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5 October 2015

Dr Ron Ben-David
Chairman
Essential Services Commission of Victoria
Level 37, 2 Lonsdale St
Melbourne, Victoria 3000

Submitted electronically

Dear Dr Ben-David,

Re: Supporting Customers, Avoiding Labels – Energy Hardship Enquiry Draft Report

Red Energy (Red) and Lumo Energy (Lumo) welcome the opportunity to provide comment on the Essential Services Commission of Victoria's (the Commission) Energy Hardship Inquiry Draft Report (the Draft Report).

Red and Lumo are 100% Australian owned subsidiaries of Snowy Hydro Limited. Collectively, we retail gas and electricity in Victoria and New South Wales and electricity in South Australia and Queensland to approximately 1 million customers.

The right approach for all consumers

Red and Lumo are broadly supportive of the concepts presented by the Commission in the Draft Report and believe the reform to be timely. The current regulations governing hardship support across the energy industry are outdated, and have been developed over years of concurrent reviews. On the face of it, these reviews appear to have focussed on adding to the existing regulations as a means of increasing the consumer protections available to those experiencing financial difficulty. While this was likely done with the best intentions of assisting those most vulnerable, in practice it has resulted in a convoluted and unmanageable set of energy hardship regulations nationwide that aren't designed to achieve specific objectives.

Victoria, as a State that hasn't enacted the National Energy Customer Framework (NECF), is in a unique yet complicated position in which reform made by the Commission is not reflected in the National Energy Retail Rules developed by the Australian Energy Market Commission (AEMC). While this does allow the Commission some ownership and flexibility on how it would like the energy regulations to look, any changes detract from the harmonisation work the industry has undertaken in recent years and reduces the ability for national energy retailers to operate efficiently.

Because of this, Red and Lumo are strongly of the view that any reform in Victoria must be developed on the basis that all stakeholders[1] agree that the changes are

[1] Stakeholders in this context refers to Commonwealth, State, and Territory Governments, consumer representative groups nationally, energy retailers, and the relevant regulators.

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what is required to assist those vulnerable to energy debt. Should these stakeholders agree that a viable, sustainable solution has been proposed in Victoria, Red and Lumo will play a lead role to amend the national rules to mirror the reform enacted as part of this review.

To this end, we cannot support reform without broad national agreement that the objectives sought, and the subsequent rules developed, are the right ones *for all consumers.* It is our view that the definitive answer has not yet been found in the Commission's Draft Report, however it does provide a good starting point for the conversation. We hope the Technical Working Groups discussed in the Draft Report are framed in a manner that allow this conversation to take place. While it is likely that an in depth conversation such as this may extend the time needed by the Commission to finalise this review, we believe a more considered and supported approach will result.

Costs of implementation

As part of this process, Red and Lumo will incur significant costs in redesigning our systems and procedures to take into account the amended regulations. While we don't believe these costs should stand in the way of positive reform, we stress that the outcome must justify the expenditure. The above concerns regarding deviation from the NECF are not insignificant, as these costs are multiplied when various aspects of the business are operating individually.

It is essential that any cost incurred by retail businesses in implementing this reform achieves a positive cost benefit analysis, and that the reform be undertaken over the long term, not at the expense of a consumers access to affordable energy.

The objective

Red and Lumo commend the Commission for setting the key objective of the reform prior to developing the proposed framework outlined in Chapter 7 of the Draft Report (the Proposal). We believe that the objective is an important step in that it outlines what we are trying to achieve. Energy hardship is a complicated topic that cannot be resolved by one party alone. Energy retailers rightfully have a role to play in this, however they are not, and should not be, required to provide free energy to consumers experiencing financial difficulty.

Red and Lumo agree that the primary objective of the regulations should be to assist a customer manage and pay for the energy they consume, and to avoid the accumulation of debt, by aligning that consumption with their affordability. We believe however that the objective should go a step further than this. The framework should incentivise consumers to engage with energy retailers earlier, and proactively encourage those experiencing difficulty to take ownership of their financial situation, however be flexible enough to ensure that those who cannot legitimately afford a reasonable level of consumption are not left without energy. On the other hand, the framework cannot be so prescriptive that it limits a retailer seeking to develop better, more innovative, alternatives to payment assistance.

The Proposal

As stated above, we believe the concept developed by the Commission to be a positive one, however work still needs to be done for this to achieve the broad objectives sought. While we understand this is a draft report and only sets out the Commission's preliminary and somewhat untested views, we feel there is value to point out key procedural concerns we have with the operation of the framework as proposed.

Automation vs Simplification

We agree with the Commission that there can at times be a level of difficulty in retailers setting up sustainable payment arrangements and consumers gaining access to them. The proposal to automate payment arrangements for designated consumers[2] appears to be based on the belief that consumers have difficulty accessing payment assistance options with energy retailers unless they are classed as 'in hardship'. This is a valid concern, however this automation could in fact have negative impacts on consumers and may limit innovation by retailers. Consumers who are automatically placed on a payment plan will not have access to the same level of additional assistance as one who engages as part of being placed on the arrangement.

We need to find an appropriate balance between consumers being rewarded for engaging with energy retailers, however not also rewarded for inaction. As an example of this inaction, a designated customer who misses a bill payment then actively engages with the retailer in payment plan 1 (PP1) to pay their arrears over the next two billing cycles would not be entitled to receive any Pay on Time Discount (POTD) however a customer that didn't make any effort in PP1 and by default is placed on payment plan 2 (PP2) would receive that discount. This is not the outcome we should be seeking as part of this reform.

As a potential means of encouraging this engagement, Red and Lumo propose that any customers who automatically are placed on a payment plan should not receive any POTD, however those that contact their retailer to discuss options should.

In practice, this may work as follows:

1. A designated consumer misses bill payment
2. PP1 would be setup automatically
3. If consumer contacts retailer to seek assistance, the POTD would be applied if the bill is paid in line with agreement

[2] Essential Services Commission 2015, *Supporting Customers, Avoiding Labels. Energy Hardship Inquiry Draft Report*, September 2015, p101

4. If consumer misses a payment in PP1, they would automatically be placed on PP2, however would not be eligible for any POTD unless they contacted the retailer to discuss assistance options. Any consumer who contacts the retailer to engage would receive the POTD if bill paid in line with agreement

We believe that this is an example of just one methodology that incentivises a customer to engage with the retailer, without increasing the difficulty of obtaining a payment arrangement. A customer who engages with their retailer earlier is significantly more likely to achieve the objective of the reform and minimise their debt. Red and Lumo are concerned that too much automation will result in customers not actively engaging until it is too late.

Preventing disincentives and gaming

There remains work to be done in looking to appropriately balance the incentives of engaging and the disincentives to game the system. A savvy consumer under the Proposal, as drafted, would easily be able to extend their payment arrangements by a significant length of time without any detriment to themselves. This is appropriate for those consumers that need assistance, however simplifying access may in turn result in consumers who don't, choosing to receive the assistance proposed to obtain the incentives offered. This could result in retailers holding more debt than is otherwise necessary at a direct cost to consumers.

Our assessment of the proposal was that it was intended to result in a relative status quo of the debt held by retailers. More consumers would be eligible to receive payment assistance, however the level of debt per customer would decrease due to an increased focus on early action and repaying outstanding debt. We see this as an appropriate outcome, however in the circumstance where consumers are opting to access assistance unnecessarily, this status quo may become unbalanced. It is therefore imperative that all parties continue to work closely as the reform progresses to ensure appropriate incentives are developed.

Limitation of transfers

The proposal includes a provision that would prohibit a customer transferring away from a retailer if they had received an Active Assistance Plan (AAP) in the previous two years. Red and Lumo do not support this measure. Customers transfer retailers for a number of reasons. This may be to obtain a better retail offer, following a perceived poor experience, or simply as a matter of exercising choice. The benefits of retail competition should not be removed for customers who are experiencing financial difficulty.

While our preferred position does not in any way limit a consumers right to engage in the market, an alternative, should the Commission be determined to proceed with this provision, might be to require an 'opt out' model. This could require the retailer to contact a customer who is transferring out and explain the consequences of doing so and any changes that might result in the payment assistance offered by the retailer. If the customer still chooses to exercise choice, then the transfer must be allowed to proceed.

Variable tariffs and individualisation

Red and Lumo cannot support individually variable tariffs as set out in the proposal due to system limitations.

In addition to these limitations, we hold concerns that while the policy intent of allowing customers to obtain maximum benefits for any reduction in consumption is a good one, in practice the potential for negative outcomes is too high.

A customer who reduces their consumption would be incentivised by seeing a greater decrease in their energy bill than they would if they were on a two part tariff. On the flipside however, a customer who increases their consumption, possibly due to circumstances outside of their control, would see an increase in the price they would pay. For example, a newborn child or a leaking hot water service would result in customers paying too much for their energy at a time they can least afford it.

The reconnection period

In order to provide any qualified comments on the reconnection period, we need further detail as to its operation. The concept that a customer who has been disconnected must pay for their consumption within 28 days seems reasonable on paper, however Red and Lumo are concerned as to the potential social impacts for consumers if this is not possible.

It appears that if a customer does not return to a sustainable level of consumption within the reconnection period they will be disconnected again or be without energy, however it is unclear what would happen next.

Red and Lumo are of the belief that customers who are disconnected a second time represent a group of customers who require greater assistance than that offered by their energy retailer. It is imperative that the Commission works with the Victorian Government and Consumer Welfare Organisations to attempt to develop a solution to this issue before any reform is implemented.

Conclusion

As stated above, Red and Lumo believe the work done by the Commission thus far to be the first step in achieving sustainable and fundamental reform. The next step will rightfully focus on the detail of the proposal, but initially needs to include a conversation between retailers, consumer groups and the Commission that ensures we are working toward a mutually agreed upon solution.

We commend the Commission for the transparent and consultative nature of this process to date, and hope that this continues. We strongly believe that for this reform to be successful, we must take the time to ensure all parties agree that the steps taken, the objectives sought, and the incentives offered are the right ones and in the long term interests of consumers experiencing financial difficulty.

Red and Lumo thanks the Commission for the opportunity to respond to the Draft Report. Should you have any further enquiries regarding this submission please call Ben Barnes, Regulatory Manager, [redacted].

Yours sincerely

Ramy Soussou
General Manager Regulatory Affairs & Stakeholder Relations
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