

26/03/2021

Our ref: C/21/4681

Dear retailers and distributors,

Update on protections for customers during the coronavirus pandemic

The commission is writing to notify your business of its updated advice regarding disconnection practices for electricity and gas retailers and distributors during the coronavirus pandemic. We are also updating you on next steps for the reforms we made in response to the pandemic in October 2020, requiring retailers to provide additional support to households and small businesses.

The commission appreciates the response of the energy sector to the pandemic, and to the previous advices we have issued on disconnections. This has provided additional support to thousands of Victorian customers during a period of heightened uncertainty, supporting ongoing access for customers to payment assistance and connection to a critical essential service.

Our approach applying from 1 April 2021 to 30 June 2021 is set out below. We have considered changes in economic, health and community circumstances in recent months. We note that generally, conditions have improved. We also acknowledge that many in the community continue to experience vulnerability, many as a result of the ongoing impacts of the pandemic.

Customers who can pay should continue to do so. With an increase in average customer debt in recent months it is important retailers continue to acknowledge the ongoing vulnerability faced by the community and support customers as they pay their energy bills. As a result, our advice continues to provide protections for customers in addition to those applying under our payment difficulty framework.

Our consultation with the energy sector and community groups emphasised the importance for retailers and customers to engage early on payment difficulties to help avoid building up debt.

This will be supported by retailers approaching engagement in a way that promotes early and ongoing dialogue with customers about payment issues and designing payment assistance that reflects a customer's views about their own circumstances. Customers concerned about their ability to pay bills should engage with their retailer about assistance as soon as possible.

Our approach set out below progresses a transition to the protections provided under our payment difficulty framework. The payment difficulty framework provides Victorian energy customers with an extensive set of rights in terms of access to payment support and ensures residential customers are only disconnected for non-payment of a bill as a measure of last resort.

In terms of the arrangements to apply after 30 June 2021, we will continue to monitor customer circumstances. We note that action by retailers to transition customers to effective forms of payment assistance will also give us confidence to remove the additional protections set out below.

Compared to our advice applying to 31 March 2021, our approach includes a sharper focus on engagement between retailers and customers on payment or debt related issues. It also more closely aligns with the approach currently adopted by the Australian Energy Regulator for other jurisdictions, thereby supporting regulatory consistency.

Disconnections advice to apply from 1 April 2021 to 30 June 2021

Energy retailers must work with customers to manage their debt and avoid disconnection, consistent with the payment difficulty framework,¹ and support customers completing utility relief grant application forms.² The payment difficulty framework sets out minimum standards of assistance to which residential customers anticipating or facing payment difficulties are entitled, so that disconnection of a residential customer for not paying a bill is a measure of last resort.

When disconnections should not occur

For the period from 1 April 2021 to 30 June 2021, retailers and distributors should not take steps to disconnect any residential or small business customer who may be in financial stress and who is in contact with you in relation to their debt or is accessing any retailer support (including under the payment difficulty framework).³

Further, a distributor or retailer who becomes aware that a residential customer is isolating or quarantining because of the coronavirus, must not take steps to disconnect the customer. The commission considers such an approach would not be consistent with the health and safety provisions of the Electricity Distribution Code. We expect that gas and electricity customers should be treated similarly. A retailer should attempt to contact a residential customer to ascertain if that customer is in this position prior to arranging disconnection (and maintain records of that attempt).

¹ Part 3 of the Energy Retail Code

² This is an ongoing requirement in Appendix B (Guideline: supporting utility relief grant applications) of the August 2020 'Supporting energy customers through the coronavirus pandemic: Final decision'. This guideline is available here: <https://www.esc.vic.gov.au/electricity-and-gas/inquiries-studies-and-reviews/supporting-energy-customers-through-coronavirus-pandemic-2020>

³ Part 3 of the Energy Retail Code. See also clauses 111 and 111A regarding disconnection of small business and residential customers for not paying a bill.

Disconnections can occur in other circumstances

Retailers and distributors can progress disconnections in accordance with the relevant rules in the Energy Retail Code and Electricity Distribution Code in circumstances other than those outlined above.

Reconnections

In the event a residential or small business customer has not made any contact with a retailer, or responded to any contact by a retailer and has been disconnected for non-payment, the retailer must process an order for reconnection immediately on request from the customer. The retailer should waive disconnection, reconnection and any contract break fees. In these circumstances, the distributor should also not charge any fees associated with the reconnection to retailers.

Debt collection

For the period from 1 April 2021 to 30 June 2021, a retailer should not refer existing and former residential customer debt to debt collection agencies for recovery actions or credit default listing for any current or former customer who may be in financial stress and who is in contact with you in relation to their debt or is accessing any retailer support (including under the payment difficulty framework).⁴

There is ongoing vulnerability in the Victorian community due to the effects of the pandemic. To help avoid build up in customer debt, we urge retailers to work with customers to manage their debt, consistent with the requirements of the payment difficulty framework.

The commission reminds retailers of their obligation to follow the 'Debt collection guideline: for collectors and creditors' issued by the Australian Competition and Consumer Commission and the Australian Securities and Investments Commission.⁵ The commission will be hosting a workshop on best practice debt collection practices soon and will invite industry to attend.

Obligations to provide additional support to residential and small business customers for the period 1 April 2021 to 30 June 2021

The commission's August 2020 'Supporting energy customers through the coronavirus pandemic: Final decision' requires retailers to provide additional support to residential and small business customers. This includes requirements for retailers to provide assistance that is reasonable

⁴ Clause 92 of the Energy Retail Code currently restricts a retailer from commencing or continuing with proceedings for the recovery of arrears from a residential customer who is receiving assistance under Part 3 of the Energy Retail Code..

⁵ Clause 92(3) of the Energy Retail Code. A copy of the guideline can be found at <https://www.accc.gov.au/publications/debt-collection-guideline-for-collectors-creditors>.

to small businesses that are experiencing financial stress⁶ and to offer tariff checks to residential customers.⁷ These measures were due to expire on 31 March 2021.

We have decided to extend these measures until 30 June 2021 given many in the community continue to experience vulnerability, many as a result of the ongoing impacts of the pandemic.

Based on our consultation, these measures have broad support among community and small business representatives, and we understand some retailers plan to adopt these measures as part of their business-as-usual operations. We consider that extending these measures are in the long-term interests of Victorian consumers. However, we note again that these measures are intended to be temporary.⁸

We note that the commission's '[Temporary Assistance for Small Business Customers during the Coronavirus Pandemic Guideline](#)', prohibits commencement of debt recovery proceedings and the referral of debt for small business customers receiving assistance.⁹

Response to any future stage four restrictions

To assist retailers and distributors in planning their response to any future 'stage four' restrictions which include stay at home requirements limiting the reasons people may leave their home, the commission advises it expects businesses to adopt the same processes with respect to disconnecting residential customers, small business customers and large customers on-selling energy to residential or small business customers (for example, in residential parks or retirement villages) as set out in our advice dated 13 February 2021, for the period of any future stage four restrictions.¹⁰

The form and circumstances of any future restrictions may warrant a different approach and the commission will advise distributors and retailers if our expectations (as set out in our advice of 13 February 2021) were to differ.

⁶ Guideline: temporary assistance for small business customers during the coronavirus pandemic. The commission may extend the operation of these temporary measures to a date no later than 30 September 2021.

⁷ Clause 79(2A) of the Energy Retail Code sets out this requirement.

⁸ Paragraph 6.1 of the Guideline: temporary assistance for small business customers during the coronavirus pandemic

⁹ Paragraph 5.1 of the Guideline: temporary assistance for small business customers during the coronavirus pandemic

¹⁰ Except that the commission would only expect retailers to attempt to contact residential customers who have been disconnected for non-payment where that disconnection occurred within the 14 days prior to the imposition of the stage 4 restrictions. There is no expectation that retailers will contact customers disconnected for non-payment from 1 November 2020 as set out in the 13 February 2021 advice.

Further information

If you have any questions regarding this letter, please contact Dean Wickenton, Acting Executive Director, Energy at dean.wickenton@esc.vic.gov.au or contact the commission at energyadmin@esc.vic.gov.au.

A handwritten signature in blue ink, appearing to read 'Kate Symons', with a long horizontal flourish extending to the right.

Kate Symons
Chairperson

