

# Supporting energy customers through the coronavirus pandemic

Final decision

24 August 2020

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## Executive summary

The coronavirus pandemic continues to have significant health and economic effects across the Victorian community. Many residential and business customers are experiencing financial distress and uncertainty, and the broader effects of the pandemic will not be known for some time.

We have been closely monitoring practices of energy businesses and the experience of customers since the start of the pandemic, as well as following measures being implemented at both a government and industry level to support customers affected. We have published insights of residential and small business customer experiences through the coronavirus pandemic, based on data we collected from energy businesses and community roundtables, through media releases, staff articles and our draft decision.

Our statutory objective to promote the long-term interests of Victorian consumers, includes protections for customers who are facing payment difficulty. The importance of our role and ensuring that customers are appropriately supported in managing their energy bills has never been more pertinent. We consider it important to take timely action where there are gaps in protections for customers across the market.

Based on the evidence available to us since the start of the pandemic, we consider there is a need for targeted reforms to support residential and small business customers paying their bills through the pandemic. These reforms aim to provide affected customers with consistent communication on the range of payment assistance measures available to them.

The Victorian payment difficulty framework ensures that all residential customers who are in or anticipating payment difficulty are entitled to a minimum level of support, regardless of their retailer. The payment difficulty framework provides more comprehensive protections for residential customers than available to residential customers in other Australian states, however we have made some small reforms to provide additional targeted support for residential customers. This includes a temporary requirement to offer tariff checks to all customers receiving tailored assistance and an ongoing requirement to support customers applying for utility relief grants.

The payment difficulty framework only applies to residential customers. Victorian retailers are therefore not obligated to provide small businesses with the same minimum levels of payment difficulty assistance that they must provide to residential customers. Our targeted support for small business customers requires retailers to provide temporary assistance that is reasonable to a small business that is experiencing financial stress due to the coronavirus pandemic.

Given the ongoing uncertainty in the progression of the coronavirus pandemic in Victoria, we have outlined the temporary coronavirus pandemic requirements in a guideline, to the extent possible. We consider this allows for a more practical implementation of the temporary changes and provides flexibility if future changes are required. Our decision to outline these requirements in a guideline is also due to energy retailers voluntarily providing payment assistance to their customers (particularly small business customers) and not disconnecting their customers for non-payment since the start of the pandemic.

We also sought views on the initial voluntary network relief package being provided by electricity and gas distributors in Victoria. Particularly, since the Australian Energy Market Commission was consulting on a national rule change to mandate network relief measures (that would not apply in Victoria), we wanted to understand stakeholder views on the most appropriate course of action in Victoria.

Since the publication of our draft decision, Victorian electricity and gas distributors have committed to future network relief packages. The Victorian electricity network relief package, effective from 1 August 2020, delivers the intent of the Australian Energy Market Commission's final rule change. We welcome this approach and will be closely monitoring the implementation and effectiveness of the support packages.

Stakeholders suggested some additional measures we could consider to support customers (especially residential customers) through the coronavirus pandemic. We are mindful that the current situation is unpredictable, and customers and retailers alike are facing a set of circumstances which they will never have experienced before. We consider any regulatory intervention must strike a balance between supporting those who need it most while not imposing an unjustifiable burden on retailers. Therefore, we are not proposing any new regulatory requirements at this time, however, we are continuing to closely monitor the data we receive from regulated businesses and insights from community organisations. We stand ready to consider whether further action is required based on our insights and market monitoring.

## **Commencement**

This initial temporary package of reforms will take effect from 1 October 2020 and will last for six calendar months until 31 March 2021 (other than the utility relief grant guideline which will be enduring). However, the commission will have discretion to extend this timeframe if required – for example, if an extension would promote the long-term interests of Victorian consumers. If we consider an extension is required, we will engage with stakeholders well in advance of 31 March 2021.

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## Monitoring

At the start of the coronavirus pandemic in Victoria, we sent voluntary data requests to retailers to monitor the number of energy customers on payment plans and number of customers enquiring about assistance. This weekly data reported voluntarily by retailers has supported the development of this final decision and will continue to support us in understanding retailer and customer experiences as the pandemic evolves. The data has not been audited by the commission.

## Consultation on our decision

In developing this final decision, we consulted with stakeholders through a draft decision, released on 30 June 2020. We received 20 written submissions to our draft decision (including one confidential submission), from energy retailers, distributors, community organisations, industry bodies and the Energy and Water Ombudsman (Victoria). We also received 10 submissions from consumers through Engage Victoria.

During the consultation period we held three workshops to discuss each of the three areas covered in our draft decision. We also engaged with stakeholders through one-on-one meetings.

We would like to thank stakeholders for their involvement and contributions to the process.

## Our final decisions

### Final decision 1: Supporting customers to complete and lodge utility relief grant applications

Retailers are required to support residential customers in completing utility relief grant application forms, including by submitting forms online on behalf of the customer where possible and where the customer consents to this. This is an ongoing requirement, effective from 1 October 2020.

### Final decision 2: Extending tariff check entitlement to all customers receiving tailored assistance

Retailers are required to conduct a tariff check for all residential customers receiving tailored assistance, not just those who cannot afford the ongoing cost of their energy. This is a temporary requirement in effect for six months from 1 October 2020.

### Final decision 3: Mandatory guideline on assistance for small business customers

We will issue a mandatory guideline that will require retailers to provide assistance that is reasonable to a small business that is experiencing financial stress due to the coronavirus

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pandemic. The guideline will be in effect for six months from the commencement date of 1 October 2020.

Additionally, it should be noted that as per the current requirements of the Energy Retail Code, small businesses adhering to a payment plan will not be able to be disconnected for non-payment.

#### **Final decision 4: Commencement date of new requirements**

From 1 October 2020, the new utility relief grant and small business assistance guidelines and rules around tariff checks for residential customers on tailored assistance will commence.

These new requirements will last for six calendar months from the commencement date (other than the utility relief grant guideline, which will be enduring).

# 1. Introduction

Energy businesses are providers of essential services and are critical for ensuring the Victorian community can continue to function during and after this coronavirus pandemic. As the regulator, our objectives are to promote the long-term interests of Victorian consumers and promote protections for customers, including in relation to customers who are facing payment difficulty.<sup>1</sup>

We therefore consider it important to set out the requirements of energy retailers and distributors in supporting residential and small business customers through the pandemic, and act where we consider there are gaps in protections for customers across the market. Our aim is to ensure that customers are appropriately supported in managing their energy bills at this time. We are also mindful of the importance of the resilience of the energy retail market as part of the recovery of the economy.

## Our regulatory framework

Our regulatory framework sets out minimum customer protections that all retailers must provide. In particular, the payment difficulty framework, introduced on 1 January 2019, ensures that all residential customers who are in or anticipating payment difficulty are entitled to a minimum level of support, regardless of their retailer. The framework does allow some flexibility for retailers to tailor support to a customer's individual circumstances and does not prevent retailers from providing additional support as may be appropriate to individual customers.

The payment difficulty framework contains three levels of assistance:

- Standard assistance for residential customers who are anticipating payment difficulty and need support in staying on top of their bills. Retailers must offer at least three of these options:
  - allowing a customer to pay smaller amounts more often
  - changing how often payments are made
  - delaying payment of a bill (at least once per year)
  - allowing customers to pay in advance when the customer has the ability.
- Tailored assistance for residential customers who miss a bill due date but can still afford their ongoing energy usage. Retailers must:

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<sup>1</sup> See appendix E for more information on the role of the commission.

- work with the customer to establish a payment arrangement to pay off the customer’s bills over a period of up to two years
  - provide information on the customer’s energy use and how to lower it
  - provide advice on other assistance that the customer may be eligible for (including utility relief grants and energy concessions).
- Tailored assistance for residential customers who miss a bill due date and cannot afford their ongoing energy usage. This support includes:
    - allowing the customer to pay less than the full cost of their energy use (this may be added to the amount they owe later)
    - offering a payment arrangement where a customer’s arrears are on hold for minimum of six months, while they make reduced payments (less than what they use at the property) and try to reduce their energy use
    - providing information on the customer’s energy use and how to lower it
    - advice on other assistance (including utility relief grants and energy concessions)
    - the best price that works for the customer (for example the best offer)
    - practical help to reduce the customer’s energy bills (for example, using energy efficiency products).

The Energy Retail Code also contains a series of requirements relating to disconnections for both residential and small business customers. These obligations set out steps that retailers must take before initiating a disconnection, and circumstances under which disconnections cannot be initiated.

## **Addressing our statutory objectives**

When considering any regulatory change, we must have regard to our objectives to promote the long-term interests of Victorian consumers.

The Essential Services Commission Act 2001 sets out the commission’s overarching objective to promote the long-term interests of Victorian consumers, having regard to the price, quality and reliability of essential services.<sup>2</sup> The commission is also guided by objectives under section 10 of the Electricity Industry Act 2000 and section 18 of the Gas Industry Act 2001 to promote protections for customers, including in relation to customers who are facing payment difficulty.

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<sup>2</sup> Section 8 Essential Services Commission Act 2001.

We know many Victorian residential and small business customers are likely to face payment difficulties because of the coronavirus pandemic. Therefore, consistent with our legislative objective, our final decision sets out measures focused on assisting customers experiencing payment difficulties as a result of the coronavirus pandemic.<sup>3</sup>

In designing these measures, we have had regard to other statutory objectives, including the financial viability of the retail energy market and promoting full retail competition.<sup>4</sup> We consider our measures are consistent with these objectives, particularly in their efforts to promote regular customer bill payments to retailers.

We consider that additional protections are required for customers, at least in the short-term, particularly to assist residential and small business customers facing payment difficulties at this time. However, we are also mindful of continuing to promote competition in the energy retail market while providing these measures to assist customers.

We have also considered some long-term measures that will address the immediate and future needs of customers, particularly in helping low income and vulnerable customers access government grants to support the payment of energy bills.

## **Additional support measures**

Since the start of the coronavirus pandemic there have been developments at a federal, state and sector level to support both residential and business customers who have been adversely affected. Below we outline some of the key features of these measures as they relate to the energy sector.

### **Victorian and federal government support**

The Australian Government initially developed an economic support package of \$259 billion including JobKeeper and increased JobSeeker payments to try and keep Australians in work and support those who are out of work during the pandemic.<sup>5</sup> In July 2020 the Australian Government announced that the JobKeeper payment would be extended by six months to 28 March 2021 and the temporary increase to JobSeeker payments would be extended until 31 December 2020.<sup>6</sup> This may be supporting some customers in continuing to pay their energy bills in the short-term.

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<sup>3</sup> Section 10(c) Electricity Industry Act 2000 and section 18(c) Gas Industry Act 2001.

<sup>4</sup> Section 8A(1)(b) Essential Services Commission Act 2001, Section 10(b) Electricity Industry Act 2000 and section 18(b) Gas Industry Act 2001.

<sup>5</sup> Treasury (Australian Government), [Economic response to the Coronavirus](#), accessed June 2020.

<sup>6</sup> The Hon Scott Morrison MP, [JobKeeper payment and income support extended](#), July 2020.

In May 2020, the Victorian Government committed to a \$3.7 million package of support targeted at Victorians struggling to pay their energy bills as a result of the coronavirus pandemic.<sup>7</sup> This package included:

- recruiting and training new financial counsellors
- training over 1,100 frontline community workers to give targeted advice on dealing with energy bills
- launching a new energy brokerage program to help 3,000 households at risk of payment difficulty get the best value energy deal, and
- ensuring Victorians are aware of their rights under the commission's existing payment difficulty framework.

The Victorian Government also developed a \$500 million Business Support Fund to help small businesses affected by the coronavirus pandemic, which includes one-off grants of \$10,000.<sup>8</sup> These grants can be used to meet on-going business costs, including utilities, salaries and rent. The Victorian Government has also introduced temporary laws to protect Victorian tenants, landlords and the rental market, including a moratorium on evictions, with an additional \$500 million package to provide rent relief for tenants affected by the pandemic.<sup>9</sup>

In July 2020, the Victorian Government announced an additional \$534 million 'Business Support Package' which includes cash grants for struggling businesses, mental health support for business owners, relief for tourism operators who could no longer welcome Melbourne-based visitors for holidays, and tailored and targeted advice for businesses.<sup>10</sup>

### **National Cabinet – national principles for hardship support across essential services**

During this time, a National Cabinet comprising the Australian Prime Minister and all state and territory Premiers and Chief Ministers was formed to consider issues relating to the pandemic. In April 2020, the National Cabinet agreed to a nationally consistent approach to hardship support across essential services (including energy) for households and small businesses.<sup>11</sup> These principles are aimed at ensuring an appropriate safety net is in place for those experiencing financial stress. They include:

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<sup>7</sup> The Hon Lily D'Ambrosio MP, [Targeted support for Victorians struggling with energy bills](#), May 2020.

<sup>8</sup> Victorian Government, [Business support fund](#), accessed May 2020.

<sup>9</sup> The Hon Jill Hennessy MP, Attorney-General, [Temporary emergency measures to manage coronavirus crisis](#), April 2020.

<sup>10</sup> Mr Tim Pallas MP, [More survival support for Victorian businesses](#), July 2020..

<sup>11</sup> The Hon Scott Morrison MP, [JobKeeper payment and income support extended](#), July 2020.

- offering flexible payment options to all households and small businesses in financial stress
- not disconnecting or restricting supply to those in financial stress
- deferring debt recovery proceedings and credit default listings
- waiving late payment fees and interest charges on debt
- minimising planned outages for critical works and providing as much notice as possible to assist households and businesses during any outage.

## Industry support

Energy businesses in Victoria have also responded to the pandemic with a variety of measures to support customers, some of which voluntarily go further than current regulatory framework requirements.

In April 2020, Energy Networks Australia (the national industry body of electricity transmission and distribution and gas distribution networks) published an electricity and gas network relief package to support retailers with residential and small business customers facing financial stress during the coronavirus pandemic.<sup>12</sup> This included:

- deferring or rebating network charges for customers between 1 April and 30 June 2020, depending on certain criteria
- supporting retailers in not disconnecting any residential or small business customer who may be in financial stress, without their agreement, before 31 July 2020 and potentially beyond.

In implementing the initial network relief package in Victoria, electricity distributors committed to waive – rather than defer – network charges for certain residential customers of small retailers and for small business customers until 30 June 2020, and to defer payment of 20 per cent of residential network charges for all small retailers until September 2020.<sup>13</sup> Since the initial package release, gas distributors have extended a simplified network package to retailers until the end of 2020<sup>14</sup>, while electricity distributors have implemented a new package (aligned with the intent of the Australian Energy Market Commission’s final rule change) which took effect from 1 August 2020.<sup>15</sup>

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<sup>12</sup> Energy Networks Australia, [COVID-19 electricity and gas network relief package](#), April 2020.

<sup>13</sup> For the purposes of this package, small retailers include 1st Energy, Alinta Energy, Blue NRG, Click Energy, CovaU, Diamond Energy, Dodo Power & Gas, Elysian Energy, Energy Locals, GloBird Energy, Next Business Energy, People Energy, Powerclub, Powershop, QEnergy, Sumo and Tango Energy.

<sup>14</sup> Joint letter from AusNet Services and Australian Gas Infrastructure Group received on 3 July 2020 (see appendix E).

<sup>15</sup> Essential Services Commission, [Supporting the implementation of the network relief package – summary of discussion at stakeholder workshop](#), July 2020. A joint letter from Victorian electricity distributors was also sent to the Commission reaffirming this approach – received 28 July 2020 (see appendix E).

Electricity and gas retailers have also been taking steps to support customers affected by the pandemic. Through our engagement with retailers, we understand that several retailers are voluntarily providing payment difficulty support to small businesses, although it is not required under the current regulatory framework. These practices are discussed further in chapters two and three.

On 5 August 2020, the Australian Competition and Consumer Commission proposed to grant a conditional authorisation until 30 June 2021 to allow the Australian Energy Council and other energy businesses to share information to provide financial relief to residential and business customers who may be financially affected by the pandemic should the need to develop an industry-wide response to the pandemic arise.<sup>16</sup>

We also note that energy businesses operating in other jurisdictions are being guided by the Australian Energy Regulator's statement of expectations.<sup>17</sup> One of the principles outlined includes offering all residential and small business customers who indicate they may be in financial stress a payment plan or hardship arrangement, which may include agreeing a period in which no payment will be made. Another principle includes not disconnecting any residential or small business customer (other than at their request) who may be in financial stress and has contacted the retailer or is accessing any retailer support before 31 October 2020, and potentially beyond.

## **This final decision**

We have been taking steps to understand how the sector is responding to support customers during the pandemic, and what customers are experiencing at this time. We have:

- launched a campaign to inform residential customers about the support energy retailers must offer and the safety net for residential Victorians who are facing payment difficulties<sup>18</sup>
- co-ordinated with the Australian Energy Regulator to develop a request of regular reporting by regulated businesses including information on customers in payment difficulty, payment arrangements, disconnections, and credit collection so we can monitor how customers are being supported during this time<sup>19</sup>

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<sup>16</sup> Australian Competition and Consumer Commission, [Draft Determination: Application for Authorisation AA1000502 lodged by Australian Energy Council Limited](#), August 2020

<sup>17</sup> Australian Energy Regulator, [AER Statement of Expectations of energy businesses: Protecting consumers and the energy market during COVID-19](#), July 2020.

<sup>18</sup> Essential Services Commission, [Safety net for Victorians suffering energy bill stress](#), March 2020.

<sup>19</sup> Essential Services Commission, [Energy watchdogs ramp up monitoring to protect customers](#), April 2020.

- received voluntary data provided by energy retailers to further understand the financial effect of the pandemic on energy customers in their ability to pay energy bills
- published observations based on data from energy retailers in our latest Victorian Energy Market Report<sup>20</sup> and in separate specific updates on customer experiences during the pandemic<sup>21</sup>
- held roundtables with industry<sup>22</sup> and community organisations<sup>23</sup> and individual meetings with retailers and other stakeholders to understand how the pandemic is affecting customers and the energy sector, and where targeted reforms may be required
- written to energy businesses reminding them of their obligations under the existing regulatory framework, including relating to disconnections<sup>24</sup>
- focused the commission’s annual energy audit program on how retailers are meeting their obligations to support customers who are having problems paying their bills or experiencing family violence.<sup>25</sup>

We appreciate the voluntary measures that retailers and distributors have taken to support their customers during the pandemic. Based on data we have observed so far, we have identified some short-term, targeted regulatory interventions to ensure that all customers in financial stress are aware of the payment options available to them.

We acknowledge that the impacts on distributors, retailers and energy customers will evolve as the pandemic progresses. We intend to continue monitoring the market to understand what customers and regulated businesses are experiencing. We will consider making further targeted interventions if the data justifies doing so.

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<sup>20</sup> Essential Services Commission, [Victorian Energy Market Update: June 2020](#), June 2020.

<sup>21</sup> Available on our [website](#).

<sup>22</sup> Essential Services Commission, [Energy industry roundtable](#), April 2020, [Energy industry representatives share insights at second roundtable](#), June 2020.

<sup>23</sup> Essential Services Commission, [Regulator told full economic impact of coronavirus on households still to come](#), April 2020.

Essential Services Commission, [Disconnections, the ‘newly vulnerable’ and long-term debt emerge as priority issues at roundtable](#), April 2020.

Essential Services Commission, [Community sector shares insights at third roundtable](#), May 2020.

Essential Services Commission, [Community sector roundtable #4 - Chair’s notes](#), July 2020.

<sup>24</sup> Essential Services Commission, [Coronavirus update](#), April 2020.

<sup>25</sup> Essential Services Commission, [Regulator keeps watch on energy retailers](#), April 2020.

## 2. Supporting residential customers

From 1 October 2020, retailers must:

- support customers in applying for utility relief grants, including by completing application forms over the phone and submitting them online where possible and with the customer's consent – this is an ongoing requirement
- conduct a tariff check for all customers receiving tailored assistance, not just those who cannot afford the ongoing cost of their energy – this is a temporary requirement in effect for six calendar months from commencement of the new rules for retailers, unless extended by the commission.

### Effects of the pandemic on residential customers

In our draft decision, we presented information on customer experiences since the start of the coronavirus pandemic, based on data from energy retailers and distributors, and engagement with industry and community stakeholders. We have continued to collect data and engage with stakeholders to monitor the situation as it evolves.

We are also starting to see new sources of data emerge (particularly consumer survey data, including from monthly surveys being conducted on behalf of the Consumer Policy Research Centre<sup>26</sup> and a survey of customers in the Jemena distribution area<sup>27</sup>) which is helpful to track consumer sentiment and experiences. Below we present some more recent insights on how residential customers are being affected by the pandemic.

#### Overall sentiment

**Consumer sentiment:** survey data is revealing concerns about ability to pay for energy and other bills from customers whose employment and incomes have been affected by the pandemic.

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<sup>26</sup> Consumer Policy Research Centre, [COVID-19 and Consumers: from crisis to recovery – initial research report](#), June 2020 and Consumer Policy Research Centre, [COVID-19 and Consumers: from crisis to recovery – monthly insights report](#), June 2020.

<sup>27</sup> Jemena, [COVID-19 Customer Hardship: customer research insights report](#), June 2020.

- In its June 2020 survey, the Consumer Policy Research Centre reported that 61 per cent of Australian customers are concerned about the impact of COVID-19 on their financial wellbeing, including 20 per cent who are very concerned.<sup>28</sup>
- Victorian-specific data from this survey found that in June 2020, one in five Victorians were concerned about their ability to pay their energy bills.<sup>29</sup>
- Many consumers responding to our consultation who were not currently receiving support from their retailer thought they could benefit from this.<sup>30</sup>

**Community organisation sentiment:** from roundtable discussions and one-on-one engagement, general opinion appears to be that we are still in the ‘calm before the storm’.

- Many (though not all) organisations saw a reduction in customer contact levels compared to pre pandemic levels. These contacts are starting to increase but organisations still expect a substantial increase once government assistance ends.
- With the second lockdown, community organisations have raised concerns that the risk of people having severe mental health episodes has increased.
- New issues that appear to be emerging include:
  - increasing deferral of energy debts which means higher bills at a time when government subsidies may no longer be available
  - many consumers who are seeking support are being put into a ‘COVID-bucket’ which may mean other issues (like family violence or mental health issues) are not being appropriately addressed
  - some of the most vulnerable in the community are suffering isolation anxiety because most help services are now exclusively online, exacerbating the digital divide.

**Energy retailer sentiment:** from the industry roundtable discussion, one-on-one engagement and consultation submissions, many retailers have also not seen the substantial increases in customers being unable to pay their bills that might have been expected, but warn this is still likely to come.

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<sup>28</sup> Consumer Policy Research Centre, [COVID-19 and Consumers: from crisis to recovery – monthly insights report](#), June 2020.

<sup>29</sup> Essential Services Commission, [Pandemic hits on households settles, but small businesses falling behind](#), August 2020.

<sup>30</sup> Submissions received via Engage Victoria to ‘supporting energy customers through the coronavirus pandemic’ draft decision, July 2020.

- Retailers have highlighted their commitment to supporting customers at this time, pointing to voluntary support they have been providing since the start of the pandemic.
- Retailers are concerned about the levels of bad debt they are carrying increasing, particularly if they remain unable to disconnect any customers or recover debts. They have also raised concerns about bearing the burden of bad debt for the whole supply chain.

### Consumption and costs

Early data from Energy Networks Australia we referenced in our draft decision showed that residential electricity consumption increased by 14 per cent from the start to end of March after lockdown measures first started.<sup>31</sup> This trend has continued as the pandemic has evolved.

Data we have been receiving from distributors shows that average residential electricity consumption has increased substantially since the start of the pandemic, with average consumption in July 2020 being 43 per cent higher than in April 2020.<sup>32</sup> In each of the months since the start of the coronavirus pandemic, from April to July 2020, residential consumption was higher than the equivalent month in 2019, by between 8.8 and 20.2 per cent.<sup>33</sup>

Early data is suggesting that some consumption habits are changing as a result of the pandemic. For example, in a survey at the end of May 2020, of 921 customers in the Jemena distribution area, 39 per cent of customers reported reducing the use of lights in the last month in order to reduce the cost of their energy bill.<sup>34</sup> Nine per cent of customers expected that they would manage their electricity more actively (for example switching lights or appliances off) after the pandemic compared to the previous six months.

### Customers enquiring about assistance

Data we are receiving from retailers shows that total weekly average phone calls to retailers were increasing steadily during the pandemic but reduced in July.<sup>35</sup> Average calls from residential customers seeking assistance peaked in May (11,790 for electricity and gas combined) and have since reduced to below April levels (9,024 in July, compared to 10,362 in April). Average call waiting times have reduced from 111 seconds in April, to 52 seconds in July.

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<sup>31</sup> Energy Networks Australia, [Commercial down v residential up: COVID-19's electricity impact](#), April 2020.

<sup>32</sup> Data provided to Essential Services Commission by Victorian electricity distributors.

<sup>33</sup> Ibid.

<sup>34</sup> Jemena, [COVID-19 Customer Hardship: customer research insights report](#), June 2020.

<sup>35</sup> Essential Services Commission, [Observations on energy customers during coronavirus pandemic - data up to 26 July 2020](#), August 2020.

Survey data suggests that the overall proportion of customers reaching out to contact their energy retailer to seek support is relatively low. Of Victorian customers surveyed by the Consumer Policy Research Centre in June, only 11 per cent had contacted their retailer in the previous four weeks.<sup>36</sup>

Survey data also suggests that consumers are not being proactively contacted – or do not recall being contacted – by their retailer to offer support. In Jemena’s survey, 78 per cent of respondents did not, or were unsure, if they had received any communications from their retailer about financial support available.<sup>37</sup> A number of customers responding to our consultation also reported not knowing what support was available from their retailer.<sup>38</sup> The Consumer Policy Research Centre’s June report noted that across Australia, less than 1 in 5 consumers had reported receiving proactive assistance or support from essential service providers.<sup>39</sup>

### Customers receiving assistance

While overall numbers of customers contacting their retailer to ask for support were relatively low in June, Consumer Policy Research Centre survey data shows that 86 per cent of Victorian customers who did contact their retailer received some form of assistance.<sup>40</sup> This included arranging a better energy deal, being offered a flexible payment plans or receiving information on applying for government assistance grants.

According to the data we are receiving from retailers, the number of Victorian customers receiving tailored assistance who can pay their ongoing usage decreased steadily from April to June, but increased in July, as shown in figure 1.<sup>41</sup> The number of customers receiving tailored assistance who cannot pay their ongoing usage has decreased steadily over the same time period.

At the end of July 2020, 30,974 electricity and 22,918 gas customers were receiving tailored assistance and could pay their ongoing usage, while 16,861 electricity and 12,964 gas customers were receiving tailored assistance and could not pay their ongoing usage. In total, 1.8 per cent of

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<sup>36</sup> Essential Services Commission, [Pandemic hits on households settles, but small businesses falling behind](#), August 2020.

<sup>37</sup> Jemena, [COVID-19 Customer Hardship: customer research insights report](#), June 2020.

<sup>38</sup> Submissions received via Engage Victoria to ‘supporting energy customers through the coronavirus pandemic’ draft decision, July 2020.

<sup>39</sup> Consumer Policy Research Centre, [COVID-19 and Consumers: from crisis to recovery – monthly insights report](#), June 2020.

<sup>40</sup> Essential Services Commission, [Pandemic hits on households settles, but small businesses falling behind](#), August 2020.

<sup>41</sup> Essential Services Commission, [Observations on energy customers during coronavirus pandemic - data up to 26 July 2020](#), August 2020.

all Victorian electricity customers and 1.7 per cent of all gas customers were receiving tailored assistance at the end of July.

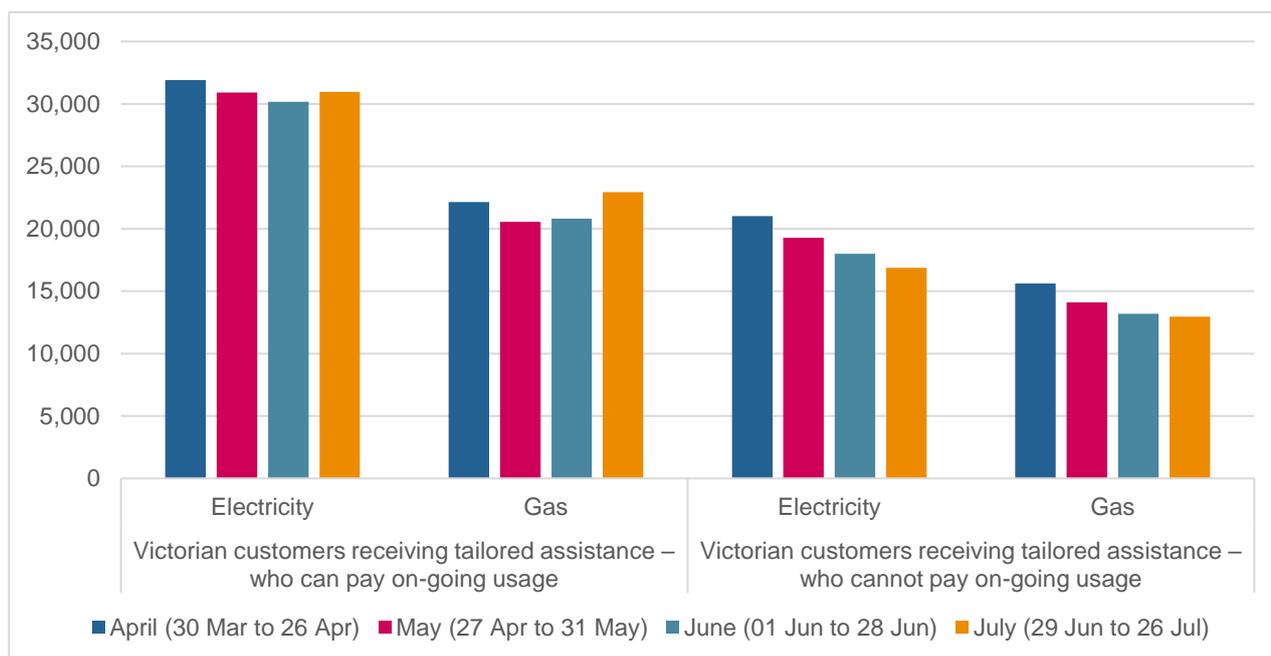


Figure 1 Number of Victorian residential customers receiving tailored assistance during the pandemic. Source: information provided to the commission by retailers

### Missed bills, payment deferrals and average arrears

Data we are receiving from retailers shows an increase in the number of both electricity and gas residential customers missing their bills during the pandemic.<sup>42</sup> On average, 42,510 electricity and 30,088 gas customers missed a bill payment each week in July (across the market, not just in Victoria), compared to 38,535 electricity and 27,432 gas customers in April. We note that levels of missed bills will fluctuate between weeks depending on billing cycles, and may capture some customers who regularly miss bills and pay a few days late.

We have recently started collecting data on the number of customers opting to defer payments. This shows that in July, 8,729 residential electricity customers and 7,506 residential gas customers deferred payments. On average each electricity customer deferred \$620, and each gas customer deferred \$486. These figures each represent a slight increase from June.

For Victorian customers receiving tailored assistance, average arrears have generally increased slightly from April to July 2020, other than for gas customers who can pay their ongoing usage, as

<sup>42</sup> Ibid.

shown in figure 2.

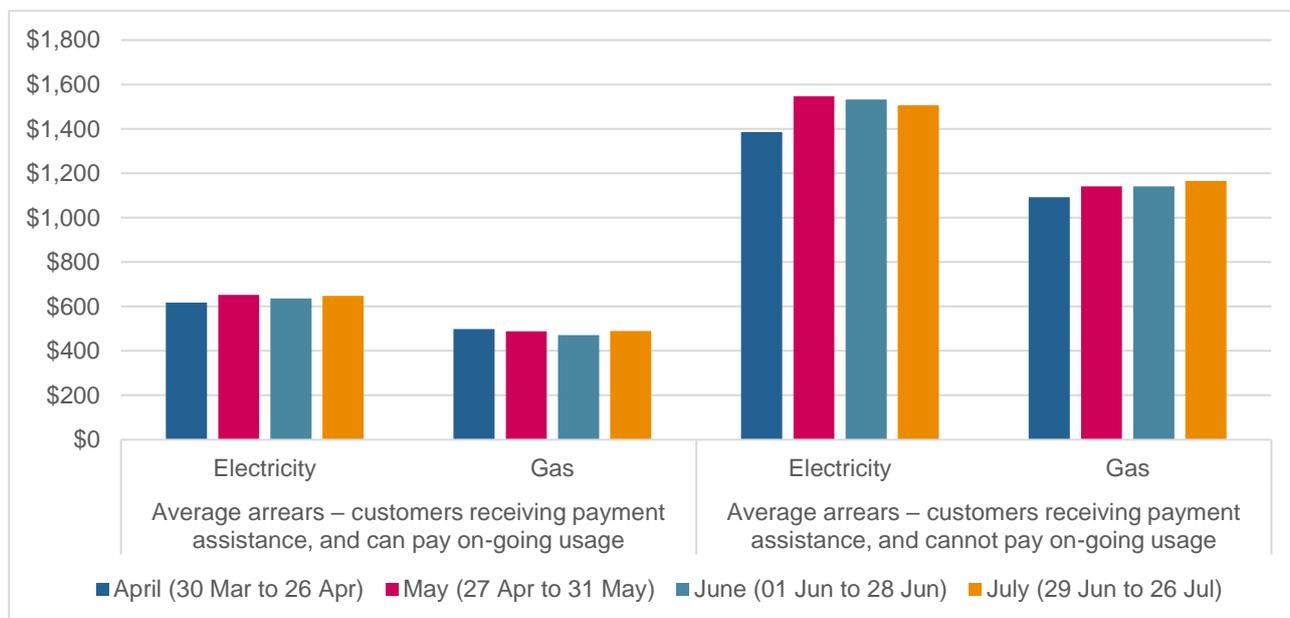


Figure 2 Average arrears of Victorian residential customers during the pandemic. Source: information provided to the commission by retailers

### Disconnections for non-payment

In June and July 2020 there were no reported completed electricity or gas residential disconnections for non-payment.<sup>43</sup>

### Draft decision proposals

On the basis of the evidence observed at the time of the draft decision, we considered there was a need for some targeted measures to address the immediate and future needs of residential customers, particularly low income and vulnerable customers. We made two proposals, relating to:

- supporting eligible customers to access utility relief grants on an ongoing basis
- extending entitlements to ‘tariff checks’ to all residential customers receiving tailored assistance from their retailer, on a short-term basis.

We considered these proposals align with our statutory objectives to promote the long-term interests of Victorian consumers<sup>44</sup> and to promote protections for customers, particularly to assist

<sup>43</sup> Ibid..

<sup>44</sup> Section 8, Essential Services Commission Act 2001.

customers who are facing payment difficulty<sup>45</sup>, and with the Victorian Government's policy commitments through the National Cabinet. We also noted that there would be benefits to both customers and retailers, by better enabling customers to keep paying their energy bills.

### **Supporting customer access to utility relief grants**

The Utility Relief Grant Scheme provides help to customers to pay a mains electricity, gas or water bill that is overdue due to a temporary financial crisis. Eligible customers can apply for a grant through their retailer, who will lodge an application with the Department of Health and Human Services (DHHS). If a grant is approved, it is paid directly to the retailer who will credit that amount to the customer's account.

We proposed to issue a mandatory guideline under section 44 of the Electricity Industry Act and section 48H of the Gas Industry Act to require retailers to complete utility relief grant application forms over the phone with a customer, and lodge the form online where possible and the customer consents to this. This would make it easier for eligible customers to apply for grants, which we consider is more important than ever at this time as an increasing number of Victorians seek financial support. If a grant is approved, customers can receive up to \$650 per fuel every two years which reduces their debt, which benefits both customers and retailers.

While some retailers work with customers over the phone to complete the utility relief grant application form online and lodge it straight away, others mail the form (either an electronic or paper copy) to customers to complete on their own or with third party support such as from a financial counsellor. In our draft decision we outlined anecdotal evidence from community organisations about the challenges with retailers taking the latter approach:

- customers often struggle to successfully complete the application form and submit it to DHHS – either because of issues with literacy, understanding what is needed to complete the form, or being overwhelmed so failing to complete and post the form to DHHS
- where the onus is on the customer to complete the application themselves or else seek any support required, this is likely to add time to the application process, particularly if the form is sent to the customer and lodged with DHHS through the post rather than online
- customers will also be less familiar with the way of filling out an application form that would maximise their chances of being awarded a grant, than a retailer working across its customer base to complete application forms that would develop expertise in doing so

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<sup>45</sup> Section 10(c), Electricity Industry Act 2000 and section 18(c), Gas Industry Act 2001.

- where customers are referred to financial counsellors or other community organisations to assist with completing the form, this places more pressure on the limited resources of such organisations.

We also presented data showing a large gap between the number of applications that retailers generate and send to customers, and the number of applications that are submitted to DHHS for assessment (see table 1 below). This gap is notably larger for gas and electricity applications than for water applications, where we understand it is more common practice for water retailers to complete utility relief grant applications over the phone with customers.

	Customers given applications by retailer	Applications received by DHHS	Applications approved	Percentage of applications received by DHHS	Percentage of applications approved
Electricity	48,813	20,822	16,530	43 per cent	79 per cent
Gas	36,521	15,930	12,578	44 per cent	79 per cent
Water	13,471	8,876	7,379	66 per cent	83 per cent

Table 1 Utility relief grant applications 2018-19. Source: DHHS

Our proposed guideline would require retailers to complete utility relief grant application forms over the phone with a customer and lodge the form online where possible. The guideline would provide flexibility if customers do not wish to provide personal information over the phone, or if customers have to submit the application themselves in order to attach relevant supporting documentation.<sup>46</sup> However, retailers would be required to support customers in these circumstances as best they can, for example by completing as much of the application as possible over the phone, and providing clear instructions as to what the customer needs to do to complete the application.

We proposed that this would be an ongoing obligation. Despite this being proposed as part of a package of temporary rule changes to support customers through the pandemic, our expectations that retailers support customers in payment difficulty to access the assistance that would help them manage their bills – as set out in the principles of the payment difficulty framework – remain the same regardless of the current situation.

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<sup>46</sup> If a customer is applying for a utility relief grant due to family violence, or does not hold a concession card, they must also provide supporting information. In the case of family violence, this could be a statutory declaration, document issued by a court, support service or health practitioner or a referral from a community organisation. In the case of financial hardship, this should be a bank statement, recent payslips or letter from an employer.

## Extending entitlements to tariff checks

We proposed to temporarily extend the requirement for retailers to conduct ‘tariff checks’ (as required by clause 79(1)(e)(i) of the Energy Retail Code) to all customers receiving tailored assistance. This would require retailers to go beyond providing the best offer message on a customer’s bill, by proactively contacting customers receiving tailored assistance to discuss whether another tariff would be more appropriate based on their circumstances.

This is already a requirement of the payment difficulty framework for customers receiving tailored assistance who cannot afford their ongoing energy costs. Given the increase in average household energy consumption as Victorians have been staying at home more, it is more important than ever that customers are on a tariff appropriate to their circumstances and which minimises the cost of energy. As the pandemic progresses and we potentially see more customers under the umbrella of the payment difficulty protections, this proposal would provide targeted support to those customers struggling to pay.

We proposed to include a new section in the Energy Retail Code that would be in effect for six calendar months from commencement of the rules for retailers, unless extended by the commission. We expect retailers to contact their customers who are already receiving tailored assistance and can afford their ongoing energy costs, to offer a tariff check, as soon as reasonably practicable after this obligation takes effect.

For customers who start to receive tailored assistance from 1 October 2020, retailers must conduct a tariff check when they are working with a customer to set up a payment arrangement.

## Stakeholder views

On 7 July 2020, we held a stakeholder workshop on our proposals to support residential customers where we heard stakeholders’ initial views on our proposals.<sup>47</sup>

We also received 20 submissions to our consultation, 16 of which commented on our residential customer proposals. These submissions were from energy retailers, community organisations, the Energy and Water Ombudsman (Victoria) and the Australian Energy Council.<sup>48</sup>

Ten customers also filled out a questionnaire on Engage Victoria with their views about support they would find useful to get from their retailer.

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<sup>47</sup> Essential Services Commission, [Supporting residential energy customers through the coronavirus pandemic – summary of discussion at stakeholder workshop](#), July 2020.

<sup>48</sup> Submissions are available on our [website](#).

Below we summarise the main themes we heard from stakeholder feedback.

### Supporting customer access to utility relief grants

Stakeholders broadly supported the intent of making it easier for customers to apply for utility relief grants, recognising the importance of these grants as a financial safety net for customers.

However, views differed on whether our proposed guideline was the most effective way to achieve this outcome.

Consumer organisations and the Energy and Water Ombudsman (Victoria) strongly supported our proposed approach.<sup>49</sup> Consumer Action Law Centre noted that financial counsellors often have to do most of the work to complete the application process for a customer, which can be frustrating as they often have less information available to them than a retailer, limited or no access to the DHHS online portal, and competing demands on their limited resources.<sup>50</sup>

Domestic Violence Victoria said any support retailers can provide to take the burden off victim survivors of family violence is welcome, as these customers are likely to have many other things to sort out as well.<sup>51</sup> The Energy and Water Ombudsman (Victoria) considered that requiring retailers to directly support customers in making utility relief grant applications is well aligned with the principles underlying the payment difficulty framework.<sup>52</sup>

Financial Counselling Victoria highlighted the better practice seen around supporting hardship customers in the water industry compared to energy (particularly around using telephone interpreters to support customers to complete applications in their preferred language).<sup>53</sup> Both Financial Counselling Victoria and an individual financial counsellor responding to our consultation highlighted that the utility relief grant limit of \$650 every two years is insufficient to significantly

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<sup>49</sup> Consumer Action Law Centre, Domestic Violence Victoria, Energy and Water Ombudsman (Victoria), Financial Counselling Victoria and Victorian Council of Social Service, submissions to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

<sup>50</sup> Consumer Action Law Centre, submission to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

<sup>51</sup> Domestic Violence Victoria, submission to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

<sup>52</sup> Energy and Water Ombudsman (Victoria), submission to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

<sup>53</sup> Financial Counselling Victoria, submission to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

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reduce a client's indebtedness to a retailer, and an increased limit would better support customers in hardship.<sup>54</sup>

Retailers raised a number of challenges with our proposal. They made a number of comments about the overarching design of the Utility Relief Grant Scheme and supporting DHHS processes, including:

- suggesting the scheme should be reviewed to make it as streamlined and effective as possible, including making the application process simpler so customers can better navigate it themselves<sup>55</sup>
- noting that although processing times have reduced in recent months following a previous backlog, a further reduction should be sought, particularly during the pandemic<sup>56</sup>
- suggesting specific improvements to the portal and processes that would make it easier for retailers to use<sup>57</sup>
- questioning whether the DHHS portal will be able to support the expected increase in number of applications being submitted as a result of our proposal.<sup>58</sup>

Retailers also noted that their administrative costs would increase. They requested that either DHHS review the current fee per application, or the commission consider any increased costs as part of the next Victorian Default Offer price review.<sup>59</sup>

Stakeholders suggested some specific changes to our draft guideline:

- adding a requirement for retailers to complete a timely follow up and offer further assistance with an application where a customer has opted to complete parts of the application themselves<sup>60</sup>

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<sup>54</sup> Financial Counselling Victoria and submission from a financial counsellor, submissions to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

<sup>55</sup> Alinta Energy, Australian Energy Council, EnergyAustralia, Momentum Energy, Origin Energy, Powershop, Red Energy and Lumo Energy, and Simply Energy, submissions to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

<sup>56</sup> AGL, Origin Energy and Simply Energy, submissions to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

<sup>57</sup> AGL, Next Business Energy, Origin Energy and Simply Energy, submissions to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

<sup>58</sup> AGL, submission to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

<sup>59</sup> Australian Energy Council, Momentum Energy, Red Energy and Lumo Energy, and Simply Energy, submissions to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

<sup>60</sup> Consumer Action Law Centre, submission to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

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- being explicit that a retailer is not in breach if a customer withdraws from the process or ends the call<sup>61</sup>
- including a reasonable estimate of the time it would take a retailer to complete an application form over the phone with a customer<sup>62</sup>
- making the guideline a temporary requirement on retailers, for example six months, until any changes to the wider Utility Relief Grant Scheme and/or DHHS processes have been made.<sup>63</sup>

### Extending entitlements to tariff checks

Stakeholder views on our proposal to extend entitlements to tariff checks to all tailored assistance customers were also mixed.

Consumer organisations and the Energy and Water Ombudsman (Victoria) strongly supported the proposal, though they all considered it should be a permanent change (or that we should at least consider making it permanent when we review the payment difficulty framework).<sup>64</sup> The Victorian Council of Social Service considered there is a strong argument for retailers at least offering to conduct a tariff check when a customer calls their retailer for some form of assistance relating to paying their bills.<sup>65</sup>

Consumer Action Law Centre suggested that retailers alongside offering a tariff check, retailers should be required to offer tailored practical assistance to help lower ongoing energy costs, while ensuring a household continues to use energy safely and efficiently.<sup>66</sup> Consumer Action Law Centre also suggested extending the proactive tariff check requirement to all gas customers on standing offers not just those receiving tailored assistance.

Retailers were generally less supportive of our proposal. Some considered that the existing best offer and clear advice reforms already deliver the policy intent of our proposal without additional

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<sup>61</sup> AGL, submission to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

<sup>62</sup> AGL, submission to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

<sup>63</sup> Australian Energy Council, Momentum Energy, and Red Energy and Lumo Energy, submissions to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

<sup>64</sup> Consumer Action Law Centre, Energy and Water Ombudsman (Victoria) and Victorian Council of Social Service, submissions to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

<sup>65</sup> Victorian Council of Social Service, submission to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

<sup>66</sup> Consumer Action Law Centre, submission to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

rules being required.<sup>67</sup> Other retailers noted that they already have tariff check conversations when a customer contacts them to ask for any form of payment assistance.<sup>68</sup>

Several retailers raised concerns about the cost and resource implications of conducting proactive tariff checks for all tailored assistance customers who can pay their ongoing energy usage<sup>69</sup>, and suggested alternative proposals to reduce the impact on retailer operations:

- limit the requirement to conduct a tariff check to customers who are not already on the best offer<sup>70</sup>, or only to new customers entering tailored assistance from 1 October 2020<sup>71</sup>
- allow retailers to conduct tariff checks at a customer's next payment arrangement review<sup>72</sup>
- refer customers entering into tailored assistance to the best offer by including advice on their bills.<sup>73</sup>

Two retailers assumed 'tariff check' relates to assessing whether a customer is on the best retail tariff.<sup>74</sup> Another retailer commented that to enable them to conduct tariff checks, distributors would also need to adopt the tariff check and waive any costs associated with changing network tariffs.<sup>75</sup>

Three retailers also highlighted that the 'best offer' calculation used to conduct a tariff check relies on available information about a customer's consumption, and that the profile of many customers will be substantially different at the moment due to the pandemic.<sup>76</sup>

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<sup>67</sup> Alinta Energy, Australian Energy Council, AGL, Powershop, and Red Energy and Lumo Energy, submissions to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

<sup>68</sup> Origin Energy and Simply Energy, submissions to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

<sup>69</sup> Australian Energy Council, EnergyAustralia, Momentum Energy, Origin Energy, Powershop and Simply Energy, submissions to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

<sup>70</sup> EnergyAustralia, submission to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

<sup>71</sup> Australian Energy Council, submission to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

<sup>72</sup> Origin Energy, submission to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

<sup>73</sup> Momentum Energy, submission to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

<sup>74</sup> Origin Energy and Simply Energy, submissions to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

<sup>75</sup> Powershop, submission to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

<sup>76</sup> Alinta Energy, Red Energy and Lumo Energy, and Simply Energy, submissions to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

## Other measures to support residential customers

We asked stakeholders if there were additional measures we should be considering to support residential customers at this time. Retailers either did not make any specific comments or else considered further regulatory intervention should only be considered if the data we are collecting demonstrates a clear need.

The Energy and Water Ombudsman (Victoria) considered that further measures beyond the payment difficulty framework and measures proposed in our draft decision are not required at this time.<sup>77</sup> It suggested that the commission's focus should be on ensuring retailers are applying the payment difficulty framework properly, and making sure that customers are as aware as possible of their entitlements under the framework.

The Victorian Council of Social Service agreed that the ongoing delivery of accessible and effective consumer information is important at this time, to make sure energy consumer protections are well-understood and genuinely accessible to all Victorians (for example, promoted in plain terms and languages other than English, through multiple channels and different formats).<sup>78</sup>

Consumer Action Law Centre considered that more needs to be done to protect residential customers at this time, particularly to prevent households being disconnected at this time.<sup>79</sup> It made recommendations for the commission, including that we should:

- ban disconnections for non-payment until further notice, to give households the confidence to use the energy they need to stay healthy while protecting those who disengage from falling through the gaps at the worst time possible
- introduce additional safeguards around external debt collection practices and the sale of debts, including a pause to external collection during the pandemic requiring retailers to only sell to debt purchasers on the condition that households are not bankrupted over an energy debt
- explore more direct additional support for households experiencing debt issues because of the pandemic, including the possibility of waivers for ongoing essential energy costs where households have no income

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<sup>77</sup> Energy and Water Ombudsman (Victoria), submission to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

<sup>78</sup> Victorian Council of Social Service, submission to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

<sup>79</sup> Consumer Action Law Centre, submission to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

- continue to monitor and report as to payment difficulty issues on a weekly basis and publicly name retailers that are requesting disconnections for non-payment.

## **Final decision**

### **Supporting customer access to utility relief grants**

Utility relief grants are a vital part of the protections available to customers struggling to pay their bills. It is important that customers who are entitled to receive a grant can apply quickly and easily. We have therefore decided to proceed with introducing a guideline to require retailers to support customers applying for utility relief grants.

The design of the Utility Relief Grant Scheme includes retailers as part of the process, and retailers are paid an administrative fee (currently \$41.80 per application) for their role in the scheme. Where applications are successful, retailers also receive up to \$650 per fuel toward the customer's debts, reducing the bad debt they are holding. This should be sufficient incentive for retailers to seek to maximise the number of applications sent to DHHS for assessment, but the data in table 1 suggests this is not the case.

This is the reason we have decided to intervene by issuing a new guideline. Our changes are targeted specifically at the issue of the gap between the number of applications generated by retailers and number of applications received by DHHS for assessment. While we note past issues with long waiting times for some applications, our changes are not intended to remedy this or any address other aspect of the Utility Relief Grant Scheme.

### **Overarching comments about the Utility Relief Grant Scheme**

We acknowledge comments about ways in which the overarching scheme design, application process and/or systems could be made more efficient to improve customer and retailer experiences of applying for utility relief grants. We do not play a direct role in the operation of the scheme, but we have shared all feedback received during this consultation process with DHHS for their consideration. We understand that DHHS are already considering or implementing several of the suggestions raised by stakeholders.

We encourage retailers to also engage in direct, constructive dialogue about any issues or suggested improvements with DHHS, who have indicated they are open to receiving feedback and making continuous improvements to the scheme and processes to the extent possible. The team can be contacted on [urgsreview@dhhs.vic.gov.au](mailto:urgsreview@dhhs.vic.gov.au).

Feedback we have heard from the water sector (including direct customer experiences confidentially provided to the commission comparing the process of applying for utility relief grants in water and energy sectors) suggests that even without any changes to the underlying scheme or

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application process, there is scope for energy retailers to deliver a much more positive consumer experience.

### **Effects of our proposal**

Retailers suggested this change will increase the costs they incur and considered they should be reimbursed through an increased application fee or allowance in the Victorian Default Offer. We understand some energy retailers are already supporting customers in completing applications, in which case practices (and therefore costs) are unlikely to change. For retailers who currently just send application forms to customers and do not provide additional support, the existing fee of \$41.80 per application should account for new costs incurred. We received one confidential estimate of the cost impact of our proposal, which supported this position.

Our current view notwithstanding, retailers may provide any additional cost information as part of the Victorian Default Offer consultation process. The commission is committed to setting a default offer that ensures the long run sustainability of the industry. We note that some costs may increase as a result of the pandemic, but also note that some costs will be reducing. To the extent that total costs go up or down, and those changes are expected to continue, we will make appropriate adjustments to the level of the Victorian Default Offer.

### **Changes to the guideline**

We have considered the specific guideline changes that stakeholders proposed. We have added a reference to retailers following up applications that customers are completing themselves to check on progress. However, in the interests of managing additional burden at this time we have chosen to include this in the final guideline as an example of assistance that may be reasonable having regard to the particular circumstances of the customer, rather than something a retailer must do at all times.

We have not added a specific reference to retailers not being in breach if a customer withdraws from the process or ends the phone call. We consider the guideline is sufficiently clear and flexible as to what is expected from a retailer if the form cannot be lodged at the time a customer is on the phone with the retailer. We have also not included an estimate of the time it would take a retailer to complete the form with a customer, as the time taken will be highly dependent on the retailer's processes and the individual customer.

We have decided to retain the guideline as an ongoing obligation. Consistent with our expectations under the payment difficulty framework that retailers work with customers in payment difficulty to support them in managing and paying their bills, we consider it is reasonable for retailers to support customers in applying for this financial assistance that will ultimately benefit retailers as well as customers. This is not a temporary obligation specific to the pandemic period.

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We intend to monitor the number of utility relief grant applications being generated and submitted to DHHS for customers of each retailer to identify if certain retailers are completing comparatively fewer applications.

### **Final decision 1: Supporting customers to complete and lodge utility relief grant applications**

Retailers are required to support residential customers in completing utility relief grant application forms, including by submitting forms online on behalf of the customer where possible and the customer consents to this. This is an ongoing requirement, effective from 1 October 2020.

### **Extending entitlements to tariff checks**

We remain of the view that extending tariff checks to customers who have built up debt with their retailer but can still afford the ongoing cost of their energy is an important and appropriate targeted measure to support these customers given the current circumstances. Ensuring customers are on the tariff that will most likely minimise their energy costs may reduce the likelihood of debts building up further, particularly as the increases in average consumption we have observed start to feed through to customer bills.

We are therefore confirming our final decision to extend the entitlement for a tariff check to all customers receiving tailored assistance from 1 October 2020, for a six-month period.

### **Offering a tariff check**

Some retailers considered the best offer message on a bill already achieves the intent of our proposal, without additional measures being required. While we acknowledge all tailored assistance customers will receive this notification every three or four months, not all customers will see, understand and/or act on this information. Requiring a tariff check in addition to the best offer message on a bill is aimed at addressing this issue, by allowing this group of customers to benefit from the entitlement without needing to proactively contact their retailer.

Several retailers highlighted the cost and resource implications of being required to proactively contact all customers on tailored assistance to offer a tariff check, particularly where they may already offer tariff checks more broadly than required to by the existing regulations or where customers are already on the best offer. We also appreciate the additional burden retailer call centres are likely to be under at this time.

Our final decision is to require a tariff check entitlement during the six-month 'coronavirus obligation period' (from 1 October 2020 to 31 March 2021) but allow some flexibility for retailers to determine the most appropriate way of delivering tariff checks to their customers. Retailers will be

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able to choose the most appropriate time or method of contacting a customer to deliver this tariff check – we would expect this to be consistent with the objectives of payment difficulty framework. This flexibility also allows retailers the ability to stagger proactive contact with customers in a way that reduces administrative burden on retailers.

For clarity, if a retailer has already offered a customer a tariff check before the start of this period, for example when the customer first contacted their retailer seeking payment support, we would not expect retailers to offer another tariff check during the ‘coronavirus obligation period’. We would also not expect retailers to offer tariff checks for customers already on the best offer.

### **Final code drafting**

79(2A) During the coronavirus obligation period, a residential customer is also entitled, at the very least, to the assistance mentioned in subclause 79(1)(e)(i), while continuing to pay the full cost of their on-going energy use.

*Where existing subclause 79(1)(e) is:*

- (e) practical assistance to help a customer lower their energy costs including, but not limited to:
- (i) the tariff that is most likely to minimise the customer’s energy costs, based on the retailer’s knowledge of the customer’s pattern of energy use and payment history

### **Conducting a tariff check**

The term ‘tariff check’ used in the draft and final decisions refers to the process a retailer would undertake to deliver the Energy Retail Code requirement in clause 79(1)(e)(i), namely ‘practical assistance to help a customer lower their energy costs including [...] the tariff that is most likely to minimise the customer’s energy costs, based on the retailer’s knowledge of the customer’s pattern of energy use and payment history’. This could include the retail and/or network tariff a customer is on. Any discussion about changing the network tariff a customer is on would be between the relevant retailer and distributor.

We understand that consumption profiles for many residential customers have changed as a result of the pandemic, and that this may or may not be reflective of future consumption depending on a range of factors including how long ‘stay at home’ restrictions are in place. Retailers should use the consumption information they have available to them when conducting any tariff check. As part of the existing clear advice entitlement we would expect retailers to communicate if a tariff that might be better for a customer now may not be in the future if consumption patterns change.

## Additional stakeholder suggestions

Consumer organisations suggested we make this rule change permanent. Consistent with the broader changes we are making (other than the utility relief grant guideline, where we have evidence of ongoing issues predating the coronavirus pandemic), we have decided changes should be temporary at this time, as we are responding to a specific situation.

In addition, as foreshadowed in our draft decision, we are due to review the payment difficulty framework next year. Rather than make an enduring change to the framework now, we will consider whether there is merit to making a permanent change during the review of the payment difficulty framework.

Other suggestions made were to extend requirements to conduct tariff checks to all customers on gas standing offers, and to also require retailers to offer practical assistance to help all tailored assistance customers reduce their use of energy. While we understand the rationale and potential benefits of these suggestions, and support their intent, we are mindful of placing additional burdens on retailers at this time and so are not proposing to adopt these as mandatory requirements.

### **Final decision 2: Extending tariff check entitlement to all customers receiving tailored assistance**

Retailers are required to conduct a tariff check for all residential customers receiving tailored assistance, not just those who cannot afford the ongoing cost of their energy. This is a temporary requirement in effect for six calendar months from 1 October 2020.

## Other measures to support residential customers

We note the suggestions made by stakeholders of additional measures we could consider implementing to support residential customers at this time. We are mindful that the current situation is unpredictable, and customers and retailers alike are facing a set of circumstances which they will never have experienced before. Any regulatory intervention must strike a balance between supporting those who need it most while not imposing an unjustifiable burden on retailers.

As such we are not proposing further regulatory requirements at this time, but we are continuing to closely monitor the data we get from regulated businesses and insights from community organisations. We stand ready to take further action as and when the data indicates this may be warranted.

We will continue to focus on many of the areas stakeholders raised, including:

- considering how best to increase customer awareness of existing entitlements (for example through our upcoming campaign)

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- closely monitoring retailer activity around disconnections for non-payment
- prioritising any compliance issues relating to the operation of the payment difficulty framework (including using results from our recent 'pulse check' audits to inform compliance activity)
- working with government to identify options for further support for customers affected by the pandemic.

We are particularly mindful of survey results and anecdotal evidence suggesting a sizeable gap between the number of customers who may be eligible for support (whether that be assistance under the payment difficulty framework, government concessions or another form of support) and the number of customers contacting their retailer to access this support. At this stage we don't have clear evidence of the reason for this gap, though some community organisations have suggested a potential driver could be a large increase in 'newly vulnerable' customers who have not needed to access support pre-pandemic and may not be aware of their entitlements.

We are keeping a close eye on this issue and considering what we can do as the regulator to increase customer awareness of existing entitlements. We welcome ideas from stakeholders and encourage retailers and other organisations to take the initiative as far as possible in reaching out to customers themselves.

### 3. Supporting small business customers

We will issue a mandatory guideline that will require retailers to provide assistance that is reasonable to a small business that is experiencing financial stress due to the coronavirus pandemic.

We consider that this approach provides flexibility for retailers while retaining a requirement for retailers to engage with affected small business customers.

The guideline will be in effect for six calendar months from 1 October 2020, unless extended by the commission.

#### Effects of the pandemic on small business customers

In Victoria, there are many more residential customers than small business customers. In 2018-19, there were around 2.6 million residential customers and 277,000 small business customers.<sup>80</sup> The coronavirus pandemic has put additional financial stress on some small businesses, particularly those that have faced restricted operation. Small businesses have relatively higher consumption, and therefore energy bills, than residential customers.

The Australian Bureau of Statistics has been producing a new survey of the 'business impacts of COVID-19'.<sup>81</sup> In the June survey, two thirds of all surveyed businesses reported revenue had decreased compared to the same time last year. Of those that reported a decrease in revenue, around 31 per cent of businesses estimated that revenue had declined by more than 50 per cent compared to last year. In the latest survey, almost half of all surveyed businesses reported that revenue had decreased over the last month.<sup>82</sup>

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<sup>80</sup> Essential Services Commission, [Victorian Energy Market Report 2018-19](#), November 2019.

<sup>81</sup> Australian Bureau of Statistics, [Business Indicators, Business Impacts of COVID-19 – 5676.0.55.003 – June 2020](#), June 2020.

<sup>82</sup> Australian Bureau of Statistics, [Business Indicators, Business Impacts of COVID-19 – 5676.0.55.003 – July 2020](#), July 2020.

Based on the data we have been collecting from retailers, we have some information on trends in payment difficulty and payment assistance for small business customers since the start of the coronavirus pandemic.<sup>83</sup>

In July 2020, we identified that around one per cent of Victorian small business customers were receiving assistance from their retailers. This figure has been relatively consistent since we commenced collecting this data in April 2020. For comparison, around 1.7 per cent of Victorian residential customers were receiving assistance from their retailers in July 2020.

Although the number of small business customers receiving assistance has remained consistent, the average arrears of the small business customers that were receiving payment assistance from their electricity retailers has increased in every month since we commenced collecting this data. While the average arrears for small business gas customers receiving payment assistance declined in July 2020, the average arrears remain higher than in May 2020. The weekly average number of small business customers missing their bills increased in July 2020 for both electricity and gas compared to June.

We also found that the number of weekly enquiries from small business customers to retailers about assistance has declined significantly since peaking in May. In particular, there were an average of 620 weekly enquires to electricity retailers about assistance in July, relative to an average of 2,332 weekly enquiries in May.

While most provisions of the Energy Retail Code extend to all small customers (residential and small business), the payment difficulty framework only applies to residential customers. Victorian retailers are therefore not obligated to provide small businesses with the same minimum levels of payment difficulty assistance that they must provide to residential customers.

Under the Victorian retail energy framework, a business is defined as a small business if it is the customer of a licenced retailer and its aggregate consumption has not been (or, in the case of a new supply point, is not likely to be):

- more than 40 MWh of electricity in any year<sup>84</sup>
- more than 1,000 GJ of gas in any year.<sup>85</sup>

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<sup>83</sup> Essential Services Commission, [Observations on energy customers during coronavirus pandemic - data up to 26 July 2020](#), August 2020.

<sup>84</sup> Victorian Government, [Order in Council: Order under s. 35 of the Electricity Industry Act 2000](#), No. S 315 25 November 2008.

The National Cabinet's agreed principles for essential services hardship support apply to both residential and small business customers and seek to ensure access for support is as simple and easy as possible.<sup>86</sup> The Victorian Minister for Energy, Environment and Climate Change also raised the expectation that 'energy retailers keep small business customers under financial stress connected if they have raised their situation with their provider and to work with them on a manageable payment plan'.<sup>87</sup>

Some retailers have responded to the coronavirus pandemic by voluntarily providing temporary payment difficulty assistance to small businesses, primarily through payment arrangements or deferrals of pay-by-dates. However, small business customers seeking assistance during the pandemic will likely receive different outcomes depending on their retailer as there are no consistent minimum entitlements in the Victorian framework.

## Draft decision proposals

In our draft decision, we set out proposals to provide temporary assistance for small business customers. Specifically, we proposed that retailers would be obligated to provide small business customers with minimum entitlements to payment assistance on a temporary basis, including:

- payment flexibility, to help small businesses avoid getting into arrears with their retailer
- payment assistance, to help small businesses in arrears pay for their ongoing energy use, repay their arrears, and lower their energy costs.

We replicated aspects of the payment difficulty framework to apply to small business customers to allow retailers to implement changes rapidly as we considered retailers have existing systems and processes in place to provide assistance to residential customers. Our intention was that these proposals would provide small businesses with clarity on the minimum level of payment assistance they should expect from their retailers through the coronavirus pandemic.

In developing these proposals, we were mindful of the need to support the continued viability of energy businesses (such as maintaining incentives for small businesses to continue paying their bills on time) and the need to support small businesses so that they can return to regular trading activities.

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<sup>85</sup> Victorian Government, [Order in Council: Order under s. 42 of the Gas Industry Act 2001](#), No. S 315 25 November 2008.

<sup>86</sup> The Hon Scott Morrison MP, [Update on coronavirus measures](#), April 2020.

<sup>87</sup> The Hon Lily D'Ambrosio MP, [Know your rights and keep your lights on](#), April 2020.

Our draft decision proposals are summarised below.

### **Payment flexibility for small businesses anticipating financial stress**

We proposed that if a small business contacted their retailer seeking flexibility in the payment of an upcoming energy bill, the retailer must make available the following forms of assistance:

- making payments of an equal amount over a specified period
- options for making payments at different intervals
- extending by a specified period the pay-by-date for a bill for at least one billing cycle in any 12-month period.

This would have been consistent with the National Cabinet's agreed principle relating to offering flexible payment options to all households and small businesses in financial stress.<sup>88</sup> We considered that this proposal would help small business customers avoid getting into arrears with their retailer during the pandemic, and could encourage more small business customers to meet their bill payment obligations.

We noted that this obligation would be similar to 'standard assistance' under the payment difficulty framework for residential customers.

### **Payment assistance for small businesses that miss a bill pay-by-date**

We noted that while some retailers have provided short-term assistance to their small business customers by deferring pay-by-dates, there is a risk of businesses developing arrears they cannot fully pay back by the next pay-by-date for their energy bills. In addition, some businesses that are being supported in managing their energy bills through the JobKeeper program may begin to develop arrears once that financial assistance expires or is reduced. In our draft decision, we proposed that if a small business misses a bill pay-by-date, it would be entitled to:

- repayment of arrears over not more than two years by payments at regular intervals of up to one month (based on a payment proposal from the business that is accepted by the retailer)
- advice from their retailer about payment options that would enable the repayment of their arrears over not more than two years
- assistance to help the small business lower its energy costs by completing a tariff check to find a contract that is most likely to minimise the small business' energy costs, based on the retailer's knowledge of the small business' pattern of energy use and payment history.

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<sup>88</sup> The Hon Scott Morrison MP, [Update on coronavirus measures](#), April 2020.

We noted that this obligation would be similar to certain aspects of ‘tailored assistance’ under the payment difficulty framework for residential customers. The key difference with ‘tailored assistance’ is that we did not propose specific assistance for small businesses that cannot pay the full cost of their ongoing energy usage.

In terms of the length of payment plans and eligibility for assistance, we provided several alternative options for stakeholder feedback. Our default position in the draft decision was to align the length of payment plans and eligibility criteria with the payment difficulty framework, as we considered that it would be administratively simple for retailers to implement and operationalise rules that aligned with their existing processes for residential customers.

## Stakeholder views

On 6 July 2020, we held a stakeholder workshop on our proposals for temporary small business payment assistance. At the workshop, we received feedback on our proposals from energy retailers and the Australian Energy Council.<sup>89</sup> The key themes raised were:

- **flexibility of our proposed approach:** most retailers expressed a preference for a more flexible approach than in our draft decision
- **costs of implementing payment assistance for small business customers:** some retailers noted that prescribing additional assistance beyond that already being voluntarily provided would involve additional costs for retailers that should be compensated through other means
- **differences between small business and residential customers:** small business customers experience cash flow issues while residential customers experience hardship.

The key themes raised at our workshop were largely echoed in the submissions we received from stakeholders. Feedback from submissions to our draft decision are summarised below.

### Flexibility of our proposed approach

Some retailers and the Australian Energy Council suggested we did not present sufficient evidence that retailers’ voluntary assistance to small business customers was inadequate and regulatory intervention was required.<sup>90</sup> Several stakeholders stated that we could achieve our intent through a

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<sup>89</sup> Essential Services Commission, [Supporting small business energy customers through the coronavirus pandemic – summary of discussion at stakeholder workshop](#), July 2020.

<sup>90</sup> Australian Energy Council, EnergyAustralia, ERM Power, Momentum Energy, Next Business Energy, and Red Energy and Lumo Energy, submissions to ‘supporting energy customers through the coronavirus pandemic’ draft decision, July 2020.

less prescriptive and rigid approach – such as through developing an outcomes-based framework or by issuing a statement of expectations.<sup>91</sup>

### **Voluntary support from retailers**

Several retailers considered small business customers were benefiting from the tailored and targeted assistance extended voluntarily by retailers.<sup>92</sup> Some stakeholders noted that retailers are already sufficiently motivated to ensure their small business customers continue to pay their bills and minimise the likelihood of bad debts and insolvency.<sup>93</sup> The Energy and Water Ombudsman (Victoria) noted that despite the pressure on small business customers from the coronavirus pandemic, it is not registering higher than usual complaints from small business customers.<sup>94</sup>

Some retailers suggested that our proposed prescriptive rules may not be compatible with some existing voluntary support that small business customers have taken up from retailers.<sup>95</sup> For example, AGL stated that it may need to re-design its small business payment assistance to comply with the new rules, which comprises a range of support measures (including bill deferrals, bill smoothing, assistance packages, as well as payment plans of shorter length than our draft proposal).<sup>96</sup> AGL also stated that it may need to re-design the timing of when assistance is offered to a small business customer.

### **Feedback on our draft decision proposals**

In relation to our draft decision proposals, some stakeholders broadly supported the payment flexibility measures.<sup>97</sup> Despite some stakeholders agreeing there are benefits of a prescribed

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<sup>91</sup> AGL, Australian Energy Council, EnergyAustralia, Energy and Water Ombudsman (Victoria), ERM Power, Momentum Energy, Next Business Energy, Origin Energy, Red Energy and Lumo Energy, and Simply Energy, submissions to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

<sup>92</sup> AGL, Alinta Energy, Australian Energy Council, ERM Power, Momentum Energy, Red Energy and Lumo Energy, and Simply Energy, submissions to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

<sup>93</sup> Australian Energy Council, ERM Power, and Red Energy and Lumo Energy, submissions to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

<sup>94</sup> Energy and Water Ombudsman (Victoria), submission to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

<sup>95</sup> AGL, Australian Energy Council, Momentum Energy, Powershop, Red Energy and Lumo Energy, and Simply Energy, submissions to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

<sup>96</sup> AGL, submissions to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

<sup>97</sup> Energy and Water Ombudsman (Victoria), Origin Energy, Red Energy and Lumo Energy, and Simply Energy, submissions to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

minimum level of payment assistance,<sup>98</sup> many stakeholders did not support our proposed payment assistance measures – particularly the proposal that retailers provide small business customers with two-year payment plans.<sup>99</sup> Stakeholders stated that a two-year payment plan would be unnecessarily long and would be a significant period of time for retailers to carry small business customer debt.<sup>100</sup> Some stakeholders stated that if we were to set a minimum payment plan length – a period of three, six or nine months would be more reasonable.<sup>101</sup>

ERM Power stated that multi-site customers (large customers with multiple site groupings) are inappropriately captured by our proposals due to the definition of ‘small customers’ in the Energy Retail Code.<sup>102</sup> ERM Power stated that multi-site customers should be explicitly excluded from the proposals, as payment assistance to large customers should be determined through discussions with the customer and based on the individual situation and contractual settings.

### **Costs of implementing assistance for small business customers**

Several stakeholders questioned whether our proposed obligations would deliver benefits that exceed the costs to retailers of implementing the proposals and carrying the risk of additional debt.<sup>103</sup> Stakeholders also noted that our proposal may mask the solvency of some small businesses, including by deterring a loss-making business from seeking insolvency advice.<sup>104</sup>

In relation to the cost of implementation, AGL noted it would prefer to continue offering its existing support measures rather than diverting resources into building systems and processes to align with

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<sup>98</sup> AGL, Australian Energy Council, Energy and Water Ombudsman (Victoria) and Origin Energy, submissions to ‘supporting energy customers through the coronavirus pandemic’ draft decision, July 2020.

<sup>99</sup> AGL, Australian Energy Council, Energy and Water Ombudsman (Victoria), ERM Power, Momentum Energy, Next Business Energy, Origin Energy, Powershop, Red Energy and Lumo Energy, and Simply Energy, submissions to ‘supporting energy customers through the coronavirus pandemic’ draft decision, July 2020.

<sup>100</sup> AGL, Energy and Water Ombudsman (Victoria), ERM Power, Momentum Energy, Next Business Energy, Red Energy and Lumo Energy, and Simply Energy, submissions to ‘supporting energy customers through the coronavirus pandemic’ draft decision, July 2020.

<sup>101</sup> Energy and Water Ombudsman (Victoria), Next Business Energy, Powershop, Red Energy and Lumo Energy, and Simply Energy, submissions to ‘supporting energy customers through the coronavirus pandemic’ draft decision, July 2020.

<sup>102</sup> ERM Power, submission to ‘supporting energy customers through the coronavirus pandemic’ draft decision, July 2020.

<sup>103</sup> AGL, Alinta Energy, Australian Energy Council, EnergyAustralia, Energy and Water Ombudsman (Victoria) and ERM Power, submissions to ‘supporting energy customers through the coronavirus pandemic’ draft decision, July 2020.

<sup>104</sup> Australian Energy Council, EnergyAustralia, Energy and Water Ombudsman (Victoria), ERM Power, Next Business Energy, Powershop, and Red Energy and Lumo Energy, submissions to ‘supporting energy customers through the coronavirus pandemic’ draft decision, July 2020.

new code obligations.<sup>105</sup> Momentum Energy also noted that replicating aspects of the payment difficulty framework would impose disproportionate costs on retailers who only service business customers and do not have the established systems and processes to implement the proposals.<sup>106</sup> The Energy and Water Ombudsman (Victoria) suggested that our proposals appeared to impose an unnecessarily high compliance burden on retailers.<sup>107</sup>

Several stakeholders stated that our proposal would shift cost and bad debt burden from small business customers on to retailers.<sup>108</sup> For example, EnergyAustralia stated that a prescriptive rule change would have flow on impacts to retailers' costs to serve and cause an increased risk to retailer viability.<sup>109</sup> Some stakeholders suggested that we should consider compensating retailers for incurring these additional costs through an increase in the Victorian Default Offer price.<sup>110</sup> Consumer groups raised concern about the cross-subsidisation of small business assistance and asked us to ensure that any assistance does not negatively affect the affordability of energy for residential customers.<sup>111</sup>

### Differences between small business and residential customers

The Energy and Water Ombudsman (Victoria) and Momentum Energy both questioned whether energy supply is an 'essential service' for small business customers in the same way as it is for residential customers (for example, energy disconnection would directly impact the quality of life of residential customers).<sup>112</sup> Several stakeholders stated that small business customers require

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<sup>105</sup> AGL, submission to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

<sup>106</sup> Momentum Energy, submission to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

<sup>107</sup> Energy and Water Ombudsman (Victoria), submission to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

<sup>108</sup> AGL, Australian Energy Council, EnergyAustralia, Energy and Water Ombudsman (Victoria), ERM Power, Next Business Energy, Origin Energy, Powershop, Red Energy and Lumo Energy, and Simply Energy, submissions to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

<sup>109</sup> EnergyAustralia, submission to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

<sup>110</sup> Australian Energy Council, Momentum Energy, Powershop, Red Energy and Lumo Energy, and Simply Energy, submissions to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

<sup>111</sup> Consumer Action Law Centre and Victorian Council of Social Service, submissions to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

<sup>112</sup> Energy and Water Ombudsman (Victoria) and Momentum Energy, submissions to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

different types of support to residential customers and that the payment difficulty framework is not directly translatable to small business customers.<sup>113</sup>

In addition to the different context for residential and small business customers, some retailers outlined some key differences in the way that residential and small business customers use energy. For example, small business customers tend to have different usage patterns, volatile usage, more complex tariff structures and more seasonal variability in usage.<sup>114</sup> The Australian Energy Council and Red and Lumo Energy also suggested that each small business customer will have vastly different experiences due to factors specific to that business and the sector it operates in.<sup>115</sup>

## Final decision

The objective of our temporary reforms is to ensure Victorian small business customers have clarity on the payment assistance they can expect from their retailer if they are experiencing financial stress due to the coronavirus pandemic.

We have sought to align Victoria's retail energy framework with the National Cabinet's agreed principles,<sup>116</sup> as well as the Victorian Minister for Energy, Environment and Climate Change's expectation that energy retailers will give their small business customers access to manageable payment plans.<sup>117</sup> We have also sought to align with the Australian Energy Regulator's statement of expectations of energy businesses during the coronavirus pandemic.<sup>118</sup>

In the below sections we summarise the reason for our final decision to issue a temporary mandatory guideline and the key requirements of the guideline.

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<sup>113</sup> Alinta Energy, Australian Energy Council, ERM Power, Momentum Energy, Origin Energy, Powershop, Red Energy and Lumo Energy, and Simply Energy, submissions to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

<sup>114</sup> Alinta Energy, ERM Power and Powershop, submissions to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

<sup>115</sup> Australian Energy Council and Red Energy and Lumo Energy, submissions to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

<sup>116</sup> The Hon Scott Morrison MP, [Update on coronavirus measures](#), April 2020.

<sup>117</sup> The Hon Lily D'Ambrosio MP, [Know your rights and keep your lights on](#), April 2020.

<sup>118</sup> Australian Energy Regulator, [AER Statement of Expectations of energy businesses: Protecting consumers and the energy market during COVID-19](#), July 2020.

## Our final decision is to issue a temporary mandatory guideline

Given the changing state of the coronavirus pandemic in Victoria, we consider it is important that all Victorian retailers have clear obligations to work with their small business customers on appropriate assistance during the pandemic. We also see benefit from consistent messaging for small business customers on the type of assistance they should expect from their retailer. Further, given the temporary nature of the assistance measures and uncertainty of the coronavirus pandemic, we consider all pandemic-related changes are better placed in a guideline to allow for a more flexible approach that can respond to any changes that may be required whilst also providing regulatory clarity and minimising the need to amend the code for temporary measures.

In our draft decision, we considered that replicating aspects of the payment difficulty framework to apply to small business customers would allow retailers to implement changes rapidly as retailers have existing systems and processes in place to provide assistance to residential customers.

Through consultation on our draft decision, we heard from retailers that existing systems and processes may not be able to easily apply to small business customers. Retailers also suggested that the payment difficulty framework for residential customers may not be appropriate for small business customers because these customers are more likely to require support that is tailored to their individual business circumstances.

At the 9 July 2020 community roundtable hosted by the commission, the Council of Small Business Organisations Australia commented that the voluntary assistance provided by retailers so far has been adequate. The data we have been collecting from retailers on a regular basis during the pandemic also suggests that retailers have been voluntarily assisting their small business customers. As noted earlier in this chapter, retailers have been providing payment assistance to roughly similar proportions of Victorian residential and small business customers.

Considering these factors, our final decision is to issue a temporary mandatory guideline that provides flexibility for retailers to provide payment assistance that is reasonable and takes into account the circumstances of their small business customers.

Our approach aligns with our statutory objective to promote the long-term interests of Victorian consumers, while having regard to the price, quality and reliability of the service<sup>119</sup>, and our objective to promote protections that assist customers who are facing payment difficulty.<sup>120</sup> In particular, we consider the long-term interests of consumers include energy retailers and small

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<sup>119</sup> Section 8, Essential Services Commission Act 2001.

<sup>120</sup> Section 10(c), Electricity Industry Act 2000 and section 18(c), Gas Industry Act 2001.

business customers recognising they share a common interest in working together, to ensure business continuity and facilitate the resumption of normal trading activities at the end of the coronavirus pandemic.

We have considered there are benefits in requiring retailers to provide reasonable assistance to affected small business customers during this time. We have also considered the potential cost of administering temporary regulatory obligations particularly where voluntary forms of assistance are already in place for customers. We also note that small business customers have been provided further support from governments through ongoing support packages, as described in chapter one of this paper. For example, the Victorian Government has announced a \$534 million Business Support Package that builds on top of previously announced relief<sup>121</sup> and the Australian Government has announced that the JobKeeper payment would be extended by six months to 28 March 2021.<sup>122</sup> These extended support packages will reduce the financial risk of retailers when providing affected small businesses with payment assistance.

### **Reasonable assistance for small business customers**

Our mandatory guideline will require retailers to provide reasonable assistance to a small business customer, having regard to the particular circumstances of that small business customer.

We expect our guideline to result in engagement between retailers and small business customers on assistance that takes into account that customer's individual circumstances. If we find evidence that retailers are not providing reasonable assistance to their small business customers, we will consider amending the guideline to provide more prescriptive rules.

The sections below describe the content of our guideline in more detail and the key differences from the draft decision. A copy of the guideline is available at appendix C.

### **Assistance measures in the guideline**

Our guideline outlines a range of measures which may be reasonable in the circumstances. These measures are similar to the forms of assistance we proposed in our draft decision, as follows:

- making payments of an equal amount over a specified period
- options for making payments at different intervals
- extending by a specified period the pay-by date for a bill for at least one billing cycle in any 12-month period

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<sup>121</sup> Mr Tim Pallas MP, [More survival support for Victorian businesses](#), July 2020.

<sup>122</sup> The Hon Scott Morrison MP, [JobKeeper payment and income support extended](#), July 2020.

- payment plans that would result in any arrears of the relevant business customer being fully paid within a period determined by the retailer and clearly set out to the relevant business customer
- practical assistance to help a relevant business customer lower their energy costs including, but not limited to, the tariff that is most likely to minimise the relevant business customer's energy costs, based on the retailer's knowledge of the relevant business customer's pattern of energy use and payment history
- any other assistance that assists small business customers facing financial stress resulting from the coronavirus pandemic (the purpose of the guideline).

While the particular assistance that retailers must provide is not mandated, we expect retailers will determine the assistance that is reasonable for a small business customer, having regard to the circumstances of the customer. We consider that this will provide flexibility for retailers to tailor assistance measures for customers, whilst those forms of assistance set out at clause 4.2 of the guideline may inform what assistance may be reasonable for a small business customer that is experiencing financial stress due to the coronavirus pandemic.

Relative to our draft decision, our guideline also provides less prescription on the types of payment plans that retailers may offer to small business customers. While our guideline allows retailers to determine the length of any payment plan, we note that any payment plan must allow a reasonable length of time for a particular small business to repay any arrears.

In relation to disconnection of small business customers for non-payment, we note that the Energy Retail Code provides that a retailer is unable to disconnect a small business customer for non-payment if it is on a 'payment plan' and adhering to the terms of that plan.<sup>123</sup> We note that a payment plan provided under the guideline will be considered a 'payment plan' for the purpose clause 111(1)(a)(ii) of the Energy Retail Code.

### **Access to assistance under the guideline**

We have clarified that small business customers entitled to assistance under our guideline are those that are experiencing financial stress due to the coronavirus pandemic. This differs to our draft decision, where all small business customers were entitled to assistance under the proposed schedule to the Energy Retail Code. We consider this change to the eligibility criteria for temporary assistance will ensure that only those businesses that are impacted by the pandemic and associated restrictions on business operations will be eligible for this assistance from their retailers.

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<sup>123</sup> Clause 111(1)(a)(ii), Energy Retail Code.

We have decided not to be prescriptive on the definition for ‘financial stress’ for all business types in our guideline, as there is a risk that we too narrowly define financial stress and exclude businesses that require assistance from their retailer. We have instead required small business customers to demonstrate financial stress to their retailer. We expect retailers to consider the particular circumstances of the small business customer and provide assistance that is reasonable.

In the ‘purpose’ section of the guideline, we have outlined our expectation that retailers and small business customers communicate about the assistance that would help the customer meet its energy costs during the coronavirus pandemic. To ensure that small business customers are aware of the assistance they can access under the guideline, we have placed requirements on retailers to provide small business customers with information about the assistance that they may be able to access in the following circumstances:

- when a small business customer contacts the retailer in relation to potential, or actual, difficulty paying for its energy costs
- within a reasonable time prior to disconnecting a premises, the retailer must use its best endeavours to contact a small business that has not paid a bill by its pay-by-date.

Although small business customers are entitled to receive information about the assistance that may be available under the guideline, retailers will be able to determine the assistance that is reasonable to provide to a small business customer – in line with the requirements of the guideline.

### **Alignment with agreed principles for essential services support**

Our final decision continues to align with the Minister’s expectation for energy retailers to provide small business customers with manageable payment plans, as well as the National Cabinet’s agreed principles for essential services support. Our guideline requires that:

- retailers must provide reasonable assistance to a small business customer (having regard to the particular circumstances of that customer), which may include flexible payment options, payment plans or practical assistance to lower the small business customer’s energy costs<sup>124</sup>
- retailers do not commence or continue debt recovery proceedings (or sell or otherwise dispose of the debt) for small businesses receiving assistance under the guideline<sup>125</sup>
- retailers will be unable to disconnect a small business customer for non-payment if the business has a payment plan and adhering to the terms of that plan.<sup>126</sup>

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<sup>124</sup> Guideline: temporary assistance for small business customers during the coronavirus pandemic, clause 4.

<sup>125</sup> Guideline: temporary assistance for small business customers during the coronavirus pandemic, clause 5.

### **Assistance will be temporary and the guideline is due to expire after six months**

The mandatory guideline will take effect on 1 October 2020 and will be due to expire after six calendar months (31 March 2021). In deciding to make these measures temporary, we had regard to the potential costs on energy retailers to provide assistance to affected customers during this time. We note that the expiration of our guideline aligns with the current cessation of the Australian Government's extension of the JobKeeper payment to businesses.

While we expect that the guideline will only be in place for six months, we recognise that the coronavirus pandemic is uncertain and that small business customers may continue to require assistance beyond March 2021. For that reason, we have retained the discretion to extend the operation of the guideline for up to a further six months. As noted earlier, we may also amend the guideline to provide more prescriptive rules if we find that retailers are not providing reasonable assistance to their small business customers.

We also note that retailers would be obligated to continue providing a small business with an agreed payment plan under the guideline until the conclusion of that payment plan (in the event that a payment plan is due to end on a date after the expiration of the guideline).

### **Multi-site customers are excluded from the guideline**

We have considered ERM Power's feedback in relation to multi-site customers and consider that its concerns are valid. We do not consider it necessary that the temporary assistance under the guideline be available to large customers with multiple site groupings. These large customers should be able to negotiate any assistance they require directly with their retailer without any additional regulatory assistance. The guideline is explicit that multi-site customers are excluded from retailers' obligations to provide assistance.

### **Final decision 3: Mandatory guideline on assistance for small business customers**

We will issue a mandatory guideline that will require retailers to provide assistance that is reasonable to a small business customer that is experiencing financial stress due to the coronavirus pandemic. The guideline will be in effect for six calendar months from the commencement date of 1 October 2020.

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<sup>126</sup> Clause 111(1)(a)(ii), Energy Retail Code.

Additionally, it should be noted that as per current Energy Retail Code requirements, small business customers adhering to a payment plan cannot be disconnected for non-payment.

## 4. Supporting the implementation of the network relief package

Through our consultation with stakeholders, we sought views on the initial network relief package being voluntarily provided by electricity and gas distributors in Victoria until the end of June 2020. Given the Australian Energy Market Commission's consultation on a national rule change (that will not apply in Victoria) to mandate network relief measures for the rest of 2020, we sought to understand stakeholder views on the most appropriate course of action in Victoria.

Since 1 August 2020 and the publication of our draft decision, Victorian electricity distributors have implemented a further support package that delivers the intent of the Australian Energy Market Commission's final rule change. We welcome this approach and will be closely monitoring the implementation and effectiveness of the support package.

### Our draft decision position

In our draft decision, we set out the network relief package that was being voluntarily provided by electricity and gas distributors in Victoria. We also summarised proposed ongoing network relief that was being considered at the national level. We sought stakeholder views on what network relief support should be considered for Victoria.

At the outset of the coronavirus pandemic, Energy Networks Australia and Victorian distributors released network relief packages to support retailers between April and June 2020. Generally, the packages allowed retailers to defer certain customer network debt for three months or waive other network costs.

As noted in our draft decision, on 28 May 2020, the Australian Energy Market Commission commenced an urgent rule change process to allow retailers to defer paying network charges incurred between 1 July 2020 and 31 December 2020 for up six months.<sup>127</sup> The final rule change commenced on 6 August 2020 (see appendix E).<sup>128</sup>

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<sup>127</sup> Australian Energy Regulator, [Request for rule change – extension of time for retailers to pay networks](#), May 2020.

<sup>128</sup> Australian Energy Market Commission, [Rule determination: national electricity amendment \(deferral of network charges\) rule 2020](#), August 2020.

The new network relief package rules do not apply in Victoria, as Victoria is not part of the National Energy Customer Framework.

## Stakeholder views

On 8 July 2020, we held a stakeholder workshop where we heard stakeholders' initial views on the current network relief package, and whether they thought any further network relief was needed in Victoria.<sup>129</sup>

We also received 20 submissions to our consultation, 13 of which commented on network relief. These submissions were from consumer organisations, energy retailers, distributors and industry bodies.<sup>130</sup> Below we summarise the main themes we heard from stakeholder feedback.

### Current package

Retailers generally appreciated that they were receiving some relief, but some considered the customer eligibility criteria too narrow which meant that relief was not provided to all customers affected by the pandemic.<sup>131</sup> For example, Powershop noted that it has many customers seeking support that are still operating, but on reduced cashflows, that were not eligible under the network package criteria.<sup>132</sup> ERM Power considered that large customers, which are excluded from the criteria, should receive some benefits as they contribute significantly to Victoria's economy and employment.<sup>133</sup>

AGL highlighted that although the package was intended to provide a direct benefit to retailers, in practice the short-term relief had been minimal, and the package did not address bad and doubtful debt risk which is the main concern retailers have.<sup>134</sup> Other retailers also agreed that as a result of

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<sup>129</sup> Essential Services Commission, [Supporting the implementation of the network relief package – summary of discussion at stakeholder workshop](#), July 2020.

<sup>130</sup> Submissions are available on our [website](#).

<sup>131</sup> Essential Services Commission, [Supporting the implementation of the network relief package – summary of discussion at stakeholder workshop](#), July 2020.

<sup>132</sup> Powershop, submission to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

<sup>133</sup> ERM Power, submission to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

<sup>134</sup> AGL, submission to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

the narrow eligibility criteria, the package overall had delivered little to moderate benefit to customers.<sup>135</sup>

In contrast, distributors said the package has largely worked as intended.<sup>136</sup> They noted the intent of the network relief package was to target small businesses going into hibernation, and support retailers through relieving the cash-flow pressure from customers not paying their energy bills. Distributors suggested that while retailers may not have seen the non-payment rates that were expected, this would likely change as government support is wound back. Distributors acknowledged there were some early implementation problems but said these have been resolved.

Since the commencement of the initial voluntary package in Victoria, we have been monitoring the take up of the network relief package for residential and small business customers. Figures 3 and 4 show that the initial relief package has accounted for approximately eight to 18 per cent of residential and small business customer arrears during April to June.

### Our analysis of the network relief package to date

Comparing data gathered from distributors with information from retailers, we see that network charge deferrals accounted for around nine per cent of total residential arrears in April, 10 per cent in May and eight per cent in June.

Month	Total amount of network relief in Victoria	total retailer arrears from residential customers receiving tailored assistance in Victoria	Proportion of network relief to arrears
April 2020	\$3,239,756	\$35,065,254	9%
May 2020	\$3,340,520	\$32,522,284	10%
June 2020	\$3,090,558	\$37,537,777	8%

Figure 3 Residential support - network charge relief provided by distributors, compared to retailer tailored assistance arrears. Source: Victorian electricity distributor data provided on request, and retailer data provided via regular reporting

<sup>135</sup> EnergyAustralia, Origin, Powershop, Red Energy and Lumo Energy, and Simply Energy, submissions to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020

<sup>136</sup> Victorian electricity distribution businesses, submission to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

The network package accounted for 16 per cent of the total small business support that has been provided by retailers in April, 18 per cent in May and 12 per cent in June. It should be noted that these figures just represent the proportion of network charges being written off, though retailers have also been offering a variety of additional support to small businesses including payment deferrals, payment arrangements and write-offs.

Month	Network charges written-off for small business by Victorian distributors	Total support for small businesses by Victorian retailers	Proportion of write-off to total support
April 2020	\$468,933	\$2,915,452	16%
May 2020	\$549,932	\$2,987,230	18%
June 2020	\$402,481	\$3,468,324	12%

Figure 4 Small business support - network charge write-off provided by distributors, compared to total support provided by retailers. Source: Victorian electricity distributor data provided on request, and retailer data provided via regular reporting

## Future support

All stakeholders supported a further relief package being provided in Victoria. However, consumer groups cautioned the long-term cost of any future package, which will ultimately be paid for by all customers.<sup>137</sup> They considered that end customers should be the focus of any future support provided to retailers.

There was broad support, both from distributors and retailers, for any future package to be provided on a voluntary basis.<sup>138</sup> The Energy and Water Ombudsman (Victoria) agreed that as long as the voluntary packages are constructive and provide positive outcomes for customers, there is no need for the commission to intervene at this time.<sup>139</sup>

Some stakeholders considered that any future package should at least meet the intent of the Australian Energy Market Commission’s proposed rule change, to provide jurisdictional

<sup>137</sup> Consumer Action Law Centre and Victorian Council of Social Services, submissions to ‘supporting energy customers through the coronavirus pandemic’ draft decision, July 2020.

<sup>138</sup> Essential Services Commission, [Supporting the implementation of the network relief package – summary of discussion at stakeholder workshop](#), July 2020.

<sup>139</sup> Energy and Water Ombudsman (Victoria), submission to ‘supporting energy customers through the coronavirus pandemic’ draft decision, July 2020.

consistency and make implementation simpler.<sup>140</sup> However, some retailers suggested that any future relief package should go further than the initial support provided. For example, several retailers suggested the customer eligibility criteria should be broadened to capture more customers in need of support.<sup>141</sup> AGL, Origin Energy, and Red Energy and Lumo Energy considered that any future package should provide more medium to longer term support to retailers, to help alleviate more serious financial risks that retailers are facing during the pandemic.<sup>142</sup>

Energy Networks Australia and distributors raised concerns about the appropriateness of networks taking on additional credit risk from retailers.<sup>143</sup> In particular, distributors noted that their funding under the regulatory framework does not account for them carrying additional financial risk from retailers. Energy Networks Australia and distributors also highlighted that government policies have been specifically designed so that retailers and distributors carry certain risks (particularly with credit support arrangements and retailer of last resort arrangements).<sup>144</sup>

## Our final position

We recognise the voluntary support packages provided by Victorian distributors to retailers. Victorian electricity distributors are providing a further support package that gives effect to the intent of the Australian Energy Market Commission's proposed rule change.

On 28 July 2020, we received a letter from the Victorian electricity distributors detailing their voluntary support package (appendix E). We consider the package meets the intent of the Australian Energy Market Commission's proposed rule change (see appendix E for more detail). Further, the package will be formalised through bilateral agreements between the distributors and retailer. If a dispute does arise between the two parties the bilateral agreement will use the current dispute mechanism under the Use of System Agreements. The Victorian voluntary support package commenced on 1 August 2020.

The new package is designed to help small retailers that are providing assistance to residential and small business customers affected by the coronavirus pandemic. We expect retailers to take

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<sup>140</sup> Energy Australia, Energy Water Ombudsman (Victoria), Powershop, Red Energy and Lumo Energy, and Simply Energy, submissions to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

<sup>141</sup> AGL, ERM Power, Energy Water Ombudsman (Victoria), and Simply Energy, submissions to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

<sup>142</sup> AGL, Origin Energy, and Red Energy and Lumo Energy, submissions to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

<sup>143</sup> Energy Networks Australia and Victorian electricity distribution businesses, submissions to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

<sup>144</sup> Ibid.

into account the support they are receiving from distributors when determining the assistance they offer to their customers.

We are also aware that Victorian gas distributors have extended their initial network relief package.<sup>145</sup> Gas distributors are still offering three-month deferrals for network charges, however this is being restricted to small retailers in Victoria.<sup>146</sup> The package consists of:

- Australian Gas Infrastructure Group – deferral of payment for 20 per cent of network charges for small retailers
- AusNet Services:
  - deferral of network charges for eligible small business customers of small retailers, and
  - deferral of payment for 20 per cent of residential network charges for small businesses.

Both gas distributors are also continuing to waive charges for disconnection and reconnection for small businesses going into or ending hibernation.

We welcome these approaches and will be closely monitoring the effectiveness of these arrangements. As committed by distributors, we will be receiving monthly reporting on the implementation of the support as committed to by Victorian electricity and gas distributors, and we will publish relevant information throughout the length of the package. As the package has been voluntary offered by distributors, we also would not expect that the direct cost of the package would be passed onto all Victorian consumers. We will also consider further regulatory interventions if we consider the package is not delivering effective outcomes.

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<sup>145</sup> Joint letter from AusNet Services and Australian Gas Infrastructure Group, received on 3 July 2020 (see appendix E).

<sup>146</sup> The gas distributors have defined small retailers as any retailer other than AGL Energy, Alinta Energy, Energy Australia, ERM Power, Lumo Energy, Momentum Energy, Origin Energy, Red Energy, Simply Energy, Stanwell Corporation and any of their respective affiliates.

## 5. Amending the Energy Retail Code

In Victoria, energy retailers are required to comply with the code as a condition of their energy licence.<sup>147</sup>

To give effect to the proposals outlined in this final decision, we will publish a new guideline and make changes to the Energy Retail Code. This chapter summarises the amendments we are making.

### **Supporting customer access to utility relief grants**

We will issue a mandatory guideline under section 44 of the Electricity Industry Act and section 48H of the Gas Industry Act that will require retailers to complete utility relief grant application forms over the phone with a customer and lodge the form online where the customer consents to this.

The guideline is provided in appendix B.

### **Extending entitlements to tariff checks**

We will insert a subclause into clause 79 of the Energy Retail Code to give effect to the requirement that retailers offer tariff checks to customers receiving tailored assistance who can still pay the full cost of their ongoing energy use.

The final code amendments are provided in appendix A.

### **Measures to support small business customers**

We will issue a mandatory guideline that must be complied with by a licensee as a condition of its licence, which will give effect to our proposals for small business customer support.

The guideline is provided in appendix C.

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<sup>147</sup> Section 20(2) of the Electricity Industry Act 2000 and section 28(2) of the Gas Industry Act 2001 set out the licence conditions requiring energy retailers to comply with the Energy Retail Code. Retailers are also required, as a condition of their licence, to comply with guidelines issued by the commission expressed as being ones with which a licence must comply.

## 6. Next steps

### Commencement of new requirements

#### Draft decision proposal

In our draft decision, we outlined the importance of the short-term reforms being implemented as soon as possible to provide immediate support for customers. With that in mind, we undertook an expedited consultation process and proposed that a final decision would be published by late August 2020.

We stated that the new utility relief guideline, rules around tariff checks for residential customers on tailored assistance and minimum protections for small business customers would commence on 1 October 2020.

We proposed that this initial package of reforms would last for six calendar months from the commencement date (other than the utility relief grant guideline, which would be enduring). However, the commission would have discretion to extend this timeframe if required – for example, if government-enforced shutdowns were still in effect and significantly impacting the operation of small businesses.

#### Stakeholder feedback

In relation to the commencement date of the new requirements, Alinta Energy and EnergyAustralia specifically commented on the commencement of the small business requirements and suggested that it would be difficult and resource intensive to implement the draft decision proposals by 1 October 2020.<sup>148</sup> Powershop suggested that a further round of consultation on all rule changes in the draft decision is required – due to material unresolved issues that were raised in the commission's three stakeholder workshops in July 2020.<sup>149</sup>

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<sup>148</sup> Alinta Energy and EnergyAustralia, submissions to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

<sup>149</sup> Powershop, submission to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

In relation to any extension of the six-month temporary reforms, the Australian Energy Council and Red Energy and Lumo Energy asked the commission to clearly state that it would only extend the six-month period following consultation and a cost-benefit analysis of their impact.<sup>150</sup>

## **Final decision**

### **The new requirements will commence on 1 October 2020**

We are mindful that residential and small business customers are already being adversely affected by the coronavirus pandemic, and we continue to consider it is important that short-term reforms to provide immediate support to customers are implemented as soon as possible.

As described in chapter three, we have responded to retailer feedback that it would not be simple to apply existing systems and processes for the payment difficulty framework to also provide assistance for small business customers. We consider that our final decision for small business customer assistance addresses retailer feedback and will not require retailers to make significant system changes.

In relation to the request for further consultation, we note that we sought to provide stakeholders with as much opportunity to contribute to this process as possible within the expedited consultation process. Specifically, we held separate stakeholder workshops on the three different policy areas and offered to meet individually with any stakeholder that requested to do so. In developing our final decision, we have closely considered stakeholder feedback from the workshops, one-on-one meetings and written submissions. We do not consider there are outstanding issues that would justify delaying providing support to customers adversely affected by the coronavirus pandemic.

### **The commission will retain discretion to extend the reforms beyond six months**

We have decided to retain discretion to extend the short-term reforms beyond six months. As outlined in our draft decision, a reason we may decide to extend the temporary assistance is if government-enforced shutdowns were still in effect and significantly impacting the operation of small businesses. We are mindful that the effects of the coronavirus pandemic in Victoria are uncertain and that it is difficult to predict how the pandemic will be affecting Victorians at the time our short-term reforms are due to expire. We consider it is appropriate to maintain flexibility to respond to the situation in six months' time if we consider it is necessary.

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<sup>150</sup> Australian Energy Council and Red Energy and Lumo Energy, submissions to 'supporting energy customers through the coronavirus pandemic' draft decision, July 2020.

Next steps

While we have not set out the criteria we will apply when considering an extension of any of the short-term reforms, this does not mean we would not consult with the industry on any extension if we consider that it is necessary to do so at that time. We also commit to providing stakeholders with any decision to extend the guideline well in advance of 31 March 2021.

#### **Final decision 4: Commencement date of new requirements**

From 1 October 2020, the new utility relief grant and small business assistance guidelines and rules around tariff checks for residential customers on tailored assistance will commence.

These new requirements will last for six calendar months from the commencement date (other than the utility relief grant guideline, which will be enduring).

### **Monitoring outcomes from the new framework**

At the start of the coronavirus pandemic in Victoria, the commission sent voluntary data requests to retailers to monitor the number of energy customers on payment plans and number of customers enquiring about assistance. To date, retailers have been reporting data on a weekly basis and this data is not being audited by the commission. The data we have requested from retailers is a small subset of the measures included in the commission's annual performance report.

We will continue to collect this data in the short-term, and regularly evaluate the need for this important data as the pandemic continues. We are also committed to publishing our observations on this data on a regular basis.

Next steps

# Appendix A: Final Energy Retail Code amendments

## FINAL AMENDMENTS TO THE ENERGY RETAIL CODE:

### Temporary assistance for residential customers experiencing payment difficulty as a result of the coronavirus pandemic

August 2020

Amendments made by the Essential Services Commission on 24/08/2020

#### 1 Nature and commencement of this instrument

- (1) This instrument amends the *Energy Retail Code*.
- (2) This instrument comes into operation on 1 October 2020.

#### 2 Table of amendments

##### (1) In clause 3 (definitions), insert:

***coronavirus obligation end date*** means 1 April 2021, or a or a later date published pursuant to clause 79(2AA);

***coronavirus obligation period*** means the period commencing on 1 October 2020 and ending on the day prior to the *coronavirus obligation end date*.

##### (2) After subclause 79(2), insert:

(2A) During the *coronavirus obligation period*, a *residential customer* is also entitled, at the very least, to the assistance mentioned in subclause 79(1)(e)(i), while continuing to pay the full cost of their on-going *energy use*.

(2AA) The *coronavirus obligation period* ends on the *coronavirus obligation end date* which may be extended by the *Commission* to a date not later than 30 September 2021 by the publication of a prominent statement on its website to that effect.

# Appendix B: Guideline: supporting utility relief grant applications

## 1. Purpose of this guideline

- 1.1. The Energy Retail Code contemplates that energy retail licensees (retailers) will ensure that information in relation to the utility relief grant is readily available to residential customers, and requires retailers to provide specific advice about the Utility Relief Grant Scheme to residential customers who are in arrears.
- 1.2. The purpose of this guideline is to outline for retailers and Victorian energy customers the support that retailers must provide in relation to the lodgement of utility relief grant applications. This guideline recognises that financial hardship may be suffered by residential customers and promotes best practice in energy service delivery to facilitate continuity of supply.
- 1.3. This guideline is made under section 44 of the Electricity Industry Act 2000 and section 48H of the Gas Industry Act 2001 and takes effect from 1 October 2020. A retailer must comply with this guideline as a condition of their licence.

## 2. The Utility Relief Grant Scheme

- 2.1. The Utility Relief Grant Scheme provides help to customers to pay a mains electricity, gas or water bill that is overdue due to a temporary financial crisis. The Utility Relief Grant Scheme is administered by the Victorian Department of Health and Human Services (DHHS).
- 2.2. Eligible customers can apply for a grant through their retailer. Once the application form is completed, it must be lodged with the DHHS for assessment. If a grant is approved, it is paid directly to the retailer who will credit that amount to the customer's account.

## 3. Retailer obligations to support customer applications

- 3.1. Retailers are required to support customers in completing and submitting utility relief grant applications.
- 3.2. Retailers must assist customers to fill out the online application form over the phone and lodge the form online on behalf of the customer, unless the customer requests otherwise.

- 3.3. If the retailer is unable to complete and lodge a utility relief grant application form over the phone (for example, because a customer requests otherwise or supplementary documentation is required), the retailer must provide reasonable assistance to the customer, having regard to the customer's particular needs, to understand the application process.
- 3.4. This may include:
- (a) completing the online application form (to the extent possible) over the phone with the customer and sending the customer the partially completed form with instructions on how to complete the remainder of the form;
  - (b) explaining to the customer what further documentation they are required to provide (e.g. copies of payslips, receipts or a statutory declaration);
  - (c) informing the customer that they can lodge the application, with copies of the required documentation, by:
    - (i) the customer emailing the application to the appropriate DHHS email address;
    - (ii) the customer posting the application to the appropriate DHHS postal address; or
    - (iii) emailing or posting the application back to the retailer, at a specified email or postal address, for the retailer to send documentation to DHHS on the customer's behalf;
  - (d) following up with the customer at a later date to offer any further assistance required.

# Appendix C: Guideline: temporary assistance for small business customers during the coronavirus pandemic

## 1. Purpose

- 1.1. An objective of the commission pursuant to section 10 of the Electricity Industry Act 2000 and section 18 of the Gas Industry Act 2001 is to promote protections for customers, including in relation to assisting customers who are facing payment difficulties.
- 1.2. The purpose of this guideline is to provide assistance to Victorian small business customers experiencing financial stress attributable to the coronavirus pandemic. During this unprecedented time, engagement between retailers and small business customers is required to ensure reasonable assistance to meet energy costs is being provided. This guideline requires this engagement but does not mandate the specific form of assistance that must be offered; flexibility is preserved so that the particular circumstances of a customer can be taken into account.
- 1.3. For the purpose of this guideline a retailer means a person who holds a retail licence under the Electricity Industry Act or the Gas Industry Act. This is a guideline that a retailer must comply with as a condition of its licence.
- 1.4. The guideline takes effect from 1 October 2020 and will cease to have effect on 31 March 2021 (unless the operation of the guideline is extended pursuant to paragraph 6.1 of this guideline).

## 2. A relevant business customer

- 2.1. This guideline sets out the support a retailer must provide to a relevant business customer.
- 2.2. For the purpose of this guideline:
  - (a) a business customer has the same meaning as in clause 3 of the Energy Retail Code;
  - (b) a relevant business customer is a business customer who is experiencing financial stress attributable to the coronavirus pandemic.
- 2.3. A relevant business customer is not a customer that has entered a market retail contract in respect of more than one premises; and

- (a) the customer is or would be a small customer (within the meaning of that term as set out in section 3 of the Energy Retail Code) in relation to at least one of those premises; and
- (b) the aggregate of the actual or estimated annual consumption level of the relevant premises is higher than:
  - (i) in the case of electricity – the upper consumption threshold provided for in an Order made under section 35(5) of the Electricity Industry Act;
  - (ii) in the case of gas – the upper consumption threshold provided for in an Order made under section 42(5) of the Gas Industry Act.

### **3. Information about assistance available**

- 3.1. A retailer who is contacted by a business customer regarding, or in connection with, potential or actual difficulty paying for its energy costs must provide that business customer with information about assistance that may be available under this guideline and how it can be accessed.
- 3.2. A retailer must use its best endeavours to contact a business customer who has not paid a bill by its pay-by-date within a reasonable time prior to any de-energisation of the premises occurring and provide the business customer with information about the assistance that may be available under this guideline and how it can be accessed.

### **4. Assistance for relevant business customers**

- 4.1. A retailer must provide, to a relevant business customer, assistance that is reasonable having regard to the particular circumstances of the relevant business customer.
- 4.2. Assistance provided pursuant to clause 4.1 may include:
  - (a) making payments of an equal amount over a specified period;
  - (b) options for making payments at different intervals;
  - (c) extending by a specified period the pay-by date for a bill for at least one billing cycle in any 12 month period;
  - (d) payment plans that would result in any arrears of the relevant business customer being fully paid within a period determined by the retailer and clearly set out to the relevant business customer;
  - (e) practical assistance to help a relevant business customer lower their energy costs including, but not limited to, the tariff that is most likely to minimise the relevant business customer's energy costs, based on the retailer's knowledge of the relevant business customer's pattern of energy use and payment history;
  - (f) any other assistance consistent with the purpose of this guideline.

- 4.3. If the retailer provides a relevant business customer with a payment plan, the retailer must provide the relevant business customer with information on the terms of the payment plan; such as the frequency of payments, date by which payments must be made, and the period over which the payments are to be made.
- 4.4. If the retailer provides a relevant business customer with a payment plan pursuant to clause 4.1 of this guideline, that shall be treated as a payment plan for the purpose of clause 111(1)(a)(ii) of the Energy Retail Code.
- 4.5. A retailer can cease providing assistance to a relevant business customer under this guideline if:
- (a) after the retailer has provided assistance, the business customer has refused or failed to take reasonable action towards paying for their on-going energy use and repaying their arrears; or
  - (b) the period of any payment plan provided to a business customer has ended.
- 4.6. If a retailer has provided a relevant business customer with a payment plan, the retailer must continue to provide the payment plan beyond the end date of this guideline (31 March 2021, or any extension of that end date) if the payment plan period ends after the end date of this guideline.

## **5. Debt**

- 5.1. A retailer must not commence or continue with proceedings for the recovery of arrears from a relevant business customer who is receiving assistance under this guideline.
- 5.2. A retailer must not sell or otherwise dispose of the debt of a relevant business customer who is in arrears:
- (a) at any time while the business customer is receiving assistance under this guideline; or
  - (b) within 10 business days after the business customer has been disconnected from their energy supply under Part 6 of the Energy Retail Code
- 5.3. Nothing in this guideline prevents a retailer from waiving any fee, charge or amount of arrears for a relevant business customer.

## **6. Extension of operation of guideline**

- 6.1. Prior to 31 March 2021, if it considers that it is appropriate for the assistance in this guideline to continue, the Commission may extend the operation of this guideline to a date not later than 30 September 2021.

- 6.2. If it makes a decision pursuant to paragraph 6.1, the Commission must publish a prominent statement on its website to that effect.

## Appendix D: Data on energy customers during the coronavirus pandemic

### About the data

During the week ending 26 July 2020, we received submissions from 15 retailers covering 92 per cent of electricity residential customers in Victoria. The observations in the below table relate to the data provided by retailers up to 26 July 2020. We are collecting a small subset of the data that is included in our annual performance report.

Data is reported weekly by retailers on a voluntary basis and is not audited by the commission. This data does not yet allow us to draw specific conclusions about the effect of the coronavirus pandemic. We note that some of these figures can change over time as retailers submit updated data – this can impact comparisons to other time periods.

## Victorian-wide data summary<sup>151</sup>

Indicator	Electricity				Gas			
	Week ending 26 Apr	Week ending 31 May	Week ending 28 Jun	Week ending 26 Jul	Week ending 26 Apr	Week ending 31 May	Week ending 28 Jun	Week ending 26 Jul
<b>Residential customers – assistance and arrears</b>								
Number and proportion of Victorian customers receiving tailored assistance – who can pay on-going usage	31,911 1.2%	30,921 1.2%	30,174 1.1%	30,974 1.2%	22,125 1.1%	20,542 1.0%	20,819 1.0%	22,918 1.1%
Number and proportion of Victorian customers receiving tailored assistance – who cannot pay on-going usage	21,017 0.8%	19,268 0.7%	17,997 0.7%	16,861 0.6%	15,606 0.8%	14,108 0.7%	13,181 0.6%	12,964 0.6%
Average arrears – customers receiving payment assistance, and can pay on-going usage	\$618	\$652	\$636	\$648	\$498	\$489	\$471	\$490
Average arrears – customers receiving payment assistance, and cannot pay on-going usage	\$1,385	\$1,547	\$1,533	\$1,506	\$1,092	\$1,141	\$1,141	\$1,166
<b>Small business customers – assistance and arrears</b>								
Number and proportion of Victorian customers receiving payment assistance	2,471 0.9%	2,618 0.9%	2,614 0.9%	2,414 0.9%	696 1.1%	687 1.1%	700 1.1%	741 1.2%
Average arrears – customers receiving payment assistance	\$1,180	\$1,141	\$1,327	\$1,413	\$1,139	\$1,436	\$1,648	\$1,486

<sup>151</sup> These figures can change over time as retailers submit updated data. Some weeks have missing data from retailers. This can impact monthly totals as well as comparisons to other time periods. Note that average arrears are calculated by estimating total arrears divided by the number of customers receiving assistance across the market (reported data only).

Indicator	Electricity				Gas			
	Week ending 26 Apr	Week ending 31 May	Week ending 28 Jun	Week ending 26 Jul	Week ending 26 Apr	Week ending 31 May	Week ending 28 Jun	Week ending 26 Jul
<b>Customers who deferred payments</b>								
Number of residential customers	-	-	8,577	8,729	-	-	7,072	7,506
Average amount deferred by residential customers	-	-	\$610	\$620	-	-	\$442	\$486
Number of small business customers	-	-	2,310	2,264	-	-	908	933
Average amount deferred by small business customers	-	-	\$2,461	\$2,590	-	-	\$1,623	\$1,813

Indicator	Electricity				Gas			
	April (30 Mar to 26 Apr)	May (27 Apr to 31 May)	June (01 Jun to 28 Jun)	July (29 Jun to 26 Jul)	April (30 Mar to 26 Apr)	May (27 Apr to 31 May)	June (01 Jun to 28 Jun)	July (29 Jun to 26 Jul)
<b>Calls waiting times</b>								
Average call waiting time – <i>totals for both electricity and gas</i> (seconds)	111	75	90	52	<i>Refer to electricity</i>	<i>Refer to electricity</i>	<i>Refer to electricity</i>	<i>Refer to electricity</i>
<b>Calls and enquiries</b> (market-wide) <sup>152</sup>								
Weekly average phone calls to retailers (calls to an	84,766	93,085	98,660	93,526	<i>Refer to</i>	<i>Refer to</i>	<i>Refer to</i>	<i>Refer to</i>

<sup>152</sup> The number of customers seeking assistance have been revised due to a retailer updating the methodology to produce the figures for this indicator.

Indicator	Electricity				Gas			
	April (30 Mar to 26 Apr)	May (27 Apr to 31 May)	June (01 Jun to 28 Jun)	July (29 Jun to 26 Jul)	April (30 Mar to 26 Apr)	May (27 Apr to 31 May)	June (01 Jun to 28 Jun)	July (29 Jun to 26 Jul)
operator) – totals for both electricity and gas					<i>electricity</i>	<i>electricity</i>	<i>electricity</i>	<i>electricity</i>
Weekly average residential customer calls seeking assistance	6,298	7,134	5,715	5,112	4,064	4,656	4,204	3,912
Weekly average small business customer calls seeking assistance	1,738	2,332	1,371	620	265	257	189	121
<b>Missed bills</b> (market-wide)								
Weekly average residential customers who missed bills	38,535	42,344	45,827	42,510	27,432	27,423	31,655	30,088
Weekly average small business customers who missed bills	8,192	9,436	8,164	8,332	1,876	1,874	1,703	1,739

## Appendix E: Details of network relief packages

Elements of package	Previous voluntary package from distributors	Australian Energy Market Commission's new rule	Current voluntary package from distributors
<b>Active period</b>	1 April 2020 – 30 June 2020 (extended to 31 July 2020)	6 August 2020 – 6 February 2021	1 August 2020 – 31 January 2021
<b>Eligible retailers</b>	All retailers	All retailers, except for retailers of last resort and government-owned or partially owned retailers	All retailers, except for retailers of last resort, directly or indirectly government-owned retailers and known affiliates.
<b>Eligibility criteria to receive network charge deferrals</b>	<p>Network charges can be deferred for:</p> <ul style="list-style-type: none"> <li>residential customers receiving payment assistance, who started from 1 April 2020 (and were with their retailer prior)</li> <li>small business customers who had a 75% consumption reduction.</li> </ul> <p>Network charges were automatically deferred for small retailers on 20% of residential customers.</p>	<p>Network charges can be deferred for residential or small business customers who are receiving payment assistance.</p> <p>No requirement for automatic deferrals.</p>	<p>Network charges can be deferred for residential and small business customers on a COVID-19 arrangement, payment plan, hardship arrangement, deferral debt arrangement (including those who entered into those arrangements prior to 1 March)</p> <p>Small business debt will no longer be written off.</p>

<b>Interest on network charge deferrals</b>	No interest applied	3 per cent per annum applied	No interest applied
<b>Length of deferral</b>	No more than 3 months	No more than 6 months	No more than 6 months
<b>Transmission network charges</b>	Unknown	Where a network charge has been deferred, transmission charges to be deferred	Where a network charge has been deferred, transmission charges to be deferred
<b>Negotiation between retailers</b>	Instigated by distributors and negotiated within a week	Must negotiate and agree within one week of the final rule being made	Instigated by distributors and negotiated within a week
<b>Declaration of payments</b>	No requirement	Retailers to write a statutory declaration alongside payment deferral request to a distributor, that the request is in accordance with final rule	Retailers to write a statutory declaration alongside payment deferral request to a distributor, that the request is in accordance with the package
<b>Disconnection/reconnection fees</b>	Fees are waived	No comment	Fees are waived
<b>Agreement</b>	Acceptance response via letter	Rely on form of agreements used for the voluntary package rather than prescribe anything	Acceptance response via letter

## Letter from Victorian electricity distributors to the commission, 8 May 2020



8 May 2020

Ms Kate Symons  
Chairperson  
Essential Services Commission  
Level 37, 2 Lonsdale Street  
Melbourne VIC 3000

Dear Ms Symons

### **Re: Enhancing the network relief to our electricity customers and retailers impacted by COVID-19**

CitiPower, Powercor, United Energy, AusNet Services and Jemena are pleased to advise that we are enhancing our existing network tariff relief package to support our residential and small business customers, as well as ensuring the viability of small electricity retailers, during the COVID-19 pandemic.

Following extensive engagement, this complete package has been agreed with most retailers who are eligible to participate in the relief package and have chosen to do so. It represents a pragmatic, targeted and timely response to the immediate challenges that our industry is facing. For April, May and June 2020, our voluntary commitments that we have made to support our customers and industry include:

- write-off of network charges for eligible residential customers of small retailers, and small business customers;
- deferral of payment of 20% of residential network charges for all small retailers until September 2020; and
- deferral of payment of network tariffs for eligible residential customers of large retailers until September 2020.

We are also waiving charges for disconnection and reconnection for businesses going into hibernation.

Details of the package implementation are provided in Appendix A. This package also goes further than the announced Energy Networks Australia (ENA) package in its support of small retailers. It demonstrates that voluntary packages provide more targeted and timely solutions and can be modified relatively simply through mutual agreement as the situation unfolds.

The economic effects of the crisis are at an early stage and the industry response should be and will be regularly reassessed in consultation with other industry participants and the Essential Services Commission (ESCV).

### **AER proposal**

The Australian Energy Regulator (AER) has lodged a rule change request with the Australian Energy Market Commission (AEMC) which proposes to provide all retailers with a six-month deferral in paying network tariff invoices for customers who are in financial stress as a result of the COVID-19 pandemic. It applies in circumstances where the retail customer has entered into hardship or payment plan or deferred debt arrangement with their retailer. The proposal is structured around quarterly network tariff invoices – i.e. applies to invoices issued from 1 July 2020 to 31 December 2020, which they assume covers tariffs for the April to June 2020 quarter.

Appendices

The six month deferral for eligible customer charges would apply instead of the current 10 day required payment period under Chapter 6B of the National Electricity Rules (NER). The AER rule change will not apply in Victoria.

**Our voluntary commitment will deliver better outcomes for our customers and the industry**

Our complete package, which we have entered into voluntarily and have agreed with industry, delivers the outcomes the AER is seeking to achieve through its recent proposed rule change but also is more pragmatic and less cumbersome. For example:

- we will write-off some network charges, whereas the AER proposal only relates to deferral;
- we are providing a straight 20% deferral for payment of residential network charges for small retailers, in contrast to the AER's proposed rule change which only applies to certain impacted customers and as a result will be difficult for retailers to administer;
- the AER proposal is structured around quarterly network tariff invoices – i.e. applies to invoices issued from 1 July 2020 to 31 December 2020, which they assume covers tariffs for the April to June 2020 quarter. Our billing cycle is monthly; and
- the AEMC will take around eight weeks to assess and finalise the rule change request, following consultation with stakeholders. We have already undertaken extensive engagement with retailers and implemented our commitment.

In light of this, should the AER rule change be successful, we consider that the intent of the proposed rule change could be given effect in Victoria on a voluntary basis. This would avoid the need for ESCV to amend our default Use of Service Agreement (UoSA), issue a direction or impose a new regulation. We note the existing retail payment terms in Chapter 6B of the NER mirror those contained in our default UoSA with retailers.

We welcome the ability to engage with the ESCV on this proposal.

Should the ESCV have any queries regarding this letter, please contact Renate Vogt, General Manager Regulation at CitiPower, Powercor and United Energy on [REDACTED]

Yours sincerely,



-----  
Timothy Rourke  
Chief Executive Officer  
CitiPower, Powercor,  
United Energy



-----  
Frank Tudor  
Managing Director  
Jemena



-----  
Tony Narvaez  
Managing Director  
AusNet Services

## APPENDIX A

### A1. How we are helping small business customers

We have previously announced that network charges will not be charged to small business customers experiencing financial stress and who have temporarily ceased trading as a result of COVID-19.

The network charges will not be charged to eligible small business customers (i.e. those who consume less than 40MWhr per annum) for the period of 1 April to 30 June 2020. Eligible customers are those who have reduced their consumption to less than 25 percent of historical average consumption for the period.

We will issue credits for the network charges of eligible customers to the monthly invoice of all retailers. We will not pursue or expect payment, but instead we will cancel, and write-off, these network charges on a monthly basis.

Network charges cover transmission, distribution, metering and jurisdictional charges. AusNet Transmission will accept the transmission component of any written-off or deferred network charges.

We will no longer require the retailer to provide supporting evidence by 1 September 2020. Rather, we will issue a list of all eligible small business customers, by National Metering Identifier (NMI), to the retailers each month.

### A2. Supporting residential customers and small electricity retailers

We have previously announced that network charges will not be charged to residential customers of small retailers that go in to default as a result of COVID-19. We will provide relief for residential customers who are in payment default/arrears, where this was not the case as at 1 March 2020. The eligible customers are those who:

- are existing customers with retailers (excluding large retailers) as at 1 April 2020;
- are receiving relevant government benefits as from 1 April 2020 (and were not before 1 March 2020); and
- are currently on a residential tariff.

Our initial announcement involved the small retailer paying the usual monthly invoice. Small retailers would maintain a list of eligible customers each month and raise a claim for the total rebate prior to 1 September 2020. We would then effectively cancel the network charges of those customers by issuing a rebate in the September invoice. That is, we will write-off those network charges.

The small retailer would be required to write-off the associated customer bill. If the total claim for network charges by a small retailer is below a dollar threshold (set at an assumed default rate) then we would not ask for further evidence, other than a CEO statutory declaration, in order to apply the rebate. However, if the claim is greater than the threshold, we would reserve the right to request evidence of eligibility.

Based on the feedback of smaller retailers, we are now offering additional pragmatic terms to ensure the viability of those retailers. In particular:

- we will reduce the monthly invoice of all small retailers by 20% of the residential customer's network charges for April, May and June. This will be processed using the B2B dispute mechanism; and
- these withheld payments will be paid back to us by the end of September 2020, less any relief provided under the relief package for residential customers (per the process set out above).

We have also been clear that we will be pragmatic in how we approach "non-eligible" customers that the retailers feel should get relief. For example, if they include these "non-eligible claims" with the September claim including the rationale for why the customer should receive relief and if it is below the threshold, then we will write-off the network charge.

### **A3. Supporting residential customers of large retailers**

We will continue to defer network charges for residential customers of large retailers who go on payment plans or hardship arrangements put in place as a result of COVID-19. Consistent with our previous announcement, we will provide relief for residential customers who are in payment default/arrears, where this was not the case as at 1 March 2020. The eligible customers are those who:

- are existing customers with large retailers as at 1 April 2020 (namely, AGL Energy, EnergyAustralia, ERM Power, Lumo Energy, Momentum Energy, Origin Energy, Red Energy, Simply Energy, and all of their affiliates)
- are receiving government benefits as from 1 April 2020 (and were not before 1 March 2020)
- are on some form of payment plan/hardship arrangement and this was not the case as at 1 March 2020.

We will no longer require the retailer to provide supporting evidence in claiming the deferral. Rather, where a retailer identifies a residential customer as meeting the eligibility criteria for deferral of network charges, they will dispute the network charge in the B2B system using the code "COVID Defer". The retailer will then be required to pay their monthly bills associated with April, May and June less the sum of the disputed charges.

We will hold off on the dispute, thereby carrying the retailer's credit risk by holding the debt in abeyance. We will receive the deferred payment by September 2020.

## Letter from Victorian gas distributors to the commission, 3 July 2020



3 July 2020

Ms Kate Symons  
Chairperson  
Essential Services Commission  
Level 37, 2 Lonsdale Street  
Melbourne VIC 3000

Dear Ms Symons

### **Victorian Gas Distributors extend relief for small retailers**

AusNet Services and the Australian Gas Infrastructure Group (AGIG) are pleased to advise that we are extending our network tariff relief package for a further 6 months, focusing on supporting small retailers<sup>1</sup> and their residential and small business customers during the COVID-19 pandemic.

While the initial economic effects of the Covid-19 pandemic have been less serious than first feared, it is nonetheless apparent that the effects will be long-lasting with particular stresses caused by high winter bills and the prospect the removal of Government support packages in September. Therefore, while large retailers have proven financially robust we believe support is best targeted to more vulnerable parts of the energy sector.

We are also cognisant that the current expedited Rule change being consulted upon by the AEMC will not apply to the Gas Sector. This Rule change is aimed at providing retailers in need, a six-month deferral in paying network tariff invoices for customers who are in financial stress as a result of the COVID-19 pandemic.

Therefore, our package represents a pragmatic, targeted response to the ongoing challenges that smaller retailers are facing. Applicable to December 2020 and to be settled at the end of the subsequent quarter (for example, the July to September deferral of charges will be settled at the end of December), the proposed arrangements include:

Australian Gas Networks & Multinet Gas Networks:

- Deferral of payment of 20% of network charges for all small retailers.

Ausnet Services:

- Deferral of network charges for the eligible small business customers of small retailers; and
- Deferral of payment of 20% of residential network charges for all small retailers.

The minor difference for Ausnet Services reflects the dual fuel nature of the business, and ensures consistency in support arrangements across its electricity and gas customers.

We continue to waive connection charges for disconnection and reconnection for businesses going into or emerging from hibernation.

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<sup>1</sup> Small retailers are defined as being retailers other than AGL Energy, Alinta Energy, EnergyAustralia, ERM Power, Lumo Energy, Momentum Energy, Origin Energy, Red Energy, Simply Energy, Stanwell Corporation and any of their respective affiliates.

Implementation details are being worked through with eligible small retailers and we will continue to consult with industry participants and the Essential Services Commission (ESCV) through the ongoing crisis. We believe this initiative again demonstrates that voluntary packages provide more targeted and timely solutions and can be modified relatively simply through mutual agreement as the situation unfolds.

Should you wish to discuss details of the package further, please feel free to contact Tom Hallam at AusNet Services [REDACTED] or Andrew Staniford at AGIG [REDACTED]

Yours sincerely



Ben Wilson  
Chief Executive Officer  
AGIG



Tony Narvaez  
Chief Executive Officer  
AusNet Services

## Letter from Victorian electricity distributors to the commission, 16 July 2020



16 July 2020

Ms Kate Symons  
Chairperson  
Essential Services Commission  
Level 37, 2 Lonsdale Street  
Melbourne VIC 3000

Dear Ms Symons

**Re: Extending part of the network relief to our electricity customers and retailers impacted by COVID-19**

AusNet Services, CitiPower, Jemena, Powercor and United Energy are pleased to advise that we are extending a modified version of our existing network tariff relief package to cover July 2020, focusing on supporting our smaller retailers and their small business and residential customers, during the COVID-19 pandemic.

In particular, we will offer the following to small retailers:

- deferral of network charges for eligible residential and small business customers for July; and
- deferral of payment of 20% of residential network charges for all small retailers.

While the initial economic effects that flow through to electricity bill payment as a result of the COVID-19 pandemic are not as severe as initially anticipated, the extension of this package for July takes into account:

- the six-week lockdown for Melbourne and Mitchell Shire which took effect on 9 July 2020;
- the ongoing cold winter and stresses caused by the consequential higher electricity bills and prospect of the removal of Government support packages later this year; and
- the pending decision by the Australian Energy Market Commission (AEMC) on the Australian Energy Regulator's rule change proposal relating to the deferral of network charges, noting that this will not apply in Victoria.

While large retailers have proven financially robust, we believe support is best targeted to more vulnerable parts of the energy sector. Our package represents a pragmatic, targeted response to the ongoing challenges that smaller retailers are facing. Details of the extended package are provided in Appendix A.

Following the outcome of the AEMC rule change process, as well as the Essential Services Commission's (ESCV) own consultation, we will reassess our commitments in consultation with other industry participants and the ESCV. This initiative again demonstrates that voluntary packages provide more targeted and timely solutions and can be modified relatively simply through mutual agreement as the situation evolves.

Should the ESCV have any queries regarding this letter, please contact Renate Vogt, General Manager Regulation at CitiPower, Powercor and United Energy on [REDACTED]

Yours sincerely,

Timothy Rourke  
Chief Executive Officer  
CitiPower, Powercor, United Energy

Frank Tudor  
Managing Director  
Jemena

Tony Narvaez  
Managing Director  
AusNet Services

Appendices

## **APPENDIX A – Supporting smaller retailers**

We will defer network charges for eligible small business customers (i.e. those who consume less than 40MWhr per annum) of smaller retailers for the month of July 2020. Eligible customers are those who have reduced their consumption to less than 25 percent of historical average consumption for the period. Network charges cover transmission, distribution, metering and jurisdictional charges.

We will also defer network charges for residential customers of smaller retailers that go in to default as a result of COVID-19. The eligible customers are those who:

- are existing customers with retailers (excluding large retailers) as at 1 April 2020;
- are receiving relevant government benefits as from 1 April 2020 (and were not before 1 March 2020); and
- are currently on a residential tariff.

We will not require the retailer to provide supporting evidence in claiming the deferral. Rather, where a retailer identifies a customer as meeting the eligibility criteria for deferral of network charges, they will dispute the network charge in the B2B system using the code “COVID Defer”.

Following our consultation with smaller retailers, we will continue to provide the additional pragmatic terms to ensure the viability of those retailers. In particular:

- we will reduce the monthly invoice of all small retailers by 20% of the residential customer’s network charges for July. This will be processed using the B2B dispute mechanism; and
- these withheld payments will be paid back to us by the end of September 2020, less any relief provided under the relief package for residential customers (per the process set out above).



27/07/2020

RM/20/13387

CitiPower, Powercor, United Energy  
40 Market Street  
Melbourne VIC 3000

Jemena  
Level 15, 567 Collins Street  
Melbourne VIC 3000

AusNet Services  
Level 32, 2 Southbank Boulevard,  
Southbank VIC 3006

Dear Mr Rourke, Mr Tudor and Mr Narvaez,

**Network charge deferrals in response to the coronavirus pandemic**

Thank you for meeting with me on Friday 24 July 2020 to discuss your plan to enable network charges to be deferred for retailers participating in Victoria. As we discussed, I request you detail your plan and demonstrate how it is consistent with the draft *National Electricity Amendment (Deferral of payment of network charges) Rule 2020* (AEMC draft network charges rule change) currently being considered by the Australian Energy Market Commission.

*Your plan to defer network charges*

By close of business Tuesday 28 July 2020, please detail to me in writing your plan to provide for the deferral of network charges (the proposed package) to electricity retailers participating in Victoria, including:

1. Which retailers can access your proposed package?

Essential Services Commission | Level 37 / 2 Lonsdale Street | Melbourne Victoria 3000  
+61 9032 1300 | [esc.vic.gov.au](http://esc.vic.gov.au)

2. How can retailers access this proposed package?
3. What assistance is provided for by your proposed package?
4. How long will this assistance continue for?
5. How will the assistance be governed, for example, by contractual agreement with retailers?  
How will potential disputes be managed?
6. How will your assistance measures promote the long-term interests of consumers?
7. I note your correspondence dated 8 May 2020, which committed to implement the intent of the AEMC draft network charges rule change. How do these arrangements compare with the AEMC's draft network charges rule change, and if it differs, how will it go above the minimum requirements of that rule change?
8. I note your letters of 8 May and 16 July 2020 suggest that voluntary packages provide more targeted and timely solutions and can be modified relatively simply through mutual agreement as the situation evolves. Is there provision for your business to cease or extend assistance measures under the proposed package before the proposed end date? What criteria will inform this decision? Will you commit that any modifications to the proposed package during the period of assistance will not detract from the minimum requirements of the AEMC's draft network charges rule change?

*Our next steps*

Following our receipt of the details of the proposed package, the commission will consider it against the proposed AEMC draft network charges rule change and, more broadly, our legislative objectives. If the proposed package is considered deficient, we will consider further regulatory responses.

If the proposed package adequately meets the intent of the AEMC's draft network charges rule change, and our legislative objectives, you will then be requested to provide monthly reports to the commission on the implementation of your network charges deferral assistance package. This will include the number and dollar amount of network payment deferrals under the package on a monthly basis to the commission. We intend to publicly report on this data as part of our wider reporting during the pandemic.

If you would like to discuss this further please contact Aaron Yuen, Senior Regulatory Manager, Energy Analysis and Reform on [REDACTED]

Yours sincerely,



**Kate Symons**  
Chairperson

## Letter from Victorian electricity distributors to the commission, 28 July 2020



28 July 2020

Ms Kate Symons  
Chairperson  
Essential Services Commission  
Level 37, 2 Lonsdale Street  
Melbourne VIC 3000

Dear Ms Symons

### **Modified network tariff relief package to our electricity customers and retailers impacted by COVID-19**

AusNet Services, CitiPower, Jemena, Powercor and United Energy are pleased to advise that we will implement the following modified version of our existing network tariff relief package, which replicates the Australian Energy Market Commission (AEMC) proposed rule change to be adopted by the Australian Energy Regulator (AER).

The intent of the modified network tariff relief package will be to allow certain retailers to defer the payment of network charges to distributors, incurred between 1 August 2020 and 31 January 2021 for a subset of customers, for a period of 6 months. It will apply to bills issued in the period 1 September 2020 to 28 February 2021.

We undertake not to cease or amend these arrangements prior to the end of these dates but reserve the right to extend the arrangements on a bilateral basis if economic conditions require this.

The modified network tariff relief package will:

- apply to all retailers except those that are directly or indirectly government-owned, or retailers of last resort (ROLR), or the related entities of these retailers (please refer to Appendix A for a list of eligible and excluded retailers);
- apply only to residential and small business customers on a COVID-19 customer arrangement, payment plan, hardship arrangement or deferred debt arrangement (including those who entered into such arrangements prior to 1 March 2020); and
- allow distributors to defer the associated transmission use of system payments.

The modified network tariff relief package will not require retailers to pay 3% per annum interest to distributors on deferred charges as is the case with the AEMC proposed rule change.

The modified network tariff relief package will be implemented using the existing processes that are in place for the current network tariff relief package, namely utilising the B2B dispute mechanism, and will be governed by bilateral agreements consistent with our current approach.

Whilst we have not had any disputes relating to the existing network tariff relief package, any disputes that arise under the modified version will be resolved directly between the retailer and the distributor, as per the processes set out in the existing Use of System Agreements between Retailers and Distributors, in order to achieve the best outcome for the specific customer.

Appendices

### Monthly reporting to the Essential Services Commission

The Victorian distributors will provide to the Essential Services Commission (ESC) in the first week of the month, following the month a bill is dispatched, an update on the claims for deferral that have been made by retailers under the modified network tariff relief package. The monthly update will include the number of residential and small business customers covered by the claims and the value of the deferrals (please refer to Appendix B for a format of the report).

The Victorian distributors will be available to provide a monthly briefing to the ESC on the information provided as requested.

### Promoting long-term interests of consumers

The modified network tariff relief package is structured to ensure small retailers are able to provide immediate and targeted relief for residential and small business customers enduring hardship as a result of COVID-19. It achieves this by focusing on ensuring the viability of small retail business through extended payment terms which will support their ability to provide deferral of impacted customers' bills. Further, continuing to ensure the viability of small retail businesses contributes to maintaining a competitive retail electricity market, which exists to benefit consumers.

### Small business disconnection/reconnection fees

Separately, the Victorian distributors propose to continue to support retailers in not disconnecting customers for non-payment in line with the AER's Statement of Expectations, if extended beyond 31 July 2020. This statement covers the disconnection of customers for non-payment and waiving of fees for disconnection and reconnection.

Our package from 1 August is aligned with the AEMC Directions Paper. We will review the final rule change when published and to the extent there are any material features of the final rule change that affect the contents of this proposal, we will update the ESC.

Should the ESC have any queries regarding this letter, please contact Renate Vogt, General Manager Regulation at CitiPower, Powercor and United Energy on [REDACTED]

Yours sincerely



Timothy Rourke  
Chief Executive Officer  
CitiPower, Powercor,  
United Energy



Frank Tudor  
Managing Director  
Jemena



Tony Narvaez  
Managing Director  
AusNet Services

## Appendix A:

### Eligible retailers:

- 1<sup>st</sup> Energy
- Alinta Energy
- Blue NRG
- Click Energy
- COVAU Energy
- Diamond Energy
- Dodo
- Elysian Energy
- Energy Locals
- ERM
- GloBird Energy
- Next Business Energy
- People Energy
- PowerClub
- QEnergy
- Simply Energy
- Sumo Power
- Tango Energy

### Excluded retailers:

- ActewAGL Retail (Retailer of Last Resort, ACT government owned)
- AGL (Retailer of Last Resort)
- Aurora (Retailer of Last Resort, Tasmanian Government owned)
- EnergyAustralia (Retailer of Last Resort)
- Momentum (Tasmanian Government owned)
- Origin (Retailer of Last Resort)
- Powerdirect (affiliate of AGL)
- Powershop (New Zealand Government owned)
- Red/Lumo (Commonwealth Government owned)
- Stanwell Corporation (Queensland Government owned)

Note: Other retailers excluded from the package will be those without eligible residential or small business customers including Delta Electricity, Flow Power, Infigen, Macquarie Bank, Simec Zen Energy and WINconnect.

**Appendix B:**

	Month			
	Small business		Residential	
	Sum of deferrals \$m's	No. of customers	Sum of deferrals \$m's	No. of customers
AusNet				
CitiPower				
Powercor				
United Energy				
Jemena				
<b>Total</b>				

## Appendix C:

Design Feature	AEMC rule change (Directions Paper)	Victorian implementation	Reasons for differences in Victorian implantation
Start date	<ul style="list-style-type: none"> <li>5 business days after final rule change comes into effect. ENA has proposed 15 business days.</li> </ul>	<ul style="list-style-type: none"> <li>Covering consumption from 1 August 2020, in order to continue immediately after the end of the current relief package.</li> </ul>	<ul style="list-style-type: none"> <li>The benefit of a bilateral approach by the Victorian distributors allows for us to implement immediately for the benefit of small retailers and customers.</li> </ul>
Retailer eligibility	<ul style="list-style-type: none"> <li>Exclude RoLR retailers and those that are (directly or indirectly) government owned - as well as any related entities of these retailers</li> <li>Remaining retailers must pay interest on any deferred charges</li> </ul>	<ul style="list-style-type: none"> <li>Eligibility of retailers replicates the proposed AER approach.</li> </ul>	
Customer eligibility (i.e. revenue deferral eligibility)	<ul style="list-style-type: none"> <li>Invoices for all residential and small business customers that enter into a Covid-19 hardship arrangement (not limited by the 1 March 2020 entry date) <ul style="list-style-type: none"> <li>Small business threshold: as defined in the NERL</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Eligibility of customers replicates the proposed AER approach.</li> </ul>	
Application of interest	<ul style="list-style-type: none"> <li>Interest applied on deferred payments (3%)</li> <li>Note that this interest is not treated as revenue for the purposes of NSPs' MAR</li> </ul>	<ul style="list-style-type: none"> <li>No interest will be applied on deferred payments.</li> </ul>	<ul style="list-style-type: none"> <li>Pragmatic approach by the Victorian distributors to maximise the benefit to small retailers and customers.</li> </ul>

Design Feature	AEMC rule change (Directions Paper)	Victorian implementation	Reasons for differences in Victorian implantation
TNSP charges	<ul style="list-style-type: none"> <li>• DNSPs defer eligible TUOS portion with applicable interest</li> </ul>	<ul style="list-style-type: none"> <li>• DNSPs defer eligible TUOS portion with no applicable interest</li> </ul>	<ul style="list-style-type: none"> <li>• Pragmatic approach by the Victorian distributors to maximise the benefit to small retailers and customers.</li> </ul>
Verification	<ul style="list-style-type: none"> <li>• Retailer required to submit a statutory declaration with revenue deferral requests confirming it is in accordance with the Rule definitions</li> </ul>	<ul style="list-style-type: none"> <li>• Replicate the proposed AER approach.</li> </ul>	
Transparency measures	<ul style="list-style-type: none"> <li>• AER required to publicly report on the number of customers whose network payments are deferred under the scheme and the total network payments deferred under the scheme.</li> </ul>	<ul style="list-style-type: none"> <li>• Victorian distributors to provide a monthly report to the ESCV which can, at their discretion, be publicly reported.</li> </ul>	<ul style="list-style-type: none"> <li>• At the discretion of the ESCV as the relevant regulator.</li> </ul>
Timeframe & Extension period	<ul style="list-style-type: none"> <li>• Initial 6-month period with no extension.</li> </ul>	<ul style="list-style-type: none"> <li>• Covering Initial 6-month period with no extension, unless mutually agreed to extend.</li> <li>• Covers the consumption period from 1 August 2020 to 31 January 2021, which is the billing period of 1 September 2020 to 28 February 2021.</li> </ul>	<ul style="list-style-type: none"> <li>• The benefit of a bilateral approach by the Victorian distributors allows for us to implement immediately for the benefit of small retailers and customers.</li> </ul>

## Letter from the commission to Victorian electricity distributors, 30 July 2020



30/07/2020

RM/20/13592

CitiPower, Powercor, United Energy  
40 Market Street  
Melbourne VIC 3000



Jemena  
Level 15, 567 Collins Street  
Melbourne VIC 3000



AusNet Services  
Level 32, 2 Southbank Boulevard,  
Southbank VIC 3006



Dear Mr Rourke, Mr Tudor and Mr Narvaez,

### **Network charge deferrals in response to the coronavirus pandemic**

Thank you for your letter dated 28 July 2020, in which you set out the modified network tariff relief package that AusNet Services, CitiPower, Jemena, Powercor and United Energy intend to implement in Victoria from 1 August 2020. We note that your proposed package replicates the Australian Energy Market Commission proposed rule change to be adopted by the Australian Energy Regulator.

We welcome your proposal, and your intentions to report to us monthly on the effectiveness of the arrangements as outlined in your letter. We also note your commitment to not cease or amend these arrangements prior to 31 January 2021.

Essential Services Commission | Level 37 / 2 Lonsdale Street | Melbourne Victoria 3000  
+61 9032 1300 | [esc.vic.gov.au](http://esc.vic.gov.au)

Appendices

We intend to closely monitor the effectiveness of these arrangements once implemented, and will consider further regulatory interventions if we consider the package is not delivering outcomes that are in the long term interests of Victorian consumers.

If you would like to discuss this further please contact Aaron Yuen, Senior Regulatory Manager, Energy Analysis and Reform on [REDACTED]



**Kate Symons**  
Chairperson



## Appendix F: Role of the commission

### Role of the Essential Services Commission

The commission is Victoria's independent economic regulator of essential services. Primary legislation passed by the Victorian Parliament sets out the objectives and expectations for the commission in the regulation of retail energy markets.

The Essential Services Commission Act 2001 sets out the commission's overarching objective to promote the long-term interests of Victorian consumers.<sup>153</sup> The commission is also guided by objectives under the Electricity Industry Act 2000 and Gas Industry Act 2001 to promote the protections for customers, including in relation to customers who are facing payment difficulty.<sup>154</sup>

The legislation establishing the regulatory framework for the energy industry in Victoria assigns the commission a range of functions and powers, including the power to grant licences to energy market participants and to create codes and guidelines.

The Energy Retail Code is the principal instrument used to set out retailers' obligations and was first established in 2002.<sup>155</sup> The commission amends the code to reflect new reforms and other changes. Version 16 of the code is currently in force today.

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<sup>153</sup> Section 8 Essential Services Commission Act 2001.

<sup>154</sup> Section 10(c) Electricity Industry Act 2000 and section 18(c) Gas Industry Act 2001.

<sup>155</sup> The commission replaced the Office of the Regulator-General (ORG), which was established to oversee regulation of electricity and gas industries during the privatisation of the industry and accompanying establishment of markets in generation, distribution and retail segments of the industry. The legislative objective for the ORG in relation to consumers was expressed as: "to ensure that users and consumers benefit from competition and efficiency" (Office of the Regulator-General Act 1994, s7(1)(e)).