accordance with this initial guidance.

Nevertheless, the Commission will allow retailers an extension to 30 April 2007 to submit their financial hardship policies for approval if they are unable to meet the statutory requirements.

6 APPENDIX A – PROPOSED ELEMENTS OF A BEST PRACTICE HARDSHIP RESPONSE PROGRAM

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
- how to talk with customers experiencing financial hardship
- when to refer customers to the 'hardship response program'
- literacy and access issues experienced by some customers.

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.

Appropriate links to energy efficiency programs, financial counselling agencies, concessions, government assistance programs and non-government support services and dispute resolution services.

Affordability – the implementation of appropriate, affordable and agreed payment arrangements.

Flexibility in options including Centrepay, incentive plans, partial or complete waiver of debt and review of fees.

Suspension of disconnection, debt collection and legal action – whilst the customer is on the 'hardship response program'.

Customer focus groups – focus groups involving customers who have experienced financial hardship provide direct feedback on hardship program and identify areas of improvement.

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

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.

Source: Committee for Melbourne 2004, Utility Debt Prevention Project – Debt Spiral Study

7 APPENDIX B - ENERGY FINANCIAL HARDSHIP: AVAILABLE ASSISTANCE

Utility Relief Grant Scheme (URGS)

Concession cardholders and low income households who are unable to pay their bill and risk disconnection because of a temporary financial crisis may qualify for a Victorian Government grant if they have:

- a significant increase in bills, for example, if caused by a faulty appliance.
- a recent decrease in income, for example, if caused by unemployment, illness or breakdown of a household, or
- high unexpected expenses on essential items.

Collection action on accounts is suspended while an URGS application is processed.

Capital Grants Scheme

Concession cardholders in emergency situations or extreme hardship, who can demonstrate that there has been an increase in energy use due to a faulty appliance, or meet one of the other two URGS criteria, may qualify for a Victorian Government capital grant to repair or replace major gas or electrical appliances which are faulty and/or have failed in the last 12 months. The assistance is once-off and the applicant must show that they have no savings to meet the cost of the faulty appliance and demonstrate that the cost of energy affected by the faulty appliance is currently unaffordable.

Gas Heater Rebate

This Victorian Government rebate is available to households (that have had access to natural gas since prior to 1 April 2004) in rural, regional and outer suburban areas to choose a more sustainable form of heating.

Gas Hot Water Rebate

This Victorian Government rebate is available to households (that have had access to natural gas since prior to 1 April 2004), ineligible for off-peak electricity tariff or using wood fuelled a water heater, in rural, regional and outer suburban areas to choose selected gas water heaters that have a 5 Star rating.

Utilities Allowance

A Commonwealth Government allowance of \$102.80 per year for singles and \$51.40 per year for each eligible member of a couple to assist concession cardholders of age pension age with the cost of services such as energy.

Source: www.dhs.vic.gov.au