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Attention: Consumer Policy Team

Australian Energy Regulator

By Email Only: ConsumerPolicy@aer.gov.au

AER Reference: AER22006009

28 June 2024

Dear Consumer Policy Team,

Review of Payment Difficulty Protections in the National Energy Customer Framework Issues Paper

AGL Energy (**AGL**) welcomes the opportunity to provide responses to the consultation questions posed by the Australian Energy Regulator (the **AER**) in response to the abovementioned Issues Paper (the **Issues Paper**).

Proudly Australian since 1837, AGL delivers around 4.3 million gas, electricity, and telecommunications services to our residential, small, and large business, and wholesale customers across Australia. As one of the largest providers of essential services, AGL has extensive experience in supporting customers experiencing payment difficulties, vulnerable circumstances and entrenched financial hardship.

AGL is acutely aware of the recent impacts of energy prices and broader cost-of-living pressures which have contributed to lower energy affordability and increased indicators of customer vulnerability. AGL remains committed to assisting our customers through a range of direct and indirect support measures, including those announced under our $70m customer support package[1]. However, we also recognise that the pervasive impacts of vulnerability warrant an ongoing and continually evolving response across all of industry.

In this regard, AGL acknowledges the AER's concerns that "some consumers experiencing payment difficulty have poor outcomes under the current framework" and we welcome efforts to uplift the way in which customers are "proactively identified, engaged early and supported appropriately". It is critical to ensure that consumer protection frameworks remain responsive to changing needs and are effective at supporting those in need. AGL appreciates the AER's considered approach to assessing the current framework, considering examples of cross-jurisdictional better practice and ways to improve the experience of customers in the NECF. Ultimately, it is AGL's view that that the NECF is largely effective at supporting consumers, but could benefit from some targeted changes as outlined further herein.

AGL's detailed responses to the consultation questions are set out within **Appendix A** attached herewith.

If you have any questions in relation to this submission, please contact Liam Jones on [redacted].

Yours sincerely,

[redacted]

Liam Jones
Senior Manager Policy and Market Regulation

[1] https://www.agl.com.au/about-agl/media-centre/asx-and-media-releases/2023/may/agl-commits-70-million-to-support-customers-in-managing-cost-of-

Appendix A – AGL's Responses to Consultation Questions

1. Do you have any feedback on the proposed approach for the review?

a. The effectiveness of the proposed indicators for measuring the intended outcome

AGL welcomes the use of quantitative, measurable data points to capture the effectiveness of outcomes considered in the Issues Paper. Having regard to the proposed indicators in Table 1 of the Issues Paper, AGL provides the following guidance to the AER:

i. *Increase in proportion of customers in energy debt who are receiving assistance* – this metric could be beneficial to track improvements to the visibility, accessibility and uptake of payment assistance options across a retailer's customer base.

ii. *Decrease in the proportion of customers in medium-term and long-term energy debt* – AGL urges caution with the use of this metric. It is clearly preferable (for both consumers and retailers alike) for medium and long term energy debt to reduce. However, the reality of energy affordability and broader cost of living pressures is that we expect medium to long term energy debt to remain pervasive, especially for customers on fixed welfare benefits. Longer term, the move to cost-reflective pricing under the energy transition has the risk of exacerbating this problem for consumers who are unable to modify their energy consumption behaviour and/or afford CER measures to mitigate their energy costs. As will be discussed further in this submission, certain types of payment assistance may have the unintended consequence of allowing customer debt to increase, especially where the customer is unable to make inroads to being able to afford their ongoing energy costs. Ultimately it may be necessary to increase the number of customers with medium or long term debt through sustainable payment plans over longer durations.

b. The appropriateness of the proposed criteria for assessing options

AGL believes that the proposed criteria are mostly appropriate. We recommend two considerations:

i. Where possible, utilise the proposed indicators to retrospectively assess the impacts of changes to payment assistance measures in other comparable jurisdictions.

ii. Under 'Market Impacts', it would be beneficial to explicitly capture the human impacts on retailers' frontline staff who deliver affordability and vulnerability support day-to-day. Frontline staff have challenging roles, are expected to deliver high standards of service and are required to have broad knowledge of often complex processes that differ by jurisdiction. These staff do an admirable job, they always put the customer at the centre of their thoughts and actions, and any changes should consider the mental and emotional impacts of delivering that assistance to customers.

c. Factors to consider in assessing the short-term and long-term impacts of potential changes, including other evidence-based scenarios that could be used to test potential future impacts

AGL recommends the below factors may be of interest and benefit to the AER to assess the impacts of any proposed changes to the framework. We note there is potential value in measuring these on a uniform, industry-wide basis to allow for comparative analysis and performance benchmarking across retailers similar to the United Kingdom. The benefits of this would need to be balanced against the costs of developing what would largely constitute new performance indicators.

i. *Customer engagement* – the degree to which customers engage with their energy retailer, measured as points of contact or frequency of contact with their energy retailer.

ii. *Complaints* (both internal and external) – these indicators may serve as a proxy for whether the retailer is providing sufficient support and service to its customers, with the inverse corollary of that being customer dissatisfaction in the form of complaints.

iii. *Regulatory enforcement* – the degree to which the AER is required or compelled to take enforcement action against retailers may signify whether the framework is readily understood by retailers and capable of being appropriately implemented.

iv. *Customer satisfaction or net promoter score* – these metrics could measure the experiences of a retailer's customers across relevant payment difficulty interactions and allow for comparative analysis provided they utilise a common methodology.

v. *Shift in energy consumption and/or costs* – the degree to which a retailer's customers are able to meaningfully reduce either their energy consumption and/or costs as a result of energy efficiency information and upgrades. Note, there are inherent challenges impacting the extent to which a retailer is able to meaningfully influence these outcomes having regard to their customers' financial means, behavioural characteristics and housing situation amongst others.

vi. *Utilisation of jurisdictional energy schemes* (concessions, emergency relief payments and energy efficiency) – the degree to which a retailer is able to positively influence the rate at which their customers actively engage with and avail themselves of the various jurisdictional energy programs.

vii. *Impact of debt relief/payment matching* – the extent to which a retailer's approach to waiving customer debt or matching payments influences (artificially or otherwise) on the performance (actual or perceived) of their payment difficulty support, noting that existing performance reporting indicators do not capture the extent to which this occurs.

d. Other objectives, intended outcomes, indicators or criteria that we should consider

AGL refers to the 'intended outcome' and notes that reference to customer outcomes appears to be a notable omission. Instead, the language is focussed solely on retailer obligations, which in itself, fails to recognise the joint effort (between retailer and customer) that is required to achieve positive affordability outcomes. Thus, we would advocate for a revised intended outcome that recognises the important role that retailers and customers play to facilitate and maximise payment difficulty support, resulting in positive outcomes for impacted customers.

e. The limitations of what payment difficulty protections may be able to achieve in the NECF

As highlighted in our recent submission to the AER in response to its consultation on '*Developing a Toolkit to Help Consumer-Facing Energy Businesses Identify Vulnerability'*, AGL argued for the "importance of shared, collaborative accountability between retailers and consumers". There needs to be recognition that a successful framework must necessarily involve the customer in the equation – the framework can't simply impose obligations that the retailer does *to* the customer – they must be obligations that the retailer does *with* the customer. The success or failure of payment difficulty protections will largely be governed by the extent to which customers understand, accept and achieve the payment support offered to them. Ultimately, the best payment difficulty protections will be ineffective unless the following is addressed:

i. Customers understand the need to engage with their energy retailer and choose to do so.

ii. Payment difficulty protections can't always solve intrinsic affordability issues – this is arguably a social welfare issue as much, if not more, than it is an economic regulation issue.

iii. The extent to which a customer is able to address medium to long term payment difficulties will be largely dictated by their ability to modify their energy costs – through either behavioural changes, energy efficiency upgrades or both.

iv. Recognition that despite the best efforts of retailers and the framework, there is a cohort of customers who will not engage with their retailer or accept support. In these circumstances, retailers must have recourse to minimise bad debts and costs through the disconnection process (as a measure of last resort).

2. What can we learn from other approaches to strengthening protections for consumers experiencing payment difficulty?

a. Other payment difficulty frameworks and protections, such as those in Victoria, New Zealand and the United Kingdom and those in other sectors or essential services.

The comparative jurisdictional analysis contained in Section 2.2 of the Issues Paper is helpful to compare and contrast the current framework with other approaches to supporting affordability and vulnerability.

From an energy perspective, there are learnings to be gleaned from the Victorian, New Zealand and United Kingdom frameworks. The common themes across these three jurisdictions are their focus on mandatory obligations, minimum standards and consistency. More specific observations include:

- *Victoria* – the Payment Difficulty Framework (the 'PDF') dispenses with the requirement to subjectively identify, assess or classify a customer as being in hardship and instead, imposes a range of minimum entitlements available to all Victorian consumers. As a retailer who also operates within the Victorian energy market, AGL has had extensive experience in implementing and supporting customers under the PDF. AGL provided detailed feedback to the Essential Services Commission (the 'ESC') in relation to its implementation review, concluding that there were both desirable and undesirable elements to the framework. These elements will be discussed throughout this submission, but at a high level, it has been AGL's experience that the positive features of the PDF are the use of minimum standards and the way these are communicated to customers, whereas some of the shortfalls of the PDF are the overly prescriptive components of tailored assistance and the debt freeze/practical assistance component for customers who cannot afford their ongoing energy costs which we contend does not realistically improve customer outcomes.
- *New Zealand* – the Consumer Care Guidelines seek to ensure clear, consistent standards of care, noting the shift from voluntary guidance to mandatory obligations.
- *United Kingdom* – as with the other frameworks, Ofgem has sought to uplift consumer protections. Notable differentiating features of the Ofgem approach that should be considered is the focus on incentivising retailers to improve service standards, focussing on positive customer outcomes, as well as innovative ways to better connect and engage with consumers.

b. The role of minimum standards in effective payment difficulty protections

AGL is largely supportive of the use of appropriate, reasonable and measured minimum standards of support to underpin payment difficulty protections. These should not constrain or limit retailers from going 'above and beyond' and exceeding the minimum standards through rigid design. Instead, they should allow flexibility and avoid overly prescriptive or onerous requirements that would not put the customer at the heart of interactions with their retailer.

If done properly and appropriately, there are some clear advantages of minimum standards:

- *Consistency* – the same minimum standards can be offered to customers repeatedly, instilling a greater awareness and knowledge of the support available.
- *Reinforcement* – the more often customers are reminded of the same message of support it will normalise that support and remove potential barriers to accessing it.
- *Predictability* – retailers know what minimum standards of support to offer customers at all times, leading to better and more compliant customer outcomes.
- *Avoidance of subjectivity* – by removing the need to apply opaque or ambiguous assumptions based on potentially limited information, retailers will be able to make better, more direct decisions on how best to support their customers.

c. Other examples and approaches, including industry practices and initiatives

AGL points to the following activities which have contributed to increased consumer protections:

i. *Compliance controls* – AGL has invested significantly in a range of internal process controls – both human and system – to ensure delivery of high standards of effective, compliant affordability support. These controls are critical to

ii. *Specialist training* - as part of our $70m customer support package announced in May 2023, AGL committed (amongst other things) to increasing situational awareness training and reviewing customer communications with a particular focus on supporting our culturally and linguistically diverse and Aboriginal and Torres Strait Islander customers. Through this funding, we undertook an empathy training pilot, which will utilise the expertise of a specialist external facilitator.

3. How adequate, effective and appropriate is the current eligibility framework for payment difficulty protections?

a. The effectiveness of existing definitions of hardship and payment difficulty in the NECF

Under the current framework, the retailers' hardship policy is the primary mechanism by which hardship is defined and administered by that retailer. There exists a duality in that hardship policies in the NECF serve two distinct purposes – as a customer facing document as well as a pseudo form of self-regulation overlayed with additional regulation such as the AER's *Customer Hardship Policy Guideline* and 'standardised statements'. AGL contends there is too much emphasis placed on the role of a retailer's hardship policy – we question the extent to which consumers (especially those experiencing vulnerability) are willing or able to engage with such documents to understand their entitlements.

While the *Customer Hardship Policy Guideline* provides guidance to retailers on the content of their hardship policy and the hardship policy approval process would normalise approaches across the industry, it is still incumbent on the retailer to define their own view of how hardship is actually assessed. Given the nuance and complexity in seeking to define or classify different types of hardship across a diverse customer base, this will ultimately lead to differing views and interpretations both within and across retailers.

AGL advocates for an approach that isn't fixated on classifying or labelling customers or their circumstances, but rather one in which the emphasis is placed on having a range of suitable and sustainable payment support options that are responsive to different customer needs.

From a payment difficulty perspective, AGL contends that the term itself is well understood having regard to the plain meaning of the words themselves, but notes that the interplay between hardship and payment difficulty could be improved, recognising that the practical distinction between the two terms is less apparent – a hardship customer is one who is experiencing payment difficulties because of hardship as defined by a hardship policy[2] whereas "other" customers can experience payment difficulties (presumably not because of hardship factors)[3].

b. How the framework differentiates between consumers in different circumstances or who are experiencing different kinds of payment difficulty

As outlined above, the current framework recognises the need to offer payment plans for hardship and other customers experiencing payment difficulties[4]. The NERR sets out factors that retailers should take into account when establishing payment plans[5], the information that the retailer must convey to the customer about the payment plan[6][7] and circumstances when the retailer might not be obligated to offer a payment plan to a customer[8].

Other than making the distinction between a hardship and 'other' customer (which is still largely governed by the retailer's hardship policy), the current framework does not make a meaningful distinction between any underlying affordability issues, nor does it set out differentiated support options for customers. As previously argued, the focus should be on the support and outcomes rather than categorisation or labelling.

c. The appropriate balance between coverage and scope of payment difficulty protections, including implications for retailer costs and consumer outcomes

There exists a delicate balancing act in ensuring that payment difficulty protections provide a range of suitable protections for customers, without imposing onerous, unrealistic or unworkable obligations onto retailers, which would ultimately be reflected in increased cost-to-serve and higher energy costs for consumers. Payment difficulty protections cannot be unfettered – there needs to be appropriate limits on what retailers must offer.

High degrees of prescription within payment difficulty protections are problematic as not all customer situations are the same and seeking to treat them as such can often lead to generic, undifferentiated impersonal customer experiences and outcomes.

Similarly, insisting on having too many or overly complex solutions would make the framework too difficult to navigate for customers and retailers alike, creating social licence and trust issues.

Instead, an effective framework should seek to achieve the following principles:

- *Pragmatic* – the framework should be realistic as to what is achievable by both customers and retailers and avoiding setting either side up to fail through unreasonable obligations or expectations.
- *Flexible* – the framework should allow for a degree of flexibility in retailer approaches to administering the relevant standard(s) of support. This is important to foster innovation and keep abreast of changes in affordability needs both now and into the future.
- *Responsive* – the framework should understand the needs of customers and put sustainable and meaningful outcomes at the forefront.

[2] National Energy Retail Law s. 2.
[3] National Energy Retail Law s 50(1)(b)
[4] National Energy Retail Law s. 50
[5] National Energy Retail Rules r. 72(1)
[6] National Energy Retail Rules r. 72(2)
[7] National Energy Retail Rules r. 33(3)
[8] National Energy Retail Rules r. 33(2)

- *Balanced* – the framework has to recognise the important role that both retailer and consumer play in achieving successful outcomes and foster the right environment for this to occur.

d. Potential benefits, limitations and risks of establishing minimum standards of assistance for all consumers, with additional rights for consumers who meet specific criteria

AGL is broadly supportive of the notion that customer support should be layered like a pyramid, with a bottom layer of broad minimum support available to all consumers with minimal barriers to access. Each subsequent layer of support would respond to more severe levels of payment difficulty, having regard to the effort, resource and cost required to support the customer. Accordingly, these more intensive layers of support should have corresponding qualifying criteria to ensure appropriateness of the support and both effective and efficient retailer resource allocation.

Such an approach would ensure the level of support offered would be relative or commensurate with the customers' circumstances and/or needs and could be tailored to be responsive to their situation, giving them the best possible chances of a positive outcome.

It is appropriate to limit or curtail access to more severe forms of support as these will generally be more resource or cost intensive for the energy retailer and should be reserved for those customers who will most readily benefit from and engage with that type of assistance.

4. How could the framework better support early identification of consumers experiencing payment difficulty?

a. Indicators currently used to identify consumers experiencing or at risk of payment difficulty, in energy or other sectors

AGL employs a sophisticated early predictive hardship identification process leveraging data analytics and customer behaviour insights in order to trigger proactive, targeted communications to customers who may be experiencing signs of financial vulnerability. These communications supplement those that are required under either the NECF or PDF.

Notwithstanding this, AGL believes it is important to be pragmatic and realistic about the levels of data and insights that energy retailers hold about their customers and the degree of confidence that can be assigned to indicators of potential vulnerability. Where a customer (or an authorised representative) is not engaged with their retailer to share details of their circumstances, a retailer is ultimately limited to drawing inferences about that consumer's demographics, consumption behaviour or payment behaviour. These are inherently lag indicators and only inform the retailer about notable changes after they have occurred and when the customer is potentially already in payment difficulties.

b. Other specific circumstances or indicators that could be useful 'triggers' for identifying consumers experiencing or at risk of payment difficulty

AGL points to the potential benefits of other data sharing arrangements such as the Consumer Data Right (CDR) or Thriving Communities Australia's One Stop One Story Hub. Central to the operation of these platforms is customer consent as an enabler to share meaningful information across accredited recipients. However, AGL is also mindful of customer apprehension about sharing sensitive data, especially in light of recent prominent data privacy breaches (e.g. Optus and Medibank) which have arguably undermined consumer confidence in data security. Finally, there are potential use cases for data held by the credit reporting bureaus.

c. How customers on prepayment meter systems or prepaid billing arrangements could be better identified as experiencing payment difficulty

AGL does not currently provide payment meter systems or prepaid billing arrangements and as such does not have any specific feedback to provide.

d. Potential benefits, limitations and risks of automation, predictive analytics and artificial intelligence for identifying consumers experiencing payment difficulty

As highlighted in response to (a) above, AGL employs automation and predictive analytics to complement our existing suite of system and 'human' efforts to support customers experiencing payment difficulties. In this regard, we see automation, predictive analytics or artificial intelligence as just one tool in a broader toolkit that all work in unison to support our customers.

Broadly speaking, the benefits of these tools are their ability to digest and process large amounts of data more efficiently than a human counterpart. Conversely, they may be limited by the quality or quantity of the data inputs available and may lack the necessary discretion to properly assess complex, nuanced customer situations. If utilised in isolation or the absence of human oversight, this may give rise to the risk of arbitrary or binary decision-making.

5. How could the framework better support effective engagement with consumers experiencing payment difficulty?

a. Approaches currently used to engage with consumers experiencing or at risk of payment difficulty, in energy or other sectors

AGL recommends the following suggestions for improving engagement with consumers:

i. *Multi-channel contact strategy* – ensuring that the retailer is able to communicate with consumers in a range of channels and settings that are appropriate for that customer or cohort of customers, noting significant variances in preferences. This may include over the phone, webchat, online messaging, self-service and face-to-face through community outreach events.

ii. *Digital and self-service options* – AGL has observed an increasing trend in customers preferring to utilise self-service support through digital platforms (online account or mobile app), which enables them to access the same or similar levels of support but without having to discuss their circumstances over the phone. This potentially alleviates some of the stress and anxiety in dealing with a human representative, whilst increasing flexibility to access support at a time and location that is most convenient for the customer. This contrast in preference was observed through AGL's covid support program which allowed enrolment via self-service web form or phone call, with online sign-ups overwhelmingly outnumbering those registered over the phone.

iii. *Language & accessibility* – ensuring that key communications are available in translated and/or easy English formats as well as services to support vision impaired customers or those who are deaf or find it hard to hear.

b. The appropriate purpose and role of a retailer's customer hardship policy

As discussed in our response to Question 3 above, the preferred aim and audience of a hardship policy should be to inform the retailer's customers of the levels of support available to them. This should be communicated in a way that optimises accessibility and is done in a channel, manner and fashion that is conducive to maximising customer awareness. This may mean that the concept of a traditional policy document is no longer appropriate and for example, may be better conveyed through alternative mediums such as video or images.

Additionally, AGL would welcome research or consumer testing on the ways in which customers go about learning affordability support information or support available from service providers. We suspect that despite retailers communicating the existence of hardship policies, there is limited consumer interest in downloading and reading these documents and instead, more informal channels are preferred by consumers such as word-of-mouth, social media or through community groups.

c. The most effective and appropriate ways to communicate with consumers about the assistance available and how it can be accessed

As referenced in our response above, we recommend ensuring that assistance should be communicated with regard to the following general principles:

- *Early intervention* – available support should be highlighted to consumers from the initial point of onboarding and consistently reiterated throughout the customer journey.
- *Consistency in message* – customers receiving consistent messaging around the available support measures will help reinforce, reiterate and normalise the availability of that support.
- *Range of channels* – regard should be had to the ways in which support is messaged and the effectiveness of those messages getting through to consumers. This is especially prevalent with the rise in scam messages/calls being sent to Australian consumers and a resultant loss of trust in certain communication mediums.
- *Range of languages/accessibility* – customer support messaging should be accessible to a wide range of consumers including those who speak languages other than English and those with special needs.
- *Independent sources* – we also recommend consideration of the use of a centralised, independent source of information on payment difficulties such as through the AER or appropriate government body. This could ensure increased trust, consistency in message and better manage the cost implications for retailers in establishing and maintaining a range of communications.

d. How the framework could support engagement practices that better meet consumer needs, including the needs of diverse consumers experiencing payment difficulty

Having regard to the factors set out in (c) above, the framework could respond by establishing appropriate minimum standards that include the frequency and content of information notices, whilst doing so in a way that a conducive to good customer outcomes.

In this regard, engagement processes and obligations should seek to minimise customer effort and friction. This is to ensure ease of access, positive customer outcomes and ongoing willingness to engage with the retailer – a poor initial experience may prevent future reengagement.

Many of the support measures currently available in either the NECF or PDF require direct consumer action and/or engagement and as such, it is important that consumers are appropriately incentivised for engaging with their energy retailer.

e. How the framework could ensure a more consistent standard of service for consumers

As outlined above, the framework could be enhanced to ensure minimum standards of communication having regard to timing, frequency, content and accessibility/ease of understanding.

f. Potential benefits, limitations and risks of proactive and automated engagement processes.

In answering this question, it is important to distinguish between proactive and automated engagement processes. AGL notes that proactive engagement is important provided it is done in a manner that is consistent with the other factors discussed herein.

Automated engagement plays an important role in retailer processes. Given the high complexity and multiple touch-points in retailer processes, it is becoming increasingly important to rely on the use of systems and automation to manage engagement processes (in part or in full). Conversely, it is not practical to manually case manage all of a retailer's customer base – both from a resourcing and cost perspective. Case management does play an important role for customers requiring more intensive support and as such, it is important to leverage systems and automation for the bulk of the volume. These are especially important in time critical communications and ensuring that customer accounts follow a sequence or flow of predetermined steps. As always, it is important to ensure that systems have appropriate controls and quality assurance to ensure their effective operation. It is also important to determine when automation shouldn't be utilised in favour of a human review which is perhaps better suited to more subjective components in the process (noting however that these steps in a process are often the most difficult to perform and even humans will find them complex to navigate).

6. How could the framework better ensure that consumers experiencing payment difficulty are supported appropriately with assistance that is tailored to their individual circumstances?

a. Forms of practical assistance that are available to consumers experiencing payment difficulty, including when they are provided, how they are accessed, and how effective they are

AGL refers to the following forms of practical assistance that are currently being or have previously been offered to its customers to help support payment difficulties:

- *Payment matching* – where the customer is incentivised to make their agreed repayments by AGL offering to co-contribute an equivalent amount or on an agreed ratio. Can be effective at increasing the kept rate of payment plans by rewarding customers for adhering to payment commitments.
- *Debt relief* – where AGL applies a credit to a customer's account to waive an accrued debt (in part or in full), with eligibility for the debt waiver being conditional on meeting certain agreed criteria or based on an assessment of customer circumstances. This can be particularly effective where the customer is able to afford their ongoing energy usage but is having difficulties clearing an accrued debt. It is less effective for customers who cannot afford ongoing energy costs as they risk simply re-accruing the waived debt.
- *Debt freeze* – applied under tailored assistance in the PDF and also for a period of time during Covid-19 lockdowns where customers are allowed a moratorium on repayment of either debt, ongoing energy usage (or both) for an agreed duration. Caution must be exercised with this option as it will allow the customer to accrue further debt that might not be capable of being repaid. Should only be considered where there is a clear pathway for the customer to clear the additional debt at the end of the moratorium period.
- *Support accessing government grants/concessions* – where AGL actively supports customers by assisting them to apply for suitable government grants or concessions to maximise the prospects of the customer receiving their entitlements. This is informed by historical observations that customers were not always completing or returning government grant application forms and thus missing out on support that they were otherwise entitled to.
- *Energy efficiency audits* – undertaking online/phone/physical assessment of the energy efficiency of a customer's appliances and/or their residence reflected in a report that that makes

a number of recommendations to reduce their energy consumption and costs. Can be effective at identifying the root cause of high energy costs and determining the appropriate remediation steps. Conversely, it can be challenging to recruit customers who are willing to undertake in-person audits and more broadly, there can be challenges acting on the recommendations made.

- *Energy efficiency upgrades* – often based on the outcome of audit recommendations, AGL may subsidise (in part or in full) the cost of replacing or upgrading inefficient appliances or the installation of CER equipment to better manage ongoing energy costs. One clear limitation is customers living in rental properties who are not able to make certain upgrades. This is partly being considered in Victoria under live consultation on improvements to minimum energy efficiency standards for rental properties.
- *Referrals to financial counselling & other support services* – supporting customers to connect with external specialist and wrap-around support services that are appropriate to their circumstances.

b. Forms of assistance that are effective for consumers in different circumstances, including consumers who are on prepayment meter systems or prepaid billing arrangements.

AGL contends that an important part of supporting customers is to ensure alignment between the customer's circumstances and the most appropriate form(s) of support. One consideration is the expected duration of that support, with the most appropriate types of assistance structured and aligned to that timeframe:

- *Preventative* (prior to debt being incurred) – these measures are aligned to the types of support considered in the 'standard assistance' component of the PDF and typically involve measures such as: pre-payment, bill smoothing arrangements, payment due-date extensions, direct debit, Centrepay deductions and concession checks. These are best suited to customers who want to effectively manage their budget and avoid falling overdue.
- *Short-term* (0 – 3 months) – temporary payment arrangements of a short-term duration where the repayment period typically doesn't exceed the customer's next bill cycle. Repayment of the debt may occur as a lumpsum or spread over instalments. These are generally caused by unexpected and/or temporary life events and may be supported by government grants subject to eligibility).
- *Medium-term* (3 – 24 months) – where the customer needs a prolonged period of time to repay their energy debt by instalments smoothed over an appropriate duration. Given this timeframe will likely overlap with the customer's ongoing energy charges, it is often preferable to combine these into a single repayment covering consumption and arrears. These customers will benefit from many of the support measures in (a) above.
- *Long-term* (24 months or more) – in this scenario, the customer is unable to afford their ongoing energy costs for a sustained period or requires in excess of 24 months to clear their energy debt or both. These scenarios are often the most complex and require bespoke consideration of the customer's situation to tailor the appropriate solution. All options outlined in (a) above should be considered.

c. How the framework could ensure that payment plans are established with regard to a customer's capacity to pay, including opportunities to strengthen or improve protections around capacity to pay conversations.

Broadly speaking, the role of a formal capacity to pay assessment should be to objectively consider an individual's assets, income and outgoings, categorised having regard to both non-discretionary and discretionary expenditure. This should be overlayed against the context of the circumstances that are causing the customer's payment difficulties, whether that be temporary or long-term.

By comparison, energy retailer capacity to pay assessments (such as those contemplated under the SPPF) are often less formal and as such, do not yield the same level of detailed output, especially compared to those undertaken with a financial counsellor or a proper budgeting tool. The informal nature of retailer capacity to pay assessments can make the information provided more prone to lower reliability or accuracy.

A formal capacity to pay assessment would necessitate comprehensively considering a customer's circumstances and financial commitments; AGL suggests customers would be reluctant to share this information with their energy retailer – it can be both invasive and time consuming. Moreso, doing so is arguably beyond the skills and expertise of energy retailers and more closely aligned to the type of work of a financial counsellor.

It also requires an appropriate tool, system or framework to capture, record and process the necessary inputs. In this regard, we suggest consideration be given to the role of Consumer Data Right/Open Banking in providing streamlined access to the necessary data to assess hardship or capacity to pay (see for example: Consumer Data Right: Non-bank Lending Sectoral Assessment Final Report).

AGL suggests that it may not be necessary to undertake this type of activity in all situations – for example, it may be limited to scenarios of repeat entry to retailer hardship programs or where the customer's 'self-assessed' capacity to pay falls below a certain percentage threshold of ongoing energy usage (e.g. where the customer can only afford less than 80% of their ongoing energy costs).

d. Other opportunities to improve the benefits of payment plans for consumers experiencing payment difficulty, including those who may not have access to other forms of assistance.

One of the biggest challenges around structuring payment plans for energy customers is the reality that while the customer remains on supply, they are continuing to accumulate further charges that may exacerbate the underlying debt. This is different from other sectors where in instances of hardship, the provider may choose to close the account/facility and stop the further accumulation of debt (principal, interest or charges). In this setting, paying down a fixed debt allows for more flexibility. However, for an energy provider, there is a balancing act of allowing ongoing supply, managing ongoing energy costs, whilst providing appropriate payment plan terms. This balancing act, recognised in r. 72(1) of the NERR, is often difficult, and suited to situations of short to medium term payment difficulties where the customer has the means to remedy their debt and afford ongoing energy consumption.

For customers who cannot afford their ongoing energy consumption, the situation is somewhat more challenging. The Victorian PDF allows an initial 6-month period to freeze repayment of debt and pay below consumption whilst working towards reduce energy costs. By its design, this will result in the customer accumulating more debt at the end of the freeze period than at the beginning. Similar situations occur in retailer hardship programs where customers cannot afford ongoing energy costs and are allowed to pay below consumption. These situations effectively represent a race against time – it is necessary for the customer to be able to modify either their energy consumption behaviour, appliances or invest in CER assets to manage their energy costs ongoing. This is often a challenging task, especially for customers with limited financial means or an inability to influence investment in the energy efficiency of their residences. Thus, energy retailers may find themselves stuck between a rock and a hard place – encourage the customer to reprioritise spending in their budget to afford their ongoing energy costs and avoid further debt (at the risk of being seen to be pressuring repayment of arrears) or allow repayment at a rate below ongoing consumption (and allow the customer to incur further debt, often to unsustainable levels).

Thus, there needs to be recognition around the limitation on the effectiveness of payment plans, which effectively seek to smooth repayment of debt and/or ongoing costs over a longer period of time. Essential to their success is the customer's ability to afford and make those repayments on a consistent basis. Initiatives such as payment matching or debt relief can serve as an effective means to reward or incentivise such efforts, noting prior comments around the long-term viability of those mechanisms.

7. How could the framework better ensure that disconnection is a last resort?

a. The effectiveness of the minimum disconnection amount in protecting consumers experiencing payment difficulty from disconnection, including how it operates in practice, the appropriateness of the current amount, and any unintended consequences.

AGL argues that the current framework already adequately ensures that disconnection occurs as a measure of last resort. This is achieved through express provisions[9] and indirectly through the range of supporting measures that must occur before a disconnection can occur.

AGL notes that the disconnection threshold should not be synonymous with a trigger for the retailer to commence offering support – clearly customers would benefit from early support before their debt accumulates to the disconnection threshold.

The minimum disconnection threshold serves as a marker of when a customer can be disconnected for non-payment. AGL has experimented with a range of thresholds over and above the minimum amount. Ultimately it is our view that any changes to the disconnection threshold will have a short-term impact on disconnection volumes but will ultimately have negligible long-term impacts. This is because customers facing disconnection will likely continue to accrue further debt and be subject to the disconnection process at a later stage with a higher balance. Ultimately customers who are at risk of disconnection haven't engaged with the retailers' multiple attempts to provide support. In circumstances where early engagement is important and there is a shared understanding that the earlier support is provided, there is an argument to be made that disconnection should not be delayed for this cohort of customers. However, it remains necessary and pertinent that the appropriate pre-requisite engagement activities occur to give customers the best chance of engaging.

Finally, it is important to note that when the minimum disconnection threshold was set, it was done so on the basis of a quarterly bill. Noting the prominence of monthly billing, it is important to consider the effect of a disconnection threshold in the context of multiple monthly bills falling overdue.

b. The effectiveness of current protections related to debt recovery and disconnection, including the existing requirements for retailers to engage with and assist a customer before pursuing debt recovery or disconnection.

AGL agrees with the premise that retailers should be required to exhaust all reasonable attempts to engage with a customer prior to the commencement of debt recovery or disconnection processes. This position is in the best interests of both the customer and the retailer – everyone benefits if early engagement and effective support is able to be provided.

Under the current framework, r. 111 of the NERR sets out the prerequisite steps that must occur prior to a disconnection occurring including (but not limited to) the issuing of a reminder notice, a disconnection warning notice, undertaking best endeavours to contact the customer and offering payment plans.

These measures ensure that for a customer to be disconnected, they will have received numerous attempts at contact. Noting that retailers often supplement minimum requirements with their own additional contact steps, it results in customers receiving numerous contact points across various

[9] National Energy Retail Law s. 47

channels. AGL's disconnection processes will often involve 10 or more contact steps, which can be repeated multiple times depending on the customer's billing cycle and/or debt.

AGL refers to analysis it conducted to assess the effectiveness of disconnection warning notices to prompt customer intervention during the disconnection process. During the Covid lockdown period when disconnections were suspended, AGL modified the content of its disconnection warning notice to reflect the prohibition on disconnections. We then observed and recorded customer responses to the different variants, noting a 25% reduction in customers making payment or seeking payment support for the non-disconnection variant. Similar observations were recorded across access to support measures such as payment plan, joining the hardship program of seeking family violence protection.

c. Opportunities to support more effective engagement before disconnection, including by incentivising earlier engagement and better meeting consumer needs.

AGL believes that retailers are already incentivised to ensure they engage with consumers early to avoid disconnection – disconnection processes carry operating costs, increased bad debts, regulatory risk, likely churn and can lead to poor customer experience.

AGL notes the following potential options for enhancing the existing protections outlined above:

- *Notice requirements* - expanding the particulars to be included on reminder and disconnection warning notices to include information about retailer support, hardship policies and/or government grants and concessions.
- *Earlier best endeavours* - considering shifting the best endeavours requirement to occur prior to issuing the disconnection warning notice.
- *Express best endeavours* - clearer articulation of best endeavours expressed as a minimum number of contact attempts.
- *Remove barriers to accessing support* - use of digital self-service and low-friction channels.
- *Appropriate and effective contact* – utilise a range of contact channels including face-to-face (community outreach), phone, online.
- *Less prescription* - avoidance of prescriptive scripting requirements – allowing for more human interactions.

There also needs to be an acknowledgement that disconnection processes by their very nature, often lead to customers who were otherwise disengaged to reach out to the retailer to get reconnected and access support. AGL analysis suggests that around half of customers disconnected for non-payment will engage and access support following the disconnection. For these customers, other forms of earlier engagement were not effective or did not elicit the desired customer response.

d. The effectiveness of current protections for consumers experiencing payment difficulty when it comes to connection and reconnection, including existing rules and practices relating to security deposits and connection fees.

As mentioned above, it is AGL's experience that following a disconnection for non-payment, roughly half of impacted customers will contact AGL to arrange reconnection and the other half will churn retailers without engaging with the incumbent retailer.

The proposed accelerated rollout of smart meters will significantly improve the experience for customers impacted by disconnection for non-payment with vastly improved reconnection times. AGL analysis in Victoria has previously shown that over 85% of customers are reconnected within 24 hours of their disconnection.

8. What are the costs and benefits of potential changes to the framework?

a. What kinds of changes could impact retailers' cost to serve, either positively or negatively

AGL provides the following general views on retailer cost-to-serve, noting that each retailer is likely to be impacted by these factors to varying degrees. It is also important to note that these two lists are not mutually exclusive – proposed changes will likely have both positive and negative effects on cost-to-serve simultaneously, and as such, it is important to ensure they are considered in parallel such that the overall net benefit of any change should be justifiable and warranted.

The following changes would result in *increased* cost-to-serve for energy retailers:

- *Process changes* – designing and documenting process flows.
- *Technology changes* – systemising the above process changes.
- *Training costs* – both internal training costs and through specialist external providers.
- *Contact centre resourcing* (including impacts to average handling time) – additional time required to speak with and support customers over the phone.
- *Regulatory costs* – internal governance, quality and assurance, compliance and enforcement.
- *Collateral changes* – including amendments to existing collateral, development of new collateral and the costs of dispatching communications to customers.
- *Translation services* – includes both the initial upfront costs to translate collateral as well as the significant maintenance costs of reviewing and updating over time.
- *Debt accrual* – net bad debt expense and/or bad debt provision.
- *Third party partnerships* – organisations that retailers partner with to provide affordability support such as financial counsellors, community sector partnerships, specialist consultancy and outsource providers.
- *Debt waivers and payment matching* – the costs of delivering financial support rebates/credits to customers.
- *Energy efficiency schemes/programs/activities* – the costs involved with delivering programs to assess and/or improve the energy efficiency of customer residences (these may be co-funded through jurisdictional schemes).

The following changes would result in *reduced* cost-to-serve to energy retailers:

- Utilisation of lower-cost contact channels (rather than high-cost channels)
- Increased automation
- Enhanced self-service capabilities
- Measures that more effectively reduce customer debt

b. Potential benefits, limitations and risks of harmonising protections for consumers experiencing payment difficulty across jurisdictions, including specific protections or issues for which the benefits, limitations or risks of harmonisation are particularly high

There are arguments for and against harmonisation of payment difficulties protections.

AGL's view is that harmonisation is preferable *in principle*, but in reality, it is impractical to establish or maintain without significant jurisdictional alignment and would likely result in increased costs and complexity for retailers and customers.

The positives of harmonisation include:

- *Consistency of protections across all jurisdictions* – energy consumers will all have equitable access to the same protections irrespective of where they reside.
- *Less complexity and easier to administer/update* – it will be easier for energy retailers to operationalise, train and deliver payment support without having to maintain different variants of processes.
- *More efficient/less cost* – one set of systems/processes will involve less overhead and allow retailers to better leverage economies of scale in the delivery of these programs.

There are also potential negatives:

- *Retailers have already invested significantly in differentiated frameworks* – there would be significant upfront costs to realign processes across the jurisdiction (systems, processes, training etc).
- *Jurisdictions may choose to diverge again in the future where they see opportunities to modify the framework for the benefit of their constituents* – see for example the ESC's Review of the Energy Retail Code of Practice which may modify the PDF obligations at the same time as the AER is considering whether they should be adopted into the NECF.
- *Change management and alignment across the jurisdictions becomes difficult* – multiple decision-makers and regulatory reform processes to follow.

c. Potential benefits, limitations and risks of prescriptive and principles-based requirements in strengthening protections for consumers experiencing payment difficulty

AGL provides the following commentary in relation to the benefits and limitations of both prescriptive and principles-based requirements for consumers experiencing payment difficulty:

Prescriptive Requirements	
<u>Benefits</u> • Gives retailers certainty • Consistent and repeatable • More readily capable of being systemised and/or automated	<u>Limitations</u> • Lengthy scripts • Not customer-centric • Invites a tick-box approach • Drives a punitive approach to compliance and enforcement • Doesn't incentivise (or limits) retailers from going above minimum standards • Stifles innovation • Rigid and inflexible • Doesn't cater for emerging technology or advancements

Principles-based Requirements	
<u>Benefits</u> • Allows flexibility • Allows retailers to optimise the best outcomes • Encourages innovation • Captures the essence or spirit of the provisions	<u>Limitations</u> • Ambiguity • Disagreements over interpretation of principles • Often requires supporting guidelines which become prescriptive

d. Opportunities to clarify or simplify the framework to reduce retailers' cost to serve, reduce the risk of compliance failure, support innovation, or support better and more consistent consumer experiences and outcomes

It is AGL's view that the NECF remains an effective framework for supporting customers experiencing payment difficulties. Despite the observations highlighted in Section 1.2 of the Issues Paper, these do not necessarily point to a failure of consumer protections, but are arguably symptomatic of broader macroeconomic trends.

There also needs to be recognition that issues with energy affordability transcend the realm of economic regulation and require a social welfare response. This is most evident for customers on fixed welfare benefits with limited capacity to afford, influence or improve their energy affordability. For these types of vulnerable customers, event the most effective engagement strategies and consumer protection frameworks will not solve the pervasive cost of living pressures currently impacting so many consumers.

In summary, AGL is supportive of the AER further exploring the following concepts:

a. Avoidance of prescription and increased retailer flexibility to support customers.

b. Minimum standards of protection as a safety net for consumers.

c. Increased customer awareness of support measures and entitlements through retailer communication processes.

d. Greater acknowledgement of the significance that consumers being engaged with their retailer plays in achieving successful outcomes. This involves a partnership between retailer and customer.

e. Rather than focus on assessing or identifying vulnerability, take a baseline assumption that every consumer is vulnerable and ensuring that appropriate, respectful measures of support are built into all interactions or communications between retailer and consumer.

f. Appreciation of the cost-to-serve implications of future framework design and the ultimate impact that will have on our customers in their energy costs.