



5 October 2015

Essential Services Commission
Level 37, 2 Lonsdale Street
Melbourne Victoria 3000
By email: energyhardshipreview@esc.vic.gov.au

Dear Sir / Madam

Energy Hardship Inquiry Draft Report

Alinta Energy welcomes the opportunity to make a submission to the Essential Services Commission of Victoria (**Commission**) "Supporting Customers Avoiding Labels" Energy Hardship Inquiry Draft Report (**Draft Report**).

Alinta Energy is an active investor in the energy retail, wholesale and generation markets across Australia. Alinta has around 2500 megawatts of generation capacity in Australia (and New Zealand) and a growing customer base of over 750,000 customers in Western Australia and across the National Energy Market and is well placed to provide comment on the Draft Report.

Alinta Energy recognises the significant economic and social impact that can be experienced by customers struggling to meet the financial obligations associated with their energy supply. Whilst retailers may have varying approaches to assisting customers experiencing energy hardship the intent of retailers hardship policies and programs is to deliver on outcome based initiatives to assist customers better manage their way out of the hardship cycle.

We welcome the Commission's review of energy hardship; however we would reiterate our concern with the narrow terms of reference under which the review is being conducted. A sectorial segmented approach dealing to affordability issues within the energy sector without recognising the wider social and financial impediments faced by certain customer segments and how these may be addressed limits the development of innovative opportunities and initiatives to better assist customers, and continues to look (exclusively) to retailers to provide solutions to assist customers.

Again the issue of the management and delivery of assistance to customers in financial difficulty has been focused on retailers and the retailer customer engagement protocols, with an underlying assumption that under this new framework customers will become more engaged. Whilst retailers are the forward facing contact for customers, the Networks and the network tariffs (and costs) play an integral part in terms of the affordability of energy. As such there is the potential for Networks to play a greater role in providing assistance to customers.

Further dialog should be undertaken on the role that all stakeholders in the energy supply chain can play in contributing to the assistance provided to customers experiencing financial difficulty.

In proposing new frameworks under which retailers will be required to operate the Commission needs to be mindful of the potential widening of the divergent gap between the operating regulations / framework that exist in Victoria and that of the National Energy Consumer Framework. Continued divergence will make it evermore increasingly difficult to achieve future alignment under a single national framework. The issue of energy hardship and that of its management is not unique to the Victorian jurisdiction, and we would encourage the Commission to work closely with the Australian Energy Regulator when developing new policy objectives to ensure operational divergence, which ultimately drives costs for consumers, is limited.

There are a number of significant energy reforms currently under consideration in Victoria, in particular the "*Energy Legislation Amendment (Consumer Protection) Bill 2015*" (**Bill**), which is currently progressing through Parliamentary approval. Given the significant changes as proposed in the Draft Report and that contained in the Bill the Commission needs to ensure there is an alignment of policy objectives and that the proposed (hardship) framework has the full support of the Victorian Government, policy makers and industry stakeholders so as to provide regulatory certainty for those who operate in the market. Reform should not be pursued if wide ranging support cannot be obtained.

The Commission's review has highlighted the complex nature of energy hardship and that of the identification and provision of assistance to customers who are experiencing difficulty in meeting the financial obligations associated with their energy consumption. The individual nature of the circumstances faced by some customers can create significant challenges for customers and retailers in providing the most appropriate assistance.

The Commission's proposed new framework places a heavy reliance on customer engagement and the creation of symmetrical obligations around communication and assistance measures. Historically customer engagement, particularly around areas of affordability has been a challenge, and for the Commission's proposed framework to achieve new outcomes significant investment will be required to actively lift customer engagement to significantly higher levels.

With the implementation of any new framework caution needs to be exercised to ensure what is seen as providing greater benefit does not ultimately create perverse outcomes for customers and retailers alike.

Alinta energy supports the initiative to ensure retailers obligations are as unambiguous as possible and agree that commonly referred to terms such as 'hardship', 'vulnerability' and 'capacity to pay' cannot be effectively defined for the purpose of regulation. The transparency and clarity of obligations impact the potential effectiveness of any regulatory framework and subsequently the ability to deliver on desired objectives.



Alinta Energy looks forward to further working with the Commission through the different phases of the consultation process. Our detailed comments on the draft report and the proposed new framework is contained in the attached.

Should you have any questions or wish to discuss our submission further I may be contacted on [REDACTED].

Yours sincerely

Shaun Ruddy
Manager National Retail Regulation

Supporting Customers Avoiding Labels Energy Hardship inquiry Draft Report

Tailored Framework

The proposed “tailored” framework attempts to remove the ambiguity associated with the obligations placed on retailers in managing customers facing payment difficulties. Clarity and transparency around retailer obligations in providing assistance to customers would be a significant improvement and provide more clarity and certainty for retailers and customers alike.

However any framework needs to strike a balance between a defined procedural process and the flexibility to innovate in order to deliver on objective based outcomes. A framework that is weighted towards a proscriptive procedural approach, where to stray outside of the procedures risks penalty for non-compliance, has the perverse impact of stifling innovation in the way assistance is provided to customers.

The inclusion of “Automated” payment plans, whereby a customer is either able to self-select or where there is a requirement for a retailer to automatically place a customer on a payment plan removes the incentive for the customer to engage with the retailer.

As consumer engagement is a key success pillar of the Commission’s new approach we are concerned that the self-selection / automated payment plan arrangements will in fact hamper the development of greater customer engagement and adversely affect the ability to achieve positive outcomes.

The obligation to continue to apply on-time discounts to customers who are on payment plans, regardless of whether they were previously receiving such discounts, whilst noble in concept, may ultimately create a level of financial and administrative uncertainty that would stifle product innovation, and impact the level of discounts and benefits currently offered to customers.

Early Action Option

The Early Action Option (**EAO**) is in essence a customer self-selection option that the customer can take up to defer payment. Access to this option is restricted to customers who have not yet missed a bill payment and advise the retailer they are experiencing payment difficulties.

Whilst we understand the Commission has further work to complete in terms of developing “Operational Guidelines” that underpin the new approach to managing hardship, we have some concerns with the potential for gaming new hardship processes and the EAO is one where this stands out. In the absence of the operational guidelines it is unclear how many times a consumer can or may make use of the EAO.

The EAO is essentially a payment extension that a retailer must provide when requested. Further provided a customer meets their regular payments they retain full entitlements to any benefits under the customers current product offering (e.g. pay on-time discounts). Given that customers are not required to disclose their financial situation to gain access to the EAO, and that its availability must be widely publicised,

the risk is that the EAO simply becomes a payment option used to defer payment by customers other than those in need of genuine assistance.

Should this be the case the effectiveness of this initiative would be significantly undermined. We would suggest that any customer who seeks to utilise the EAO on multiple occasions should have to progress to the Payment Plan One (PPO) option and be assisted through this process.

We note the additional retailer reporting obligations associated with the EAO, any retailer reporting obligations should be simplistic and efficient so as not to introduce additional administrative costs, that are ultimately passed on to consumers through less competitive pricing.

Payment Plan One (PPO) Payment Plan Two (PPT) Option

The qualification for a customer to be placed on the PPO is described as;

That is a consumer with a concession card, or those that have been in the hardship program with the retailer in the past two years, or those that contact the retailer to advise they are experiencing payment difficulties will automatically be placed on the PPO option following a missed payment.

The automatic placement of a customer on the PPO without engaging with the customer creates a greater risk of potential failure that the customer will not / cannot adhere to the terms of the PPO. The arbitrary nature of having standard terms and conditions and repayments limited to a fixed percentage of the debt, and what would appear to be the requirement to provide this even where the customer has not engaged with the retailer has the potential to cause greater customer confusion.

Where a retailer has placed a customer on the PPO and done so in adherence with the relevant provisions, however without engagement with the consumer, and upon receipt of the notification of having been placed on the PPO the customer contacts the retailer to seek to revise the payment plan criteria, and this criteria is inconsistent with both PPO and Payment Plan Two (**PPT**) obligations it is unclear whether this negotiated outcome can be substituted to constitute the provision of either the PPO or PPT option.

Whilst the negotiated payment arrangement may be more acceptable to both the retailer and customer there is the potential that the negotiated outcome will not (technically) comply with the proposed framework and as such the retailer may be considered non-compliant under the scheme.

In such instances where there has been consumer engagement and a negotiated agreement on payment plan arrangements, it is our view that these should be able to be "substituted" for the PPO & PPT obligations.

Under PPT the proposal states that "*Retailers will be encouraged to consider making on-time payment discounts available to consumers on standing offer contracts that do not include such discounts*"

It is unclear how retailers would be "encouraged" to offer on-time discounts to standing offer consumers who are on a payment plan. The addition of providing on-time discounts to standing offer customers who are experiencing financial difficulty is not an insignificant one.

Standing offer products are not designed to accommodate any form of discounts, likewise the assumption that it is (somewhat) simplistic to continue to apply on-time discounts to market offer customers who are on some form of payment plan is also flawed. Additional levels of inelegance will be required to be integrated into existing systems in an attempt to accommodate this provision.

The method for the application of the on-time discount on payment plan customers requires further discussion and clarification. The continuation of the application of the on-time discount should be seen as providing an incentive for the customer to maintain their payment plan, or to maintain engagement with their retailer, therefore the way in which it is applied is significant.

Active Assistance Plan

The structure and obligations under the Active Assistance Plan (**AAP**) raises some concerns. The proposal that the retailer include in the plan offered to customers under the AAP a "fully variable tariff" is concerning.

We understand in determining the fully variable tariff the retailer would have to take the customers total energy costs (fixed & variable) over the previous 12 months and dividing it by their energy consumption to establish a price per unit of energy consumed.

Retailers mass market billing and customer management systems are generally not designed to cater for the provision of fully variable tariffs. Under the proposal a retailer would be required to have the capability to manage and bill customers on the basis of a unique tariff that is "individually" unique to the individual circumstances of a particular customer.

In addition where customer consumption varies significantly during the course of the AAP the fully variable tariff, having been previously determined on historical information will no longer be representative of the customer's current costs.

We do not believe the Commission should be seeking to regulate prices and/or pricing structures for customers on the AAP or any other hardship assistance mechanism.

The AAP continues with the requirement to maintain the application of on-time discounts. We note the further clarification in the description of the AAP that the discount should be no less than either the discount in the customer's current contract or if there is no discount the comparable discount currently offered by that retailer in the market.

Previous comment has been provided on this issue of maintaining on-time discounts, however the clarification / inclusion (under the AAP) that where there is no discount included in the customer's contract the retailer should offer the comparable discount offered by that retailer in the market, creates potential for confusion and non-compliance. Retailers will at any time have multiple product offerings in place with varying levels of benefits and on-time discounts. Hence determining which on-time discount should apply is open to a level of subjectivity.

The determination of which on-time discount should apply to those customers whose current product offering does not include an on-time discount should be at the sole discretion of the retailer. A key principle of the new framework is to remove uncertainty

and unclear obligations. Allowing retailers to be the sole determinate in this matter would remove any potential uncertainty.

We note that new Payment Plan Guidelines are to be developed in consultation with interested parties. The involvement of Retailers will be imperative in ensuring that any guidelines are fit for purpose.

Moratorium on Customer Transfers

We note the provision that retailers will not be allowed to approve a request from another retailer to transfer the customer, for two years after the plan (AAP) is agreed. We should point out the under current market operations retailers do not “approve” a request from another retailer, when that retailer is seeking to acquire a customer.

It is understood the intent of the provision is to restrict the customers’ ability to transfer away from the retailer who is or has provided assistance to the customer.

We strongly believe this is a flawed provision, and goes against the previously stated position of the Victorian Government advocating for the removal of the objection to transfer on the grounds of debt and that of promoting competition in the energy market in Victoria.

The practical implications and necessary system enhancements to manage such an option would be significant. As highlighted retailers do not approve the transfer of a customer, rather if a retailer was required to restrict the transfer of a certain category of customers they would need to do so through “objecting” to the transfer. Objecting to customer transfers (under current rules) is facilitated through market systems.

Indeed additional functionality would be required within the existing market systems that would provide the ability for a retailer to object to the transfer of a customer on the basis that the customer was currently on the AAP or was still within the two year period of the agreement being made.

Not with standing our view that the customer should be free to choose their retailer, and in doing so may be able to obtain a more financially suitable arrangement for their supply of energy, the implementation, on-going cost and administrative burden of the required market system changes would be significant. A detailed cost benefit analysis should be completed prior to seeking to advance this particular proposal.

Reconnection Plan

At this stage of the process if a customer has been disconnected and the retailer is directed to reconnect the customer by EWOV or another registered third party retailers are required to provide direct assistance packages which may include prepayments and/or supply capacity controls.

Under the proposed framework, it is only at this stage that the above two initiatives can be used. This is somewhat of a shortcoming with the proposed framework where arguably the allowable use of prepayments and/or capacity control at earlier stages in the management process may have assisted in avoiding disconnection all together and placed the customer on an earlier path of self-management.

If it is acceptable to use these two initiatives under the reconnection plan it should also be acceptable to use these initiatives at other stages of the framework provided that conditions associated with customer consent are met.

Costs & Benefits

The draft report states that a main benefit for customers from the proposed framework is that customers experiencing payment difficulties are able to access a payment plan without being assessed, evaluated or labelled.

Our experience has been that where customers are placed on or offered payment plans without any level of engagement or assessment those payment plans have a significantly higher failure rate. The customer assessment process is an integral part of understanding the circumstances of the customer and what their ability is to enter into alternate arrangements to meet their financial obligation for the supply of energy.