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

Submitted electronically to energyhardshipreview@esc.vic.gov.au

Dear Dr Ben-David

Submission to Energy Hardship Review

EnergyAustralia is one of Australia's largest energy companies, providing gas and electricity to over 2.5 million household and business customers in NSW, Victoria, Queensland, South Australia and the Australian Capital Territory. EnergyAustralia owns and operates a multi-billion dollar portfolio of energy generation and storage facilities across Australia.

We welcome the opportunity to participate in the review and congratulate the ESC on the robust program of consultation which has led to the release of the Draft Report "Supporting Customers, Avoiding Labels".

EnergyAustralia strongly believes that Australians should have fair access to energy supply and that it is entirely appropriate for retailers, in conjunction with government and other support services, to assist consumers who are having difficulty maintaining their supply due to financial pressure. We believe however that this issue has incorrectly been characterised as an energy issue rather than a broader cost of living issue which requires more holistic reforms. Regulatory intervention in the energy sector may have a marginal impact, but cannot ever address underlying issues facing vulnerable people (e.g. unemployment, domestic violence, drug and alcohol dependence, physical health).

Noting the importance of this issue, and within our existing engagement and cross referral forums EnergyAustralia, AGL, Origin Energy and Yarra Valley Water have found a common alignment on basic fundamental platforms that support positive outcomes for customers. These are:

- **Early identification**
The intention of the paper to ensure early identification and intervention to avoid debt accrual is relevant, valid and fully supported. We would welcome the opportunity to

explore the processes currently being proposed in more detail and we believe collaboration across the utility sector is a key element to its success. As outlined below, we have identified fundamental issues with elements of the ESC's proposal with regard to this issue.

- **Inability to Meet Consumption (full or part)**

While the intent of early identification is clear, customers who have an inability to meet their consumption costs is an area which we believe is not adequately addressed. This segment of the customer base is becoming larger and the proposed structured framework that automatically progresses customers through a pre-determined pathway will not be sustainable for those falling into this category.

- **Customer Engagement**

Research and testing has shown that early and continued customer engagement is key to the success of hardship programs. Tangible support options offered up front, coupled with respectful communications have proven extremely successful and we support the continuation of this.

- **Current Hardship programs**

We understand the rationale behind removing retailer discretion, however we are concerned that the one size fits all approach will not suit most customers. Programs currently offered within tier 1 Energy Retailers and Water Boards are flexible in nature to support the individuality of each customer to best support their circumstances. These initiatives include (but are not limited to) payment matching, appliance swaps, home repairs and debt waiving have provided real value to customers.

- **Social Policy**

There are a host of well understood and long-term challenges for customers facing cost of living pressure which need to be addressed through the social policy framework. Implementing changes to retailers' processes without complementary changes to the social safety net, will continue to undermine the potential to reduce customer vulnerability. Social policy includes (but is not limited to) energy concessions, income support and capital barriers for customers living in public, community and private rental properties.

These platforms underpin EnergyAustralia's approach to this review and have formed the basis for the positions articulated in this submission.

Elements of the ESC's Approach

EnergyAustralia believes that the ESC's proposed approach to managing consumer hardship by seeking to limit the amount of debt that accumulates is an important step toward assisting customers to avoid an inescapable debt cycle. We also appreciate the rationale behind limiting retailer discretion, so as to ensure that all consumers receive fair and consistent access to hardship assistance. We do however have concerns that the proposed approach will do little to address hardship issues and may in fact have a deleterious effect on consumer outcomes.

While we support efforts to ensure that all consumers, regardless of circumstance, have fair access to energy supply, and applaud the focus in the dual pathway approach in ensuring that consumers take responsibility and engage appropriately with their retailer, we believe that elements of the proposal are ultimately not in the best interest of consumers. Above all however, we are concerned that the proposed framework does not address the needs of chronic hardship customers, or those who are simply unable to afford energy bills regardless

of their level of consumption. This segment of the customer base is becoming larger and the proposed structured framework that automatically progresses customers through a pre-determined pathway will not be sustainable for those falling into this category.

While social policy is outside the scope of the Commissions' terms of reference, we believe that customer hardship is an intractable problem that will not be solved by regulatory means alone. Instead, there is a need for a broader response dealing with concessions reforms and funding for financial counsellors and other support services to assist with chronic hardship.

In principle, EnergyAustralia supports the dual pathway approach to providing an incentive for consumers to engage with their retailer if they are facing financial difficulty. We are concerned, however, about the arbitrary and rigid nature of the proposed approach.

The categorisation of customers with concessions as potentially vulnerable makes a generalisation about both concessions recipients and those who are ineligible and ignores the broader issue of members of society having difficulty meeting the cost of living.

EnergyAustralia's experience indicates that many concessions recipients are comfortably meeting their payment obligations for their energy supply and are not necessarily in need of Pathway Two assistance, while a significant number of customers who are ineligible for concessions could benefit greatly from additional assistance. While it may be reasonable to assume that many concessions recipients may be vulnerable, we consider that characterising all such customers in the same way is contrary to the idea of "avoiding labels".

While suggesting that a customer who has previously been in a retailer's hardship program be automatically eligible for assistance under Pathway Two makes intuitive sense, their inclusion does not address the existing problem of many other customers in need of assistance being excluded. The only difference is that these customers have not previously been identified as customers experiencing hardship. As highlighted in the ESC's Draft Report, *"Focusing on whether a customer meets the retailer's definition of 'financial hardship', rather than responding to the type of payment difficulty, means customers miss out on the assistance they need¹."* This issue would continue to present itself for some time after the commencement of a new regime.

We highlight these issues to illustrate the complexity of the issue and to demonstrate that taking a prescriptive approach to the solution is not necessarily appropriate. We disagree with the Commission's position that the discretion provided to retailers has contributed to consumer hardship issues. In fact, we believe that this discretion is useful in recognising that no two consumers are the same and that flexibility is key to assisting customers to manage cost of living issues. We acknowledge that the ESC recognises the need for flexibility in the later stages of Pathway Two, however we are concerned that the initial rigidity may not be beneficial for the majority of consumers.

EnergyAustralia has commissioned research which outlines that different customer segments have different needs with regard to engagement of affordability issues. The research indicates, for example, that the preferences of unemployed and employed consumers differ considerably. We consider this research to be illuminating as it allows us to respond appropriately to the ever-changing nature of our customer base. In addition, Kildonan Uniting

¹ Essential Services Commission 2015, Supporting Customers, Avoiding Labels. Energy Hardship Inquiry Draft Report, September 2015 p32

Care released a report in 2014 detailing the change in composition of consumers seeking assistance, noting a considerable increase in hardship cases among households which derive some income from paid employment. A rigid framework as proposed in the Draft Report may assist some consumers, but is unlikely to be suitable for others. As the composition of society will continue to change, it is important retailers have the flexibility to target specific needs areas of our customers.

We look forward to working with the ESC to develop a framework which appropriately balances the certainty and flexibility required to assist consumers. In the following sections we comment on each of the steps in the proposed pathway.

Active Assistance Option

EnergyAustralia strongly supports elements within the proposed reforms which provide incentives for customers to engage. The idea that a customer is entitled to a payment deferral without jeopardising their credit rating, and without having to divulge information about their circumstances, may be appealing to many. We are concerned, however, that this option may be taken by consumers as a means of deferring their issues to another time. In many circumstances, customers may not have the funds to cover the next bill and the debt will simply accrue. Using the deferral figures based on the ABS data², a customer who is unable to pay a \$600 bill can find themselves in \$1200 debt by the time the next bill arrives without any improvement in capacity to meet their obligation.

We suggest that it may be more appropriate for the Active Assistance Option to automatically entitle the customer to an extension of up to two weeks so that the retailer will have earlier visibility if the customer is unable to service this debt.

EnergyAustralia encourages consumers who are facing payment difficulties to contact us directly, however we also already offer a no questions asked payment extension which can be accessed on line. We regard this as one of the examples of good practice which we feel should be emulated by members of the retailer community who are not currently doing so.

We have further concerns that all the payment plans are tied back to 'billing cycles', and we suggest that the Commission could reorient this to focus on 'payment cycles' requiring customers to make an agreed payment to a more regular frequency than a typical bill cycle (often still quarterly for electricity). A weekly, fortnightly or monthly payment plan would provide a much shorter and more manageable period for the customer to address their debt. As the proposal currently stands, a quarterly billed customer would be at least 6-9 months behind in paying their bills before they move to the next stage of the pathway.

Payment Plans One and Two

The Draft Report correctly identifies payment plans as a tool for assisting consumers with payment difficulties. EnergyAustralia is concerned that payment plans outlined in the proposal could be more accurately referred to as a payment schedule because the collaboration between retail and consumer which currently forms the basis of payment plan is removed. We

² ABS (Australian Bureau of Statistics) 2012, Household Energy Consumption Survey, Australia: Summary of results, 12 cat. no. 4670.0, Canberra.

do not consider that automatically placing a customer on a payment plan without consideration for that customer's circumstances is likely to be effective and that the Payment Plans One and Two have the potential to exacerbate consumer debt.

Retailers are aware of their limitations in terms of conducting capacity to pay assessments as outlined in the Draft Report. Even so, retailers seek to assist consumers to enter into a plan which is manageable. This element is missed in the proposed approach. Retailers often work collaboratively with a financial counsellor to take full account of a customer's circumstances and develop a suitable payment plan. However, it should be noted that this is becoming less common as a result of cuts in funding for financial counselling. We consider the involvement of financial counsellors to be more beneficial to consumers than a pre-determined payment plan.

EnergyAustralia strongly supports the current Energy Retail Code requirement to offer consumers payment plans. When used by a customer who also begins to use energy more efficiently, these can be highly effective tools in assisting consumers who are facing cost of living pressures. We do not believe however, that a payment plan which does not take into account a particular customer's circumstances, or require any engagement on the part of the consumer is likely to be useful.

Furthermore, it is often when the retailer and the consumer are discussing the terms of the payment plan that the retailer becomes aware of the customers' entire circumstances and is able to provide advice on energy efficiency, concessions and rebate entitlements. Given that there is still a requirement for retailers to offer such advice via telephone it seems limiting that this conversation cannot be used to tailor a payment plan which gives the consumer a better chance of a positive outcome.

Active Assistance Plan

The concept of the Active Assistance Plan appears broadly consistent with current retailer hardship programs. Under the proposal it is the first occasion where the consumer and retailer really engage on tailored solutions to address the consumer's affordability issues. Even at this stage of the pathway, the prescriptive nature of the proposal will lead to many consumers being worse off because of the level of prescription involved. EnergyAustralia is concerned that the imposition of a fully variable tariff on all consumers who reach this stage of the pathway is likely to push many consumers into a worse financial position. While providing an incentive to reduce energy consumption, fully variable tariffs will heavily penalise consumers whose consumption increases. While we encourage consumers to reduce consumption as far as possible to reduce their energy costs, we also recognise that in many instances it is not possible, or safe, to do so.

The proposal also ignores the fact that one of the very real drivers of cost of living pressures is unemployment, or under employment. If a household finds themselves in a state of financial difficulty because an income earner has become unemployed, their consumption is likely to increase as a result of additional energy use during the part of the day when that person would previously have been at work. This example would be exacerbated in the circumstances where an income stream has been lost as a result of a wage earner going on maternity leave given the additional energy requirements which accompany the arrival of a child.

In addition to the potential to exacerbate consumer circumstances, EnergyAustralia is concerned about the implementation costs associated with upgrading billing systems to calculate and handle individualised tariffs. Rather than individual tariffs the preference should be for retailers to have flexibility to tailor supportive initiatives to meet consumer's needs, such as appliance swaps. The report recognises that retailers have spent in excess of \$22 million on hardship programs (which does not also include the direct cost of financial assistance) demonstrating the willingness of retailers to invest in delivering positive outcomes to vulnerable customers.

It is worth noting that even where a fully variable tariff appears to be appropriate, the consumer still faces considerable risk if circumstances change in relation to those which underpinned the historical consumption patterns. If for example, if weather conditions turn out to be much more extreme in a later year, the customer will likely face much higher costs to maintain a comparable level of comfort.

EnergyAustralia supports the proposal to require retailers to pass on any pay on time discounts, or apply "*the comparable discount currently offered by that retailer*"³. However, we note that it is standard practice for many retailers to ensure that the customer is on the most appropriate plan and to apply any pay on time discounts as long as the customer meets their commitments under their payment plan, or contacts the retailer to seek an extension. Once again, we consider this to be best practice and we would encourage all retailers to adopt this approach.

EnergyAustralia also supports in-principle the concept of ensuring the consumer maintains their relationship with their retailer for the duration of any agreed plan. However we have reservations with regard to the difficulty of implementing the new payment plans and processes required under the Commission's approach. We agree with the Commission that consumers accruing debt with one retailer only to switch out in order to avoid disconnection is not likely to end in a positive outcome for consumer or retailer.

Re-connection Plan

EnergyAustralia understands consideration is being given to changing the Reconnection Plan to allow consumers to access such a plan prior to being disconnected. If this change were to occur, it would address the issue of consumers being disconnected before they have access to a full range of assistance. However, the overwhelming focus of the Reconnection Plan is on driving the consumer's consumption to a level that they can afford. This could lead them going to extraordinary, and potentially unsafe, lengths to minimise usage and be little better than full disconnection.

The involvement of an independent third party may deliver benefits in that it could provide consumers with more confidence to engage with their retailer and provide an important oversight mechanism to reduce the instances of retailers requiring consumers to enter into inappropriate payment plans (often well-publicised). We envisage however, considerable resourcing issues arising as a result of a lack of funding for financial counsellors, who we consider to be more appropriate in this role than the Ombudsman. Additionally, we find it counterintuitive that this stage requires retailers and customers to have a discussion about

³ Essential Services Commission 2015, Supporting Customers, Avoiding Labels. Energy Hardship Inquiry Draft Report, September 2015 p108

how much the customer is able to afford as we consider this to essentially be a capacity to pay assessment. If such an assessment is appropriate at this stage of the customer's journey, we are unsure why it is not permitted prior to this point.

We also consider that the type of customers who will require a Reconnection Plan are more likely to be cases of chronic hardship requiring a more holistic form of support from qualified social and financial counselling services. EnergyAustralia currently supports a number of customers by both waiving their arrears and paying for their ongoing consumption if they have demonstrated that they are doing everything that is reasonable to be pragmatic about their energy use. We believe this is the socially responsible course of action and that it is up to each business to determine the extent to which they will support consumers in this manner. We also consider that given retailers already do this, a regulatory response will provide little assistance to this type of customer.

Any retailer's ability to waive large arrears and consumption in perpetuity will always be limited by commercial considerations and the cross subsidy burden worn by other customers. Therefore, we recommend that the Government create a vulnerable consumer fund which financial counsellors could seek assistance from for their clients. Not only would the fund be able to assist vulnerable consumers with their energy bills, but other bills and living expenses. The fund should be targeted to the most vulnerable and be aimed at getting them to a point of financial stability and confidence.

EnergyAustralia supports a consumer's right to choose options such as pre-payment or supply capacity control, however we consider they should be used carefully and with adequate consumer protections. Further, we believe that these options should be available to consumers well before they reach this point of the pathway where there is little chance of ever returning to the general populace of consumers, as they can be used as legitimate forms of customer initiated debt and consumption management.

EnergyAustralia has concerns about advocating for these vulnerable members of society in chronic hardship to take up supply capacity control, as this could see them without energy for extended periods. We consider pre-payment to be a similar measure, but believe it to be more useful as a budgeting measure than as a last resort for the extremely vulnerable. We note that there is considerable opposition to pre-payment metering from some sectors of the community, but we consider the protections under the National Energy Retail Rules to be comprehensive and would recommend that Victoria adopt these to ensure that customers are not disadvantaged.

National Alignment

Significant progress has been made in the national Energy Market Reform process over the last two decades across all regulatory frameworks that govern the energy system. One of the final pieces of the regulatory puzzle is the National Energy Customer Framework (NECF) which is a nationally consistent set of regulatory obligations for retailers operating in National Electricity Market (NEM) regions.

Victorian remains the only NEM jurisdiction not to have implemented the NECF and EnergyAustralia fears that the approach recommended in the Commission's Draft Report will conflict with customer management arrangements in the NECF and take Victoria one step further away from national consistency. Further inconsistency will increase the costs that

Victorian energy consumers face as a result of retailers having to duplicate system functions and processes to accommodate a unique regulatory framework. These costs are justifiable where the consumer benefit is greater, however EnergyAustralia does not consider the arrangements outlined in the Draft Report will deliver the required benefits.

Conclusion

Both the ESC and previously the AER have noted the positive practices with regard to retailer hardship programs; although the AER observed a *"range of attitudes among retailers in engaging with customers in financial difficulty, ranging from retailers that merely observe the minimum regulatory obligations for assessing 'capacity to pay', to retailers that genuinely try to go beyond the minimum requirements to develop and implement strategies to engage with customers"*⁴. We believe that consumers would be better served if government works with industry and community organisations to raise the standard of consumer assistance across the board.

EnergyAustralia, and other retailers have worked closely with consumer groups and participants in other industries to continually develop our hardship program to better support consumers. We have received feedback from stakeholders noting the improvement in our engagement with community organisations and assisting customers facing difficulty. We acknowledge that there is still room to improve and are committed to continuing to refine our processes to better meet the changing needs of the vulnerable customers.

We are concerned that the reforms proposed in the Draft Report would wind back a lot of the progress that leading retailers in this space have made in recent years and result in worse customer outcomes. A final report which more heavily emphasises current good practice and provides incentives to those businesses who are not up to the same standard as the industry leaders to improve their hardship processes is more likely to lift the overall standard of retailer hardship programs and provide assistance to more consumers.

We believe that many of the themes in the Draft Report have merit and are sympathetic to the view that there is a lack of consistency between how customers are assisted by different retailers. However, on balance, we consider it vital that retailers be allowed to retain a certain amount of flexibility to provide consumers with the assistance which is appropriate to their circumstances. To this end, we would like the Commission to consider a guideline-based approach rather than very specific payment plan options that may not suit all customers as well as some of the current options. A guideline-based approach will also allow each retailer to implement and support the requirements in line with current systems and processes (thereby minimising costs), and to adapt the approach over time as customers' needs change.

One factor that is clearly critical is the early identification of customers requiring assistance. We would add to this that encouraging customers to commit to more frequent payment cycles regardless of their billing frequency, will also help customers to manage their energy costs.

We urge the ESC to note the progress made by retailers in terms of meeting the needs of consumers facing difficulty with cost of living pressures. We encourage them to work

⁴ Australian Energy Regulator, 2015 Review of Energy Retailers' Customer Hardship Policies and Practices January 2015, P1

