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# AFFORDING ENERGY

Submission to the review of  
payment difficulty protections in  
the National Energy Customer  
Framework



consumer  
action  
law centre

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### Acknowledgment

Consumer Action Law Centre is located on the lands of the Wurundjeri peoples of the Kulin Nation. We acknowledge that their sovereignty of their lands was never ceded and pay our respects to their elders past and present. We acknowledge all Traditional Owners of Country throughout Australia and recognise their continuing connection to their lands and waterways.

This submission is made possible through funding by Energy Consumers Australia (ECA). The views expressed in this report do not necessarily reflect those of ECA.



### About Consumer Action

Consumer Action is an independent, not-for profit consumer organisation with deep expertise in consumer and consumer credit laws, policy and direct knowledge of people's experience of modern markets. We work for a just marketplace, where people have power and business plays fair. We make life easier for people experiencing vulnerability and disadvantage in Australia, through financial counselling, legal advice, legal representation, policy work and campaigns. Based in Melbourne, our direct services assist Victorians and our advocacy supports a just marketplace for all Australians.

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# INTRODUCTION

## Overview of submission

We welcome the opportunity to provide our submission to the Australian Energy Regulator's (**AER**) review of the National Energy Customer Framework (**NECF**). In this submission, we draw predominantly from the Victorian Payment Difficulty Framework (**PDF**), and provide our analysis on the benefits of the PDF to Victorian energy consumers and also areas where implementation has been challenging or led to other issues requiring consideration.

We attach our [Energy Assistance Report 4<sup>th</sup> Edition](#) as a part of this submission and draw from our findings and recommendations to inform how Government can strengthen payment assistance frameworks and their implementation by retailers.

## Methodology

### Data provided in this submission

The data provided in this submission is drawn from Victorian contacts to the National Debt Helpline, as recorded by Consumer Action's financial counsellors. This data has been published in the four editions of the *Energy Assistance Report* from 2019 to 2024. In this submission, we have integrated data from all four Reports to provide a longitudinal study of the consumer experience since the introduction of the PDF.

The data covers a six-year period, spanning 2017 to 2023, albeit with a gap in 2021 where limited capacity at the time prevented us undertaking analysis of data for that year. Since the first edition in 2019, the Report has provided insights into energy affordability for Victorian households, changes in the profile of who is requiring hardship assistance, and the implementation and impact of the PDF in Victoria. By combining consistent data sources from all four Reports, this section aims to provide a longitudinal picture of energy hardship trends in key areas.

### Six-year review methodology:

Over the six-year reporting period, there have been changes to the methodology in sampling a proportion of energy contacts to our financial counsellors in the first two reports, compared with analysing all energy contacts in the last two reports..

While the sample methodology differs, our data points and resultant analysis have remained largely consistent throughout the six years. For example, much of the demographic data has been consistently collected from each caller over the entire period, including callers' income and household types. The dollar amount of energy debt has also remained a consistent measurement, allowing us to track the maximum, average and minimum debts callers have provided during their phone appointment. Lastly, call notes identify when a caller has not been provided information about the Utility Relief Grant by their retailer, and when a caller has been disconnected, or received a threat of disconnection.

Data sample information is provided in **Appendix B**.

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

An overarching observation is that without first considering energy affordability, there are limitations to what payment difficulty protections can achieve and the policy will be inherently reactive. Although affordability, that is pricing, concessions and potentially cost-sharing, may be seen to fall outside the scope of a payment assistance framework, it is our view that incorporating it could go some way to preventing many more consumers from experiencing energy-related payment difficulty in the first place.

This section proposes additional principles, objectives and indicators that the AER should consider as part of this review, to ensure that energy affordability is considered alongside (and upstream of) protections for people facing payment difficulty.

### 1.1 Situational context

As part of exploring an effective, equitable and strong payment assistance framework to support consumers experiencing payment difficulty, it is important to regard who is more likely to be affected by payment difficulty, and why. A consumer protection framework should consider the socio-economic context in which it exists, to measure long-term impacts of potential changes, and to appropriately assess whether these changes are meeting consumers' needs. There are some limitations to payment assistance frameworks, in how they can address current and future underlying issues such as:

- Cost of energy increasing
- More Australians being less able to afford energy
- Changes to how we use energy

Payment assistance frameworks should be built upon the implementation of structural reforms, namely, market regulation that stabilises and reduces the cost of energy, and equity-based system design that accounts for the income bands of Australians.

When assessing the outcomes of the payment assistance framework, the impacts on consumers should also be considered and can demonstrate whether the model is providing affordable and equitable access to energy long-term. These consumer impacts are discussed below as potential indicators to include as part of measuring the intended outcomes of an assistance framework.

### 1.2 Principles

Access to energy is fundamental to adequate standards of living, thus energy is an essential service<sup>1</sup>. The United Nations and European Union have adopted approaches to ensure accessible, affordable and efficient energy for consumers, with particular focus on identifying and supporting consumers experiencing energy poverty and vulnerability<sup>234</sup>.

<sup>1</sup> United Nations Human Rights Office of the High Commissioner (OHCHR) [OHCHR and the right to adequate housing | OHCHR](#)

<sup>2</sup> United Nations [The Sustainable Development Goals Report 2023.pdf \(un.org\)](#) Goal 7

<sup>3</sup> European Energy poverty, Agenda Co-Creation and Knowledge Innovation Engager 2017-2021 [Moving forward on the right to energy in the EU](#)

<sup>4</sup> [EU Directive 2019/944](#) outlines protections for all Member States including ensuring the necessary supply of energy for vulnerable and energy poor customers, investment in energy efficiency and disconnection safeguards. Articles 27, 28 and 29

The United Nations and European Union strategies provide some targeted and specific models to draw from for an Australian framework that incorporates aspects of an outcomes-based approach. We note that we support incorporating prescribed requirements, which we analyse further in section 3 and 6 of this submission. The following objectives, and associated indicators discussed below, are central to ensuring a strong and equitable framework to support the long-term interests of consumers in Australia. It follows that a payment assistance framework should be integrated with, and complement these objectives.

### 1.3 Objective: Energy affordability

Unaffordability of energy has significant detriments to people's health and welfare. The ability to afford energy can be regarded as a financial indicator, while the consequences such as changes to health and living standards can be measured as 'non-financial' impacts. In order to accurately assess the success of an outcomes-based assistance model, socio-economic modelling that accounts for both income and impacts should be considered.

#### 1.3.1 Indicator: Cost of energy

Energy is one of the core expenses in the household budget, and is essential to a liveable home and dignified life<sup>5</sup>. As referenced in the issues paper, average energy prices have nearly tripled over the last 20 years alongside food and housing costs<sup>6</sup>. In 2022, ACCC analysis found default market and Victorian default offer prices increased by approximately 23%, with projections that this will increase further<sup>7</sup>.

There will be limits to the effectiveness of a payment assistance framework if we don't also investigate how to regulate and mitigate the increasing cost of energy for people who can't afford it, considering the significant impacts on consumers' health, wellbeing and opportunity.

Recent research has indicated that the energy market is prone to price gouging and unfair pricing practices<sup>8</sup>, that continues to result in higher costs to consumers. A structural review and reform of national energy markets<sup>9</sup> is necessary to integrate the principle of ensuring the long-term interests of consumers. A review and targeted reforms would also assist in meeting additional *energy equity* objectives such as reducing complexity and enhancing accessibility for energy consumers, and strengthening protections for future energy services<sup>10</sup>.

**RECOMMENDATION 1.** The AER to conduct a review and identify areas for targeted reform of the National Energy Market in partnership with the ACCC and ASIC with a view to structurally reform price, purchase, derivative and hedging markets.

#### 1.3.2 Indicator: Income and expenses benchmarks

We propose that income indexes are a relatively reliable indicator of who can afford energy costs. As noted in our recent *Energy Assistance Report*, the 2023 energy price hikes came during a period where the cost of living almost doubled<sup>11</sup>, and government assistance remained fixed<sup>12</sup>.

Over the six-years of the *Energy Assistance Report*, Victorians on some type of Centrelink income have been overrepresented in experiencing energy hardship. However, in 2019-20 we observed a decrease of people on a Centrelink income presenting in energy hardship by 18% from the previous year, as identified in Figure 1 below.

<sup>5</sup> Prof. Allan Fels AO, *Inquiry into Price Gouging Report to the ACTU, Final Report*, February 2024

<sup>6</sup> Australian Energy Regulator, *Review of payment difficulty protections in the NECF - Issues paper - May 2024 (aer.gov.au)* p.8

<sup>7</sup> Australian Competition and Consumer Commission, *Inquiry into the National Electricity Market (accc.gov.au)* p.4

<sup>8</sup> Pro. Lynne Chester, *Australia's National Electricity Market: Bidding rules, market power and wholesale electricity prices* January 2024, p.54

<sup>9</sup> Prof. Allan Fels AO, *Inquiry into Price Gouging Report to the ACTU, Final Report*, February 2024, pp.51-52; p.68

<sup>10</sup> AER, *Towards energy equity* October 2022, Objectives 2 and 4 & AER, *Review of consumer protections for future energy services* November 2023

<sup>11</sup> Australian Bureau of Statistics *Selected Living Cost Indexes, Australia, June 2023 | Australian Bureau of Statistics (abs.gov.au)*, June 2023

<sup>12</sup> Consumer Action Law Centre, *Energy Assistance Report 4<sup>th</sup> Edition*, June 2024

This decrease could likely be attributable to the doubling of Centrelink payments in the 2020 reporting period - a potential structural solution to energy hardship for low-income households.

Callers with an employment income increased noticeably in 2023 - by 7% from the previous year - the highest proportion of callers with employment income from any reporting year. Our research found that new cohorts of Victorians are experiencing energy hardship for the first time. This increase may be attributable to wages no longer meeting expenses. Recent wage index modelling has shown that real wages are as low as they were in June 2009, occurring in tandem with post-pandemic inflation<sup>13</sup>, both exacerbating the cost-of-living crisis.

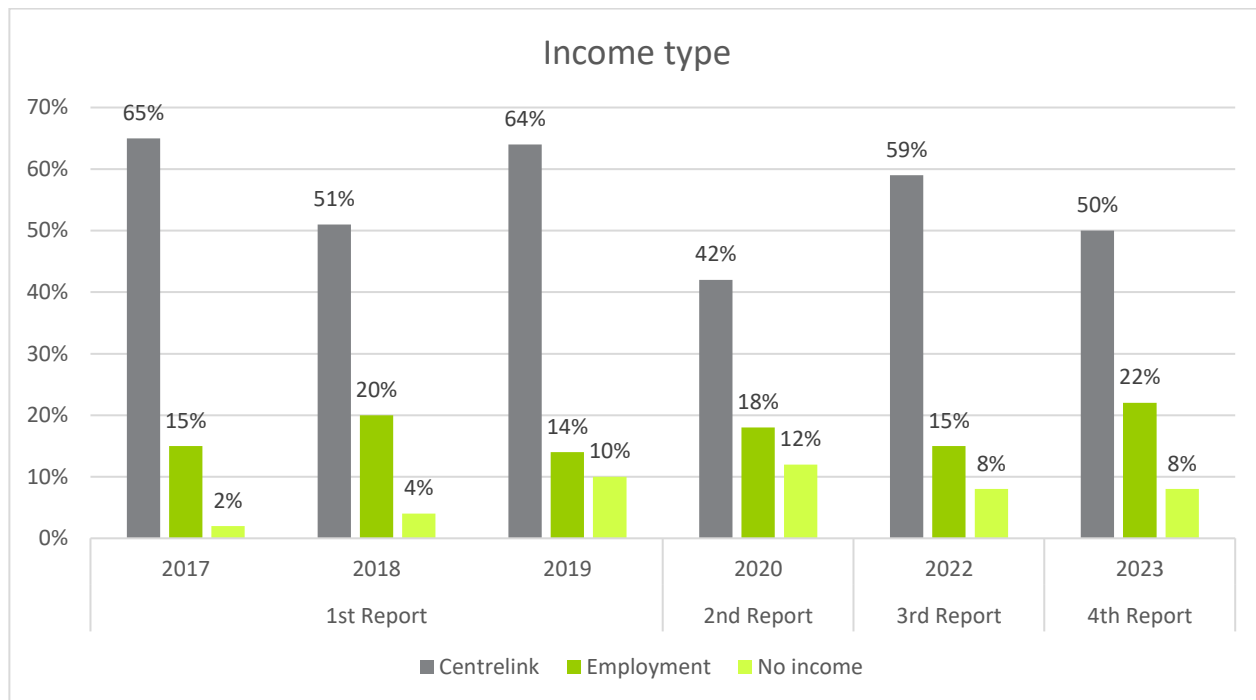


Figure 1 – Energy contacts by main income types across six years of Energy Assistance Reports

Our data is showing an increasingly bleak picture of energy affordability, and more interventionist approaches to mitigating energy hardship warrant consideration. A social tariff is a potential measure to prevent energy hardship or payment difficulty for people on lower incomes, and could assist in progressing other energy equity objectives including energy affordability.

A social tariff system correlated with income deciles could have broad-based integrations with payment assistance frameworks, while also providing a safety net that is protected from future circumstances and events, such as fluctuations to indexed incomes or markets. Additionally, a social tariff would assist and could be easily integrated with automation of government assistance such as concessions entitlements. As part of the Game Changer strategy, consumer workshops considered that:

*'a social tariff is likely to have significant benefits for those experiencing both short-term or transient vulnerability and long-term or entrenched vulnerability, and aligns with the expectation that energy is essential service which should be accessible to all.'*<sup>14</sup>

**RECOMMENDATION 2.** The AER investigates introducing a social tariff as outlined in the Game Changer Design Report.

<sup>13</sup> Prof. Allan Fels AO, [Inquiry into Price Gouging Report to the ACTU, Final Report](#), February 2024, p. 21

<sup>14</sup> AER, [Game Changer Design Report - July 2023 \(aer.gov.au\)](#) July 2023, p.53

## 1.4 Objective: Energy efficiency

### 1.4.1 Indicator: Housing and Health

Research into housing, energy and health demonstrates the detrimental health impacts associated with unliveable household temperatures. Financial hardship can result in the avoidance of, or underuse of energy, directly tied with significant health risks. As stated in the issues paper, recent studies found almost 60% of consumers in financial stress were skipping meals and 70% were deferring medical care<sup>15</sup>. Recent research has found that 62% of Australians reported concerns about costs stop them from using their air conditioner, and over 30% resort to leaving the home during extreme weather days in order to reduce energy costs<sup>16</sup>.

The negative impacts of poor-quality homes on energy costs (and related wellbeing) are further exacerbated for renters. National studies have found that despite avoiding using energy, renters are spending approximately \$150 more per year on their energy bills than non-renters. This is attributed to rented homes tending to lack energy-efficient appliances or modifications like adequate insulation, as well as solar and other renewables that reduce energy use<sup>17</sup>.

Across the six years of our *Energy Assistance Report*, we have consistently found that renters are the disproportionate majority of Victorians contacting the NDH experiencing energy financial difficulty.

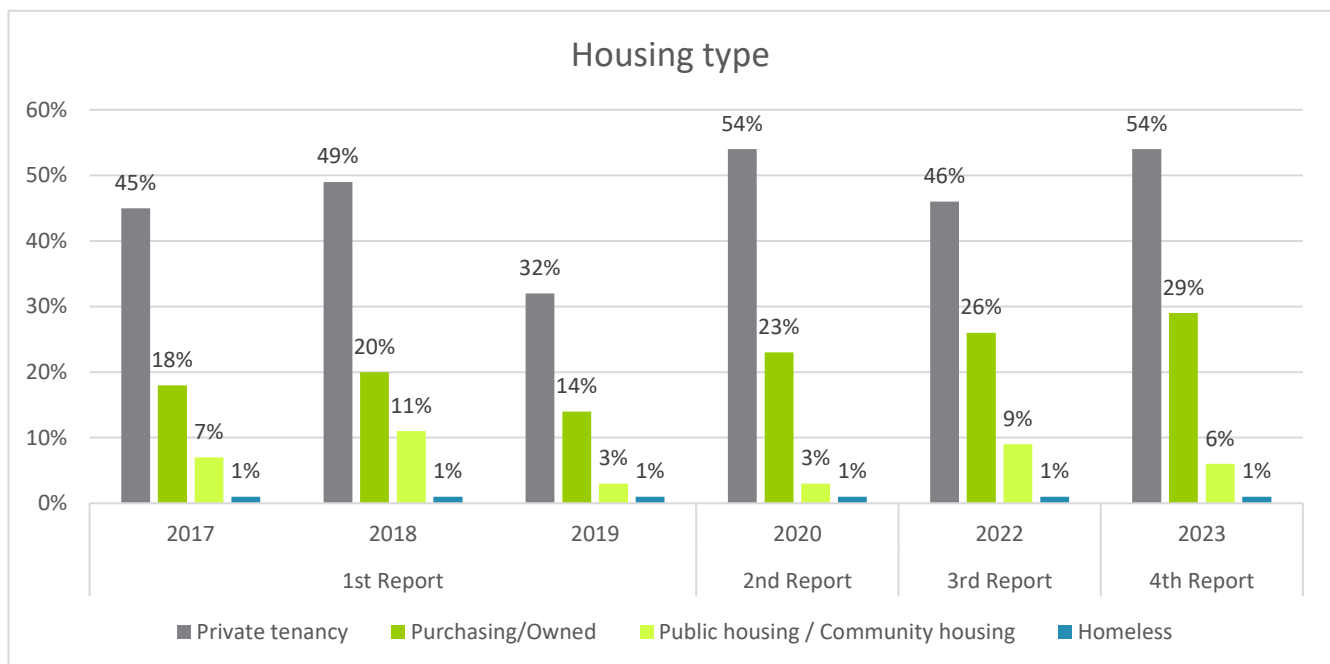


Figure 2 – Energy contacts by housing type recorded across six years of Energy Assistance Reports

*As indicated in the data over the six years of energy reports, people living in privately rented homes are overrepresented in energy hardship contacts. Most people contacting the National Debt Helpline in Victoria were living in a private rental, and research has consistently shown renters experience an increased likelihood of higher energy costs than non-renters<sup>18</sup>.*

Similarly, people living alone are overrepresented in our data, followed by single parents. Additional financial strain is more likely for renters living alone, with only one income managing all essential costs. Over the six-

<sup>15</sup> Melbourne Institute, Taking the Pulse of the Nation: Australians continue to face budgetary constraints in housing, food, energy and healthcare, 2023.

<sup>16</sup> Sweltering Cities, [Summer Survey 2022 Report \(swelteringcities.org\)](https://www.swelteringcities.org/) p.17

<sup>17</sup> Best, R. and Burke, P.J. (2022), Effects of renting on household energy expenditure: Evidence from Australia, CCEP Working Paper 2202, May 2022. Crawford School of Public Policy, The Australian National University.

<sup>18</sup> Consumer Action Law Centre, *Energy Affordability Report 4<sup>th</sup> Edition*, June 2024



year period, we found single parent renters with children are consistently experiencing financial hardship with affording their energy bills. Before considering payment assistance, there is a high likelihood these cohorts are increasingly unable to meet ongoing energy usage costs.

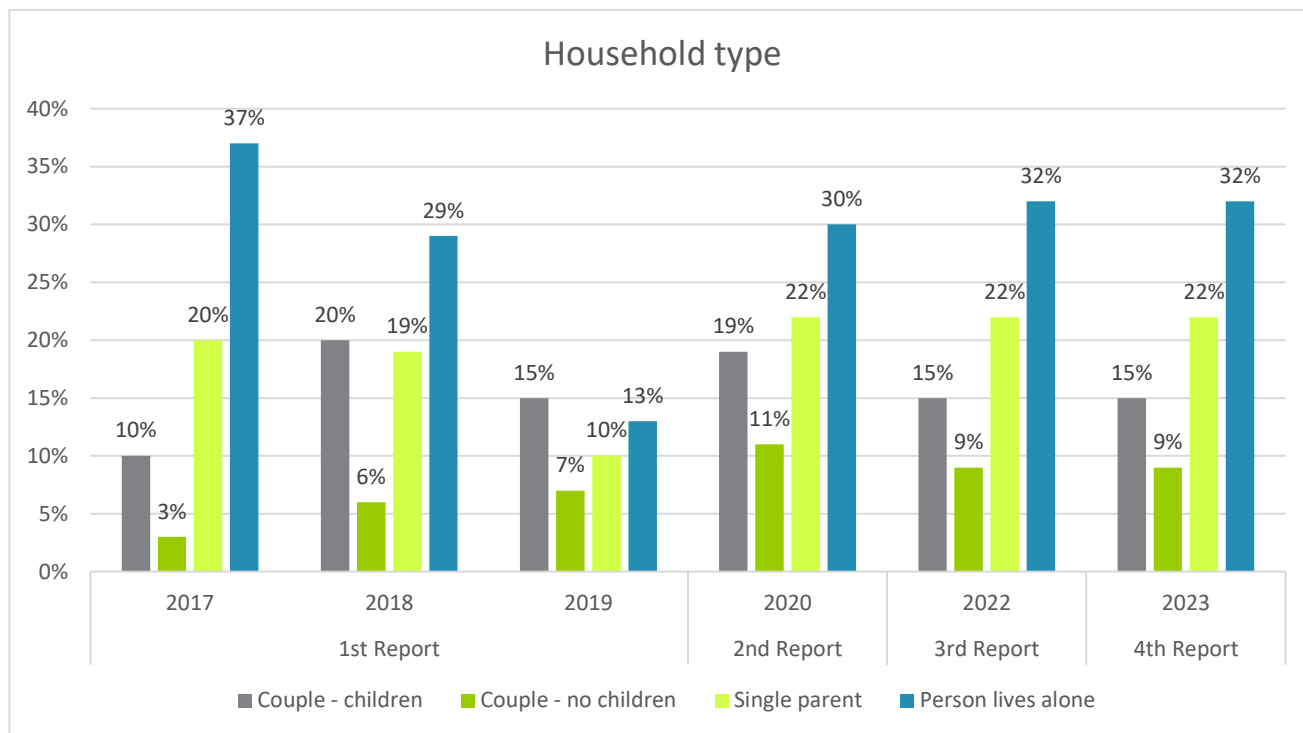


Figure 3 – Energy contacts by household type recorded across six years of Energy Assistance Reports

#### 1.4.2 Indicator: Energy usage

Climate change, and the resulting increases in extreme weather events, will continue to impact access, usage and sustainability of energy resources. Some people calling our financial counsellors tell us that they cannot always afford to use their air conditioners or heaters during periods of very hot or cold weather. This restriction on usage due to financial difficulty can have an immediate impact on a consumer’s health. Notably, research has found heatwave related deaths are the highest threat to Australians of any natural disaster, and that this risk has been found to be disproportionately correlated with social and financial disadvantage<sup>19</sup>.

A comprehensive consumer protection framework should account for and prevent consumers going without energy, both for people avoiding usage due to cost-related concerns, and for people who can’t implement energy efficient upgrades due to socio-economic factors. Currently, energy usage data is predominantly being used by retailers to assess how a customer in payment difficulty can reduce their usage. This is analysed below in section three in the Victorian context. Instead, energy usage data, measuring significant under or over-usage could be more positively utilised as an indicator of the energy efficiency rating of the home and consumer needs.

**RECOMMENDATION 3.** For the AER to consider and develop indicia of energy poverty

**RECOMMENDATION 4.** Introduce a requirement in the NECF assistance framework that retailers identify customers experiencing energy poverty and assist them to access energy efficiency upgrade schemes.

<sup>19</sup> Coates et al, [Heatwave fatalities in Australia: a new analysis](#) Risk Frontiers Newsletter Volume 20, Issue 3 – Article 1, 2021

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

### 2.1 Principles-based approaches

Drawing from the principles outlined in the first chapter, the key objectives of energy affordability and energy efficiency can provide foundational supports for an energy assistance framework for people experiencing payment difficulty.

What follows from these objectives are some practical measures, including

- Broad-based application of existing government assistance for eligible consumers
- Broad-based information and application of lower or lowest rate offers
- Broad-based entitlements to payment difficulty assistance
- Equitable support to transition to an energy efficient home
- Protection of supply, and safeguards against disconnection due to financial hardship

#### 2.1.1 Financial services: Conduct to be 'efficient, honest, fair'

The Corporations Act includes a duty of conduct by financial services licensees to act efficiently, honestly and fairly<sup>20</sup>. In relation to a payment difficulty framework, these principles can be integrated into aspects of service delivery, in the provision of information of customers entitlements to assistance, in the measures of assistance available being consistently and equally provided to all customers, and in the establishment of assistance arrangements, for example in payment arrangements. It is our view that applying similar standards of conduct on energy retailers would improve outcomes for all consumers, including people experiencing payment difficulty and provide a broad enforcement power for regulators to exercise.

### 2.2 Initiative: Winter Voluntary Debt Commitment

An example of a cross-sector initiative strengthening assistance for consumers is the UK [Winter Voluntary Debt Commitment](#), established in partnership between Citizens Advice, UK Energy and Ofgem. This initiative sets out five key commitments that include:

- Strengthening protections, identification, training and communication practices regarding customers in debt
- Providing additional support and financial assistance to customers in debt including debt write-off schemes and hardship funds
- Providing support to lower bills through energy efficiency schemes; targeted relief through integration with community services and for customers to be paid for using less energy during peak times
- Updating and integrating billing systems including smart meter data, innovating tariffs and removing legacy meters

<sup>20</sup> AER, [Review of consumer protections for future energy services](#) November 2023 pp.29-30

- Strengthening identification and support of vulnerable consumers through communication, information and support of debt repayment options and energy efficiency information

Key factors of this initiative include its broad reach to consumers through a cross-sector national campaign, its integration of referrals across retailers and support services, and clear and accessible information on specific forms of assistance available that are additional to standard protections.

### 2.3 Principles based framework

Table 1 below outlines the principles, protections and practical measures that could be implemented alongside, or as part of a payment assistance framework. The practical measures listed are real-life examples, drawn from international models and the VictorianPDF, as well as some proposed reforms to existing frameworks..

<b>Principle</b>	<b>Protection</b>	<b>Practical measures</b>
Access to energy	<ul style="list-style-type: none"> <li>• Ban on disconnections</li> <li>• Universal basic service entitlement</li> </ul>	<ul style="list-style-type: none"> <li>• Consider adopting advice during coronavirus on disconnection process to include assessment and customer confirmation that disconnection would not endanger the health and safety of any person before proceeding with disconnection<sup>21</sup></li> <li>• Establish a universal basic energy service<sup>22</sup></li> </ul>
Affordable energy	<ul style="list-style-type: none"> <li>• Social tariff</li> <li>• Reforms in energy market regulation</li> </ul>	<ul style="list-style-type: none"> <li>• Three tier fixed cost tariff and unit rate discounts reflective of and proportionately dispersed across income percentiles, using utility industry profit<sup>23</sup></li> <li>• Expansion of market reporting to regulators<sup>24</sup></li> <li>• Structural review of energy wholesale, derivative and spot markets<sup>25</sup></li> </ul>
Renewable energy	<ul style="list-style-type: none"> <li>• Equitable access to transition to renewable energy sources</li> <li>• Equitable support for an energy efficient home</li> </ul>	<ul style="list-style-type: none"> <li>• Government-based licensed initiatives for appliance and electrification upgrades targeting lower-income households<sup>26</sup></li> <li>• Targeted energy efficiency upgrades for low-income and renter households, integrated with existing tax concessions for owners; and integrated with strengthened tenancy protections including regulation to prevent potential increased housing costs to the resident<sup>27</sup></li> </ul>

<sup>21</sup> Essential Services Commission [RM/21/2634 Advice to retailers and distributors on disconnection during stage four restrictions](#), February 2021

<sup>22</sup> AER, [Review of consumer protections for future energy services](#) November 2023 pp.29-30 & UN Directive 2019/944 Article 27 [Directive - 2019/944 - EN - EUR-Lex \(europa.eu\)](#)

<sup>23</sup>Right to Energy Coalition, [People-Powered-Winter-Plan.pdf \(righttoenergy.org\)](#)

<sup>24</sup> Prof. Lynne Chester, [Australia's National Electricity Market: Bidding rules, market power and wholesale electricity prices](#) January 2024, p.55

<sup>25</sup> Prof. Allan Fels AO, [Inquiry into Price Gouging Report to the ACTU, Final Report](#), February 2024, pp.51-52; p.68

<sup>26</sup> Victorian Energy Upgrades program for households [Victorian Energy Upgrades for households](#)

<sup>27</sup> Victorian Dept of Energy Environment and Climate Action, [Energy efficiency for rental properties in Victoria](#) 2024

<p>Assistance framework that addresses payment difficulty and financial hardship</p>	<ul style="list-style-type: none"> <li>• Information and application of lower or lowest rate offers</li> <li>• Application of government assistance to all eligible consumers</li> <li>• Access and application of payment difficulty assistance that meets consumers' needs</li> <li>• Ensure that no one is disconnected due to experiencing financial hardship</li> </ul>	<ul style="list-style-type: none"> <li>• Retailer requirement to provide information and facilitate lowest offer switches<sup>28</sup></li> <li>• Automated concessions and consumer flexibility of relief schemes<sup>29</sup></li> <li>• Broad-based entitlement to information and application of a wide range of assistance including specific information of payment matching and debt waivers<sup>30</sup></li> <li>• Protections from and restrictions of disconnection<sup>31</sup></li> </ul>
<p>Disadvantaged and vulnerable consumers are identified and appropriately supported</p>	<ul style="list-style-type: none"> <li>• Safety frameworks provide additional protections from disconnection for vulnerable cohorts</li> <li>• Strengthening protections against essential service being used as a tool for financial abuse</li> <li>• Strengthening protections against debt recovery for vulnerable, disadvantaged consumers</li> </ul>	<ul style="list-style-type: none"> <li>• Identify and support energy poor cohorts with the view to addressing energy poverty through energy efficiency upgrades; protection from disconnection and social tariff rates<sup>32</sup></li> <li>• Recategorisation of 'constantly connected' customer class to include older aged and minors, disabled, significant or long term health conditions and family violence affected customers</li> <li>• Family Violence identification, training, safety and privacy protections</li> <li>• Debt forgiveness initiatives<sup>33</sup> and restrictions on recovery, sale or assignment of debt for vulnerable or disadvantaged consumers</li> </ul>

<sup>28</sup> Proposed amendment to current Victorian PDF as found in Energy Retail Code, Part 6, clause 144 (f)

<sup>29</sup> Proposed amendment to current existing Australian frameworks

<sup>30</sup> Proposed amendment to current Victorian PDF, and Essential Services Commission regulatory Guideline to Payment Difficulty Framework

<sup>31</sup> Current Victorian PDF as found in Energy Retail Code

<sup>32</sup> UN [Directive - 2019/944 - EN - EUR-Lex \(europa.eu\)](#) (59) & (60)

<sup>33</sup> Citizens Advice, UK Energy, Ofgem [Winter Voluntary Debt Commitment UK](#)

This section provides deeper investigation into the benefits and implementation considerations of the Victorian PDF in order to respond to questions three to seven of the issues paper.

We outline the objectives, standards and resulting benefits of the Victorian PDF, including in the proposed reforms outlined in the draft 3<sup>rd</sup> version of the Energy Retail Code of Practice<sup>34</sup> (the **Code**). Specific measures of tailored assistance are discussed, as identified in table 2. In considering the implementation of the framework, we draw on data from the six years of Consumer Action’s Energy Assistance Report.

The Victorian PDF details the “relevant assistance” as defined by both the Electricity and Gas industry Acts<sup>35</sup>. These Acts have regard to the essential nature of the electricity or gas supply; and the provision that financial hardship policies are of equitable access<sup>36</sup>. The PDF was established in 2019 with the aims of helping customers avoid falling into arrears on their gas or electricity supply; making it easier for customers to pay for ongoing usage and repay arrears; and ensure that disconnection is used by retailers as a last resort.

The framework is outlined in the Code through specifying the entitlement of minimum standards of assistance for customers anticipating or facing payment difficulties. These are categorised into standard assistance, and tailored assistance measures<sup>37</sup>.

It is our view that the PDF has had measurable success against these aims, which we attribute to its framing of both broad entitlements to assistance, and setting minimum standards of assistance that retailers are required to provide. The ability of the PDF to deliver on its aims is strengthened by requiring preventative approaches, early intervention, and placing the onus on retailers to proactively communicate with consumers facing payment difficulty.

In the rest of this section, we present some observed strengths of protections contained in the Victorian PDF across several areas of the framework, as well as implementation considerations for improvements to be made in the NECF approach, in response to questions 3 and 4 of the issues paper.

### 3.1 Eligibility & identification

#### 3.1.1 Broad-based eligibility to assistance

The objective of access to assistance for all Victorians experiencing payment difficulty is a measurable success of the PDF. Since the PDF’s implementation in 2019, there has been a significant increase in Victorians accessing standard or tailored assistance year upon year, with the ESC recording the highest number of customers receiving tailored assistance in the last quarter of 2023<sup>38</sup>.

#### 3.1.2 Proactive obligation on retailers to communicate assistance entitlements

Access to assistance is supported by specific obligations on retailers to proactively communicate information of payment assistance options to the consumer once they reach a threshold energy debt of \$55, or miss a monthly bill. Similarly, in the UK, Ofgem enlivens retailer obligations to communicate payment assistance after a missed monthly or quarterly bill.

<sup>34</sup> Essential Services Commission [Energy Retail Code of Practice \(version 3\) \(PDF\).pdf \(esc.vic.gov.au\)](#) October 2024

<sup>35</sup> *Electricity Industry Act (Vic) 2001*, section 40SA & *Gas Industry Act (Vic) 2000* section 48DC

<sup>36</sup> *Electricity Industry Act 2000* Division 6, Part 45, Section 2 (a) & (e) & *Gas Industry Act 2001* Part 3 Section 48I (2) (a) & (e)

<sup>37</sup> Essential Services Commission, *Energy Retail Code of Practice* Part 6

<sup>38</sup> Victorian Energy Market Dashboard Q2 2023-24 recorded 69,782 electricity customers and 67,190 gas customers accessing tailored assistance

### 3.1.3 Implementation considerations

There are benefits to the above measures in preventing hardship or accumulation of debt, however this requires retailers to meet their obligations, and a strong compliance and enforcement focus by the AER and ESC alike. to ensure these measures are being implemented.

Over the years we have been tracking energy hardship, we have found a significant increase in both the number of Victorians in energy debt, and the amount of debt, demonstrated in our [Energy Assistance Report](#). In the 2022-2023 year, electricity and gas debts over \$3,000 have doubled since the previous year. This may indicate that retailers are not meeting their obligations to proactively contact their customers before taking further action to encourage payment.

Some opportunities to strengthen broad-based access and identification are outlined below:

- Prioritise monitoring and compliance of retailers' proactive communication of assistance measures
- Provisions to obligate retailers to provide information on all minimum standards of assistance through multiple communication methods including on bills, and proactive contact after a missed payment
- Provisions that specify assistance measures that are required to be included in payment difficulty and hardship policies
- Services Australia and State Government Departments to work with utilities regulators to automate the application of concessions for Centrelink recipients
- Utilise energy usage data to identify energy poverty through significant underusage or over-usage, as a method to providing energy efficiency upgrades and appliances checks, as a means to achieving an energy efficient home.

## 3.2 **Effective engagement**

Effective engagement can hinge on how assistance is communicated by retailers to the person experiencing payment difficulties. Energy Consumers Australia found in their recent survey, 'trust that electricity and gas companies are doing the right thing by their customers is lower than for other utilities and service providers... and consumers under financial pressure were less likely to say they feel they have the information they need'<sup>39</sup>.

We have found that despite strong provisions in the PDF, Victorians contacting the NDH have reported that their retailer has communicated incorrect, misleading or false information regarding assistance measures, for example around people's eligibility to receive government grants to help repay arrears, or the process to apply for these<sup>40</sup>.

Additionally, we have found that vulnerable consumers are more likely to experience barriers from their retailer in accessing assistance. Additional priority from retailers to meet standards of specialised and safe service provision is required and must continue to be an enforcement priority for the AER and ESC.

<sup>39</sup> Energy Consumers Australia [Energy Consumer Sentiment & Behaviour Surveys \(energyconsumersaustralia.com.au\)](#) June 2024

<sup>40</sup> Consumer Action Law Centre *Energy Assistance Report 4<sup>th</sup> Edition* June 2024, pp 21-27

## Case Study 1 – Anthony

Anthony is a retired pensioner receiving the age pension, living alone in a private rental. A few years ago his wife passed away, and he has been handling the associated costs, as well as the ongoing trauma of her passing. Anthony recently suffered a stroke, where he had been hospitalised for approximately six months. While he was in hospital, he offered a family friend to live in the house, however this person refused to help pay for household costs while they lived there.

After being discharged from hospital, Anthony called his energy retailer to seek assistance with his energy bills. Due to the stroke, Anthony is unable to use a computer, and has had to communicate only via phone calls since. His retailer told him they wanted \$5,000 up front in order to stop legal action against him for his energy debt. He stated to his financial counsellor that he didn't want any trouble, and he felt intimidated and that he needed to pay. His retailer didn't offer any other assistance, other than stating to go to another supplier if he didn't pay the bill.

The retailer asked Anthony to pay \$1,000 a month, despite Anthony having told them he was struggling financially. The retailer told him he was unable to access the Utility Relief Grant until after he had paid lump sum payments. Anthony told his financial counsellor that his retailer didn't discuss hardship options, or assess why his bills were so high, and had told him he didn't qualify for hardship assistance.

After his phone call with his retailer, Anthony accessed all the savings in his bank account and made one lump sum payment of \$1,500 towards the total energy debt. The following week, he made a second lump sum payment of \$1,000. With no savings remaining, Anthony was reliant on his age pension of approximately \$800 per fortnight. He said that after paying his rent and other expenses he was left with no money for over four weeks and was left unable to buy food.

Shortly afterwards, the retailer placed Anthony on a payment plan of \$50 per fortnight for both his gas and electricity. Anthony does not recall agreeing to this and advised the retailer this is more than he can afford. Anthony faced multiple direct debt dishonours due to this payment arrangement. Anthony advised the retailer that an amount of \$20 - \$25 per fortnight for each is more affordable for him.

When Anthony contacted the National Debt Helpline, he advised his financial counsellor that despite having no other debts, he was considering selling his car to pay for his energy bills. Anthony stated to the financial counsellor that the retailer "has taken all I have".

### How did the National Debt Helpline assist?

Anthony's financial counsellor offered to contact the retailer to request a waiver of the remaining debt and refund of the \$2500 he had paid from his savings.

The financial counsellor has been communicating with the retailer on Anthony's behalf, and has confirmed Anthony's concessions have been applied, thus accessing a better offer price for his energy, and an affordable payment plan of \$50 per month as part of a hardship assistance program.

The financial counsellor is continuing to work with Anthony to advocate for the refund and the remaining debt to be waived.

\*name changed

### 3.2.1 Implementation considerations

- **Inconsistent information provided by retailers when engaging with customers**

In practice, we have found that communication of assistance varies, and is applied inconsistently by retailers<sup>41</sup>. Victorians contacting the NDH have reported proactively contacting their retailer in some examples to request their concession be applied, check their tariff, or request the Utility Relief Grant and have been refused by their retailer. We have seen people experiencing payment difficulty either flatly denied assistance at all, or their access to further support made conditional on either making a lump sum payment or agreeing to a payment plan.

We support the PDF's obligations for retailers to proactively communicate this to their customers, however the following considerations should be taken into account in the NECF review to strengthen the effectiveness of engagement.

- **Retailers requiring payment plans as a first step**

The PDF states that a consumer can propose a payment plan amount to their retailer that would address arrears within a two year period, or propose a revised payment plan that would address the arrears in a period over two years.

We have found that Victorians contacting the NDH have noted that their retailer has engaged with them to set up a payment plan, often nominating a specific amount that is required to be paid. In the fourth edition of the report, we found that 10% of all energy contacts to the NDH (849) in 2023 had an unaffordable payment plan.

The significant proportion of consumers experiencing unaffordable payment plans demonstrates that retailers are not meeting the intention of the PDF provisions for payment arrangements. Further, it is demonstrative of ineffective engagement with consumers, particularly if other assistance is not being provided.

- **Vulnerable consumers**

We have found that there is a higher likelihood of vulnerable consumers experiencing barriers from their retailer to accessing assistance, even in cases where they have proactively contacted their retailer. Victorians contacting the NDH often state they have proactively contacted their retailer to request specific assistance measures, only to be told they are not eligible, or that they are precluded from a type of assistance.

For example, we found that women experiencing family violence were 28% more likely to have their retailer fail to identify their vulnerability<sup>42</sup>. In one example, a client contacting the National Debt Helpline stated she was unsure why her retailer referred her to the National Debt Helpline, after they declined her waiver request made through a Family Violence channel. Timely, sensitive and specialised support should be a standard to expect from retailers, particularly in the case of people experiencing family violence. Identification and referrals to support services should be standardised across all levels of a retailers' organisation.

**RECOMMENDATION 5.** For the AER to consider integrating the International Standard on Consumer Vulnerability for the Design and Delivery of Inclusive Services (soon to be adapted for Australia) with a view to increasing compliance measures for retailers found in breach of protections for vulnerable consumers, and deterrence of these practices more broadly.

<sup>41</sup> Consumer Action, [Energy Assistance Report 4<sup>th</sup> Edition](#) June 2024

<sup>42</sup> *Ibid* pp. 32



### 3.3 Minimum standards of assistance

Standard and tailored assistance measures are outlined in the PDF and are required to be communicated and facilitated by retailers<sup>43</sup>. However, it is intended that these measures are a minimum, and that nothing prevents retailers from providing additional assistance above the minimum standards. We support the NECF adopting the PDF entitlements of standard and tailored assistance measures, however we propose some amendments outlined below.

#### 3.3.1 Tailored assistance

Part 6 of the Retail Code outlines the minimum standards of assistance retailers are obligated to provide. The list of options begins with payment arrangements. As outlined in Table 2 below, we suggest that a number of preliminary measures should be taken by retailers before engaging with the consumer regarding a payment arrangement. This would more adequately address any measures such as concessions, government grants and tariff checks before requiring the consumer to commit to a payment amount.

By reordering the list of assistance, and requiring the retailer to ensure that these measures have been investigated first with the consumer and in cases of eligibility, applied, this would strengthen the likelihood that all options are being applied before arrangements are confirmed.

Table 2 outlines a non-exhaustive list of standard, tailored and additional assistance measures. Some of which are required by retailers to communicate and some of which are additional measures, such as payment matching and debt waivers that have been supported by consumers, and their advocates.

This table provides an example of how these measures could be ordered, investigated and applied by retailers. If utilised by retailers, it can serve as a clear way to both check with the consumer requiring assistance, and report that compliance with obligations for assistance have been met. We submit that this should be enacted as a minimum standard of assistance.

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<sup>43</sup> Energy Retail Code of Practice, Part 6

Table 2: Victorian PDF <sup>44</sup> assistance options			
Assistance method	Eligible	Consent received	Applied
Concession			
Concession – retrospective			
Utility Relief Grant			
Tariff reduction – Best Offer			
Tariff reduction – Default Offer			
Energy Efficiency – Appliance check			
Energy Efficiency – VEU Program			
Payment arrangement – ongoing usage			
Payment matching			
Pay On Time discount			
Payment arrangement - revised			
Debt waiver			
Payment hold (3 – 6 month)			

\*Note: the measure of reducing energy usage has been removed from this table and replaced with appliance check and access to VEU program. This is discussed further in 'reducing energy usage' section.

### 3.3.2 Applying concessions and other forms of government assistance

The PDF outlines that retailers are required to assist consumers in accessing and applying for the Utility Relief Grant as part of minimum standards of assistance. In implementation, retailers are provided a payment upon application for the grant, and after approval from Services Australia, the retailer receives the \$650 per utility, to pay arrears of the customer.

In practice, there has been a steady increase in Utility Relief Grant applications since the implementation of this requirement in 2022. However, there is a proportion of applications that are not completed, and we have found there are still many examples of Victorians not receiving information about the grant and instead being placed on unsustainable payment plans where the amount may have been reduced or wiped entirely though the Utility Relief Grant.

**RECOMMENDATION 6.** Require retailers to provide information and confirm where applicable, tariff checks and government assistance measures including concessions, Utility Relief Grants before confirming a payment plan with the person experiencing payment difficulty.

<sup>44</sup> *ibid*

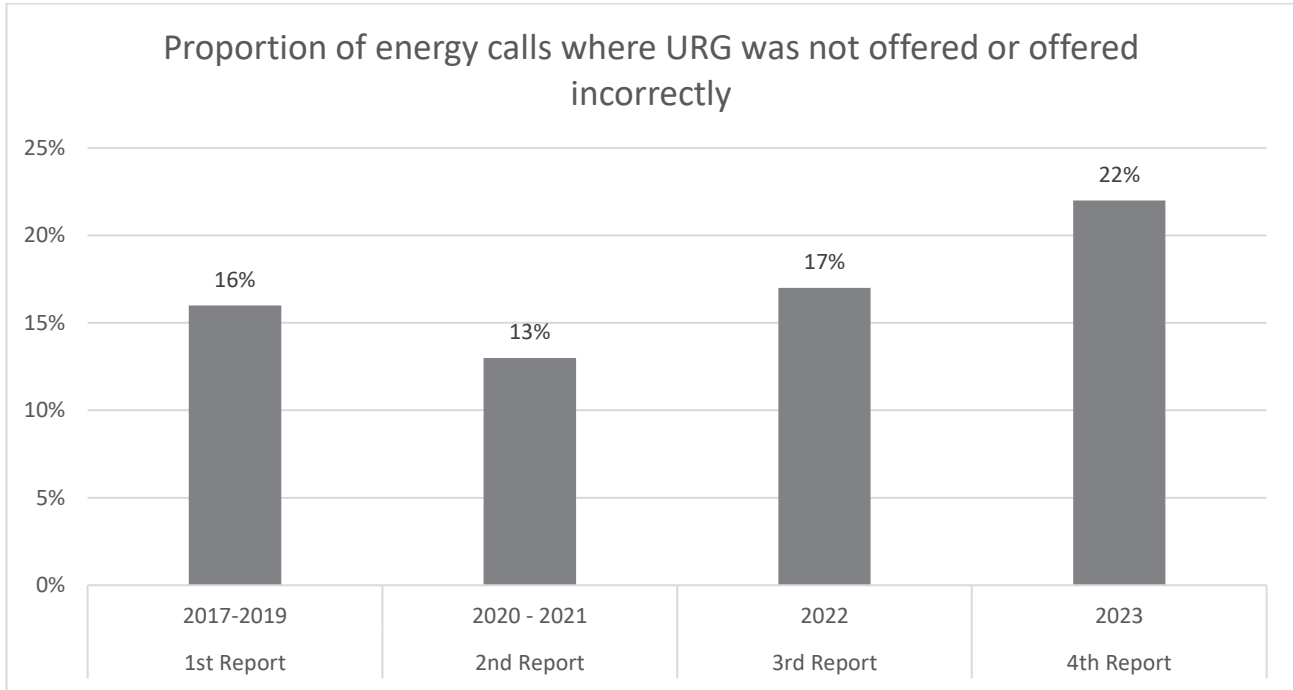


Figure 4 The proportion of Victorians contacting the NDH identified as not receiving information or assistance by their retailer for the Utility Relief Grant (URG). These records are provided from the six years of the Energy Assistance Report.

### 3.3.3 Reducing energy usage

The Victorian ESC has noted that there are many reasons correlated to higher energy usage, including lack of access to energy efficient products, housing arrangements and quality, and events that contribute to consumers experiencing vulnerability<sup>45</sup>. As outlined in section one, some consumers are avoiding using energy in order to lower costs or to meet 'agreed steps' with their retailer – a commitment by an energy customer to reduce energy use in exchange for a level of payment assistance. Energy usage, therefore, may be used in a 'negative' sense, that is being used as a benchmark to ascertain if people receiving payment difficulty assistance are 'engaging' by reducing their usage. However, this may come with practical and ethical implications, particularly where it impacts negatively on people's health or living standards, or that of their family members living at the premises. Usage data could be more positively used to provide assistance to people in energy poverty, to access energy efficiency upgrades including appliance and connection checks, as well as low to no-cost government initiatives. We propose this recommendation, as opposed to usage being used to assess compliance with an arrangement.

**RECOMMENDATION 7.** The NECF be amended to encourage retailers to take a positive approach to energy usage data as a method to identify consumers in energy poverty, and provide energy appliance and connection checks, and access to government energy efficiency schemes.

<sup>45</sup> Essential Services Commission [Victorian Energy Market Report: March 2024](#) p.7

### 3.3.4 Payment arrangements

The Victorian PDF outlines retailers' obligations to accept a payment arrangement offered by a customer provided it meets certain conditions. This can include either paying off arrears within a two-year period, or that arrears will be paid off after a two-year period. In practice, we have found retailers are suggesting a payment plan amount to consumers, often suggesting the customer will be disconnected if they don't agree to the proposal. This has resulted in significant hardship and stress for some people contacting the National Debt Helpline<sup>46</sup>.

Arranging a payment plan can often be a stable way for people to budget their essential costs. However as part of assistance, this should be accompanied with other assistance provisions outlined in the Code to ensure a customer experiencing vulnerability has the best chance of moving out of hardship as soon as possible. For example, would be ineffective and potentially unfair for a customer to agree to a payment plan if their tariff is not a suitable price for them, or their concession entitlements have not been applied. As identified in case study 2, Justine had been a customer for 10 years with her retailer, and had requested her retailer conduct a tariff check, and for her payment plan to be lowered, yet her retailer refused. For these reasons, we suggest that a stronger framework would account for these measures to be implemented before arranging a payment plan for people requesting assistance, as identified in section 3.3.2 . Secondly, a payment plan must be a sustainable and affordable arrangement, that is proportionate to the person's income. In order to prevent unaffordable arrangements, we propose that retailers should be expected to consider their customers' circumstances, income and benchmark expenses before confirming an arrangement. We support the NECF provision regarding consumers' capacity to pay<sup>47</sup>, and submit the following recommendation as a means to strengthen this provision.

**RECOMMENDATION 8.** For the NECF to require retailers to calculate payment arrangements with regard to benchmark income and expenditures<sup>48</sup>, and consumers' average fortnightly income.

<sup>46</sup> Consumer Action Law Centre, [Energy Assistance Report 4<sup>th</sup> Edition](#), June 2024

<sup>47</sup> National Energy Retail Rules, Part 6, Section 72 (1) (a) (i)

<sup>48</sup> Australian Bureau of Statistics Price indexes and inflation | Australian Bureau of Statistics (abs.gov.au) Household Expenses Measurement; Consumer Price Index and Wage Price Index

### 3.4 Additional assistance and large debt

As identified earlier in section 3.3 of this submission, the PDF outlines that additional assistance can be provided above the minimum measures specified. In practice, we have found that both minimum measures and additional measures are not being provided consistently. Concerningly, we have found through our casework, multiple instances of people in significant energy debt and with extenuating vulnerabilities, where retailers have refused to consider payment matching or debt waivers.

Average energy debt has grown for Victorians contacting financial counsellors on the National Debt Helpline,

#### Case study 2: Justine

Justine\* lived on her own in a mortgaged property.

A few years ago, Justine had lost her job and was struggling with health issues. Recently, she had started getting back on her feet, but the debts she had accumulated in the meantime were unmanageable, including over \$28,000 in utility debt. She had determined she would sell her home in order to clear her debts.

When Justine called the NDH, she disclosed her plan to downsize and pay off her debts.

She said she was particularly concerned about her energy bill, which was around \$21,000. Justine has been a customer with her energy retailer for over 10 years.

Justine stated she had been so overwhelmed with the utility bills that she hadn't wanted to look at them. Even as she was accruing significant arrears, at no time did her retailer talk to her about moving to a better energy deal or other measures to help her reduce or manage her energy bills.

Justine stated she had previously requested a lower payment plan, or a reduction in her monthly bills. However, she said her retailer declined to provide any assistance.

Justine told NDH that "nothing was done" by her retailer until she told them she would speak to the media. Only then, 30 minutes after making her threat, was she called by a case manager and offered a discount or better rate for her usage.

Later, her retailer offered to reduce her monthly bills by half, on the condition that she join a specific insurance company. Justine thought this was "dodgy".

#### How did NDH help?

The NDH financial counsellor talked with Justine about dealing with her creditors while she waited for her house to sell.

The financial counsellor also encouraged her to complain to EWOV about her utility provider.

\*Name changed

yet assistance measures to reduce or waive the debt are often not being applied by retailers, often in cases where the customer is vulnerable, and/or unable to afford ongoing usage costs and arrears<sup>49</sup>

<sup>49</sup> *Ibid* p.16-17

In its 2020 report, the Energy and Water Ombudsman of Victoria found that retailers were waiving \$80 per customer, accounting for only 3.2% of the average debt<sup>50</sup>. The issue of increasing energy debt must also be considered alongside the knowledge that retailers are being provided government funds to relieve energy debt. Despite these available schemes, we have found through our casework that incentives aren't resolving the debt for far too many Victorians.

This trend of growing energy debt is developing into an urgent, intractable problem that we expect will require cross-sector intervention to solve. The consumers that our financial counsellors are speaking to don't have the ability to afford their outstanding energy debt and current supply charges. The energy industry needs to prioritise debt forgiveness options for consumers, and at scale. In cases where sizeable debts have accrued, it also indicates there may have been a failure of early intervention by retailers, despite there being requirements in the PDF for early assistance.

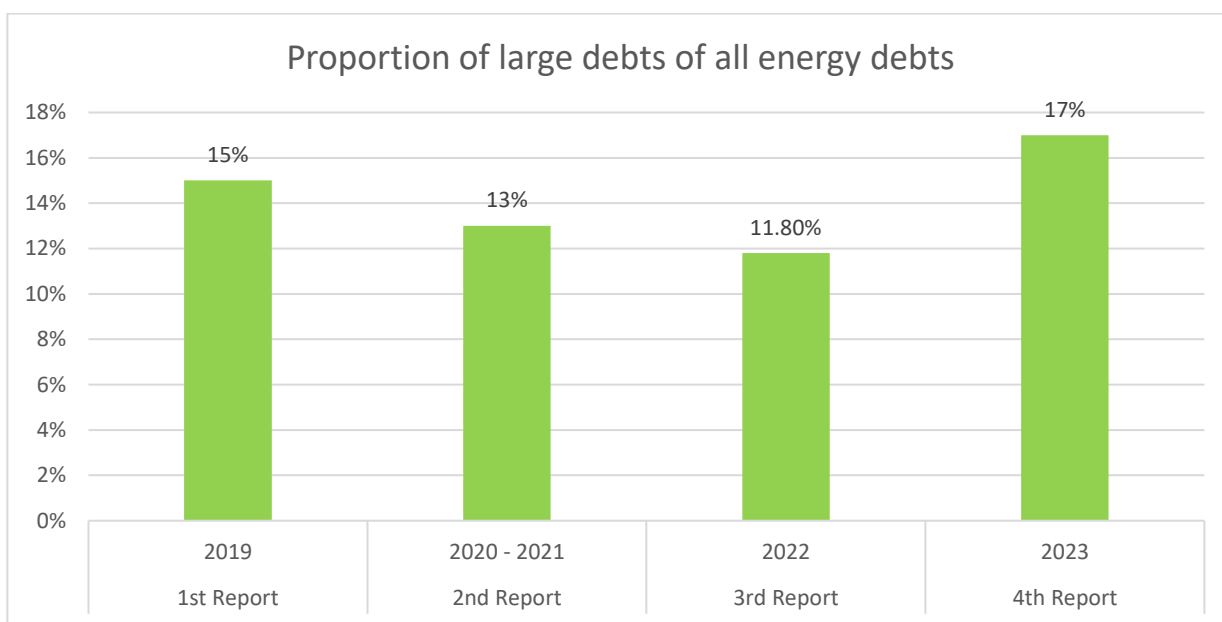


Figure 5 – Proportion of energy debts over \$3,000 across the six years of the Energy Assistance Report

### Considerations

The large debts in figure 5 raise two key areas of concern.

Firstly, where retailers have failed to engage proactively with consumers facing energy hardship, consumers can spiral into unmanageable debt that become increasingly challenging to resolve the longer they accrue.

Secondly, in 2023 we found casework examples of retailers informing customers that the retailer can't offer debt waivers, they don't have policies to consider waivers, and in some cases, the retailer must on-sell the debt to debt collectors without providing the customer any assistance<sup>51</sup>.

The following recommendations would provide low-income households the stability of access to an essential service without experiencing energy hardship, whilst retaining engagement with their retailer.

<sup>50</sup> Energy and Water Ombudsman Victoria [Missing the Mark Report](#), December 2020 p.11

<sup>51</sup> Consumer Action Law Centre, *Energy Assistance Report 4<sup>th</sup> Edition* June 2024 p.28 , Case study: Lisa\* p.38; Case study: Sharon\* p.40

- Investigation and compliance of retailers' early intervention practices
- Payment matching and debt waivers should be proactively and publicly communicated as part of an arrangement offered by retailers for people who cannot meet ongoing usage costs
- Regulatory guidelines should include guidance regarding additional assistance measures including payment matching and the provision for the full or partial waiving of debt<sup>52</sup>
- Provisions for payment plans to be an affordable and sustainable option, and are proportionate to the consumer's income. If the outstanding debt is not paid off within a two-year period, retailers should provide reasonable grounds as to why the remaining debt should not be waived.

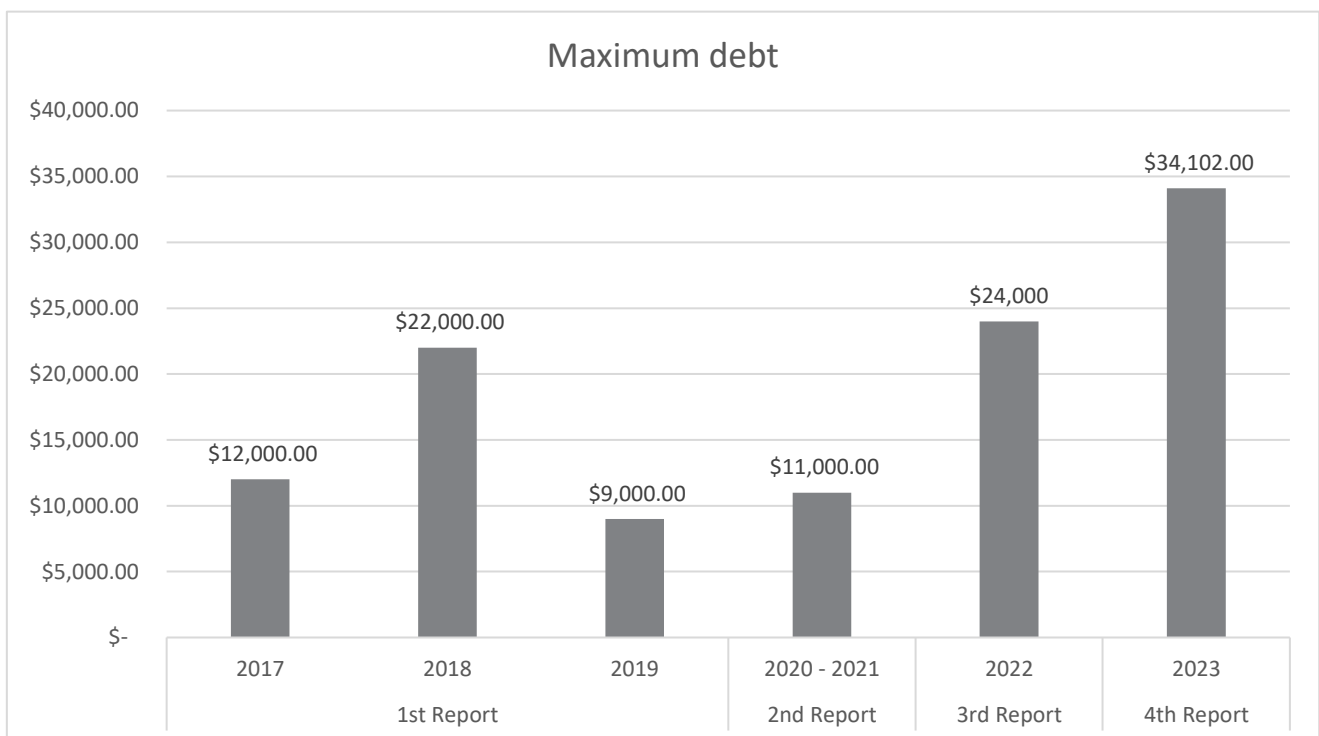


Figure 6: Largest debt recorded from Victorians contacting the NDH with energy difficulty, across six years of the Energy Assistance Report. Note: These debts represent either single or dual fuel accounts, however each debt is held by one person

<sup>52</sup> Essential Services Commission Energy Retail Code of Practice Version 3, October 2024, Clause 144 (4); Clause 152 (2); & National Energy Retail Rules Part 3 section 76

## Case Study – Sara

Sara\* lives with her young son and husband and has had to cease work to provide full time care for her son. Sara receives a Centrelink pension of approximately \$550 a fortnight, and is struggling to afford bills for essentials including electricity.

Sara had to move house a few months ago, and contacted her energy retailer a week before moving to ask about her energy bills. The retailer informed her that she would have to close the account attached to their home, as she was moving address, and set up a new account at her new property.

Once Sara moved and had set up a new account, she requested assistance to resolve the account debt. Sara was told by her retailer she owes approximately \$5,000, and she must pay \$1,000 per month as the account had to be paid in full within six months.

Sara informed them she was struggling to meet payments and couldn't afford this amount. In response, the retailer stated this was her only option, and if it wasn't paid within six months they would be sending the debt to debt collectors.

She asked the retailer if they could apply the Utility Relief Grant; they responded she was unable to do this with a closed account. She requested if the debt could be transferred to her new account so she could use the URG to reduce the debt. The retailer refused.

When speaking with the National Debt Helpline, Sara stated she didn't believe she had ever been contacted by her retailer and offered support while the account balance was growing. She said she only remembered receiving requests to pay.

**"When I told them about my hardship, the retailer stated I had to pay \$1,000. I asked them if they could help me in any way, or to organise instalments, or transferred to a new account. They said no"**

**"In the last call I had with them, they said they would be sending the debt to debt collectors. This has just added to more stress that is already in my life"**

\*name changed

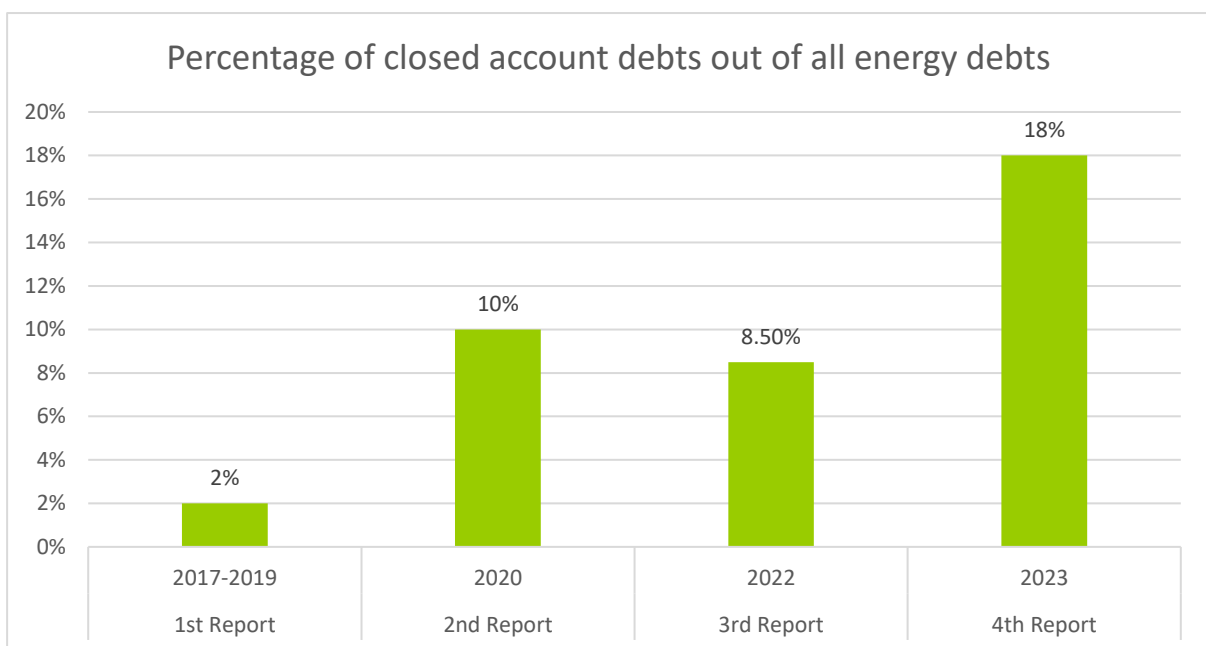


Figure 7 All reported closed account debts by Victorians contacting the NDH with energy as a top three financial difficulty



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

#### 4.1 Benefits of the Victorian PDF

Since its implementation in 2019, the framework has had measurable success in reducing the number of Victorian households disconnected for non-payment. In the 2017-18 year, the ESC recorded the highest number of disconnections for non-payment in the recent preceding years, with 33,824 disconnections for electricity and 21,650 for gas<sup>53</sup>. In the years following the introduction of the PDF, disconnections for non-payment have dropped significantly, with a peak of 13,723 electricity and 4,995 gas disconnections for non-payment in the 2021-22 year<sup>54</sup>.

There are a number of PDF protections that have likely contributed to the significant drop in disconnections, including principles of broad-access and prevention resulting in consumers accessing assistance early, and protection from disconnection if accessing payment assistance.

While there has been broad success in preventing disconnections, we have found some potentially correlated issues in the growing amount of energy debt, and the increase in threats of disconnection by retailers as a method to potentially coerce consumers facing payment difficulty into unaffordable payment plans

In our findings over the six years spanned by our Energy Assistance Reports, we have found a consistent reduction in recorded disconnections, as identified in figure 8. This is likely attributable in large part to the establishment of the PDF, as well as additional regulatory priority and industry guidance from national and

<sup>53</sup> Essential Services Commission, *Victorian Energy Market Report 2017-18* p.64

<sup>54</sup> Essential Services Commission, Victorian Energy Market Dashboard, disconnections for nonpayment.

state-based regulators on disconnection and debt collection<sup>55</sup> over the COVID-19 period that provided for a restricted process of disconnection.

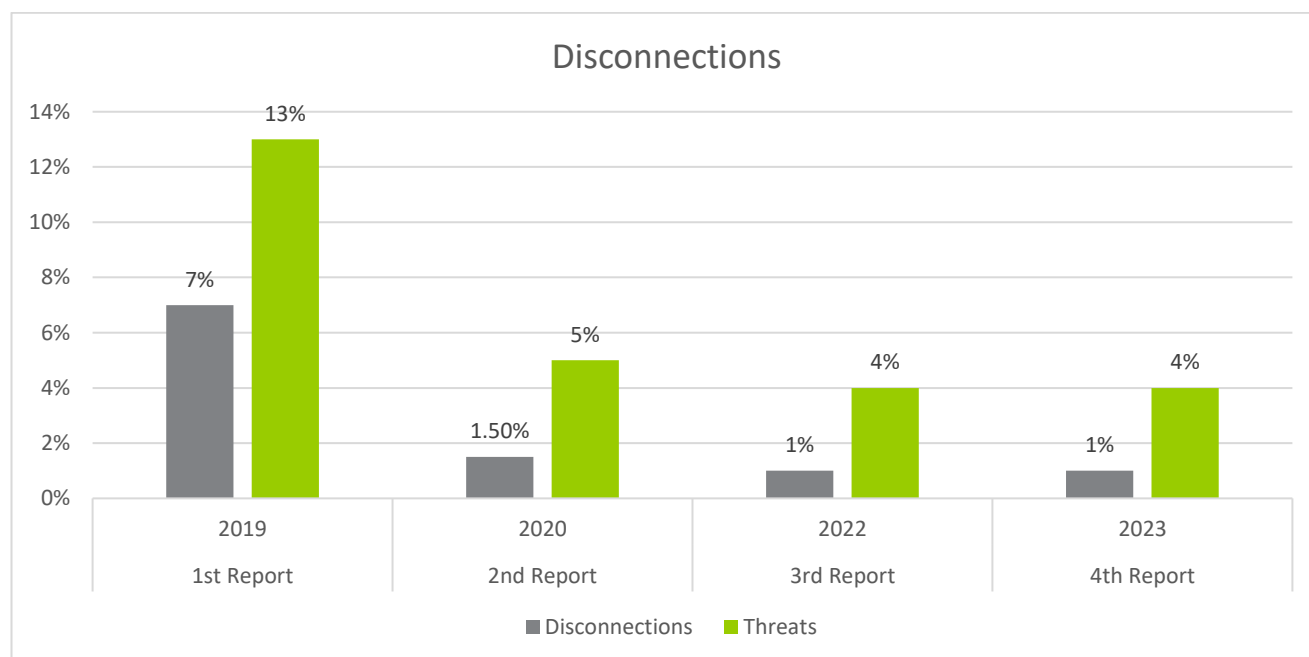


Figure 8 - disconnections and threats of disconnection reported by Victorians contacting the NDH in energy difficulty

## 4.2 Implementation considerations

### • Disconnecting consumers due to non-compliance with assistance arrangements

The PDF provides a protection against disconnecting customers receiving payment assistance, however an increasing number of consumers are exiting payment assistance programs for 'non-compliance'<sup>56</sup>. Two probable conditions for being exited from payment assistance for non-compliance are

- Breaking a payment plan
- Not meeting an agreement with the retailer to reduce energy usage

As found in our most recent *Energy Assistance Report*, there is a correlation between unaffordable payment plans and threats of disconnection, and payment plans not being proportionate to consumers' income<sup>57</sup>.

This indicates the need for some refining of the framework to prevent risks to consumers, including unfair or unreasonable conditions resulting in disconnection. In 2022 and 2023, we found that the proportion of actual disconnections compared to disconnection threats has stayed relatively similar, however callers report they feel pressured to agree to unaffordable payment plans as retailers state they will be disconnected.

Given that consecutive reports have demonstrated that retailers are continuing to utilise disconnection threats to coerce repayment of arrears, we recommend that the AER include higher thresholds for disconnections (both in communication and actual disconnection) when updating NECF consumer protections.

<sup>55</sup> Australian Securities and Investment Commission & Australian Competition and Consumer Commission, [Regulatory Guide RG 96 Debt collection guideline: for collectors and creditors \(asic.gov.au\)](https://www.asic.gov.au/regulatory-guide-rg-96-debt-collection-guideline-for-collectors-and-creditors) April 2021; Essential Services Commission [A year in review – supporting energy customers during the coronavirus pandemic.pdf \(esc.vic.gov.au\)](https://www.esc.vic.gov.au/a-year-in-review-supporting-energy-customers-during-the-coronavirus-pandemic.pdf), May 2021

<sup>56</sup> Over 50% of customers have exited tailored assistance for non-compliance in Q2 2024, Victorian Energy Market Report Dashboard

<sup>57</sup> Consumer Action Law Centre, [Energy Assistance Report 4<sup>th</sup> edition](https://www.calc.org.au/energy-assistance-report-4th-edition) June 2024, p.23

**RECOMMENDATION 9.** Wrongful disconnection payments should be expanded to include wrongful communication of disconnection.

**RECOMMENDATION 10.** Restrict disconnections for non-payment, using guidance provided during coronavirus periods that require retailers to assess whether the disconnection would endanger the health and safety of a person<sup>58</sup>.

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<sup>58</sup> Essential Services Commission [RM/21/2634 Advice to retailers and distributors on disconnection during stage four restrictions](#), February 2021

# 05

## Payment assistance framework

Table 3 identifies current protections and provisions as provided in the Victorian PDF, with considerations of its implementation drawn from findings through our Energy Assistance Report<sup>59</sup>. The recommendations are a combination of current protections found in the PDF, and proposed reforms as outlined in section 3 and 4 of this submission. These recommendations are provided with the view to strengthening the implementation of these protections if the NECF was to adopt the Victorian PDF.

Objective	Protection	Implementation considerations	Recommendation
Broad access to payment difficulty assistance	Obligation on retailer to proactively communicate assistance available <sup>60</sup>	<ul style="list-style-type: none"> <li>Measurable success in increase of customers accessing some type of assistance</li> <li>This can be varied or inconsistent in implementation by retailers in engagement</li> </ul>	Adopt an obligation for retailers to communicate assistance is available to customers after missing a bill, or at \$55 arrears trigger
Minimum standard of assistance	Standard assistance and tailored assistance measures <sup>61</sup>	<ul style="list-style-type: none"> <li>Entitlement for consumers to access a wide range of assistance as a minimum.</li> <li>In practise, retailers can be varied in communicating what types of assistance is offered</li> </ul>	For regulators to prioritise monitoring and compliance of types of assistance being offered and confirmed by retailers
Tailored assistance	Wide range of assistance including obligations for retailers to accept proposed payment plans, facilitate government assistance measures, tariff checks and up to 6 month payment holds <sup>62</sup>	<ul style="list-style-type: none"> <li>In practice, payment plans are confirmed by retailers before other assistance measures are communicated to consumers.</li> </ul>	To include in framework rules that other types of assistance available such as tariff checks and government assistance has been explored and applied before confirming payment arrangements
Payment arrangements	Retailers must accept a payment proposal or revised proposal initiated by the customer; and	<ul style="list-style-type: none"> <li>Unaffordable payment plans are a risk if retailers suggest or coerce that this arrangement must be met,</li> </ul>	Provide flexibility to the customer in the duration, cost allocations (eg. usage and arrears) and time period of a payment arrangement, and place

<sup>59</sup> Consumer Action [Energy Assistance Report 4<sup>th</sup> Edition](#) June 2024

<sup>60</sup> Energy Retail Code of Practice proposed Version 3, clause 129

<sup>61</sup> Energy Retail Code of Practice proposed Version 3, Part 6 Division 1 & 2

<sup>62</sup> Energy Retail Code of Practice clause 128 (1) (d) (e) (f)

	<p>provide the customer a schedule of payments.</p> <p>The payment plan can be arranged to result in arrears being paid after a two year period<sup>63</sup></p>	<p>and arrears resolved within specific time period.</p> <ul style="list-style-type: none"> <li>• Consumers can feel pressured to agree to something they can't afford</li> </ul>	<p>onus on retailer to facilitate a revision of payment plan if the customer breaks the arrangement.</p> <p>Include principles-based provisions that payment arrangements must be affordable to consumers, with regard to income, expenses, and their circumstances, with retailer compliance obligations</p>
Disconnection as a last resort	<p>Before initiating disconnection process, retailers are obligated to provide information of assistance, and are restricted from disconnecting customers receiving assistance<sup>64</sup></p>	<ul style="list-style-type: none"> <li>• Retailers can remove people from assistance on grounds of non compliance, which can include breaking a payment plan or not reducing their energy usage during payment pauses</li> <li>• People experiencing hardship can still be disconnected from an essential service</li> </ul>	<p>Ensuring payment plans and energy efficiency assistance are reasonable, fair and practicable for the consumer to implement.</p> <p>Expanding provisions for wrongful disconnection payment obligations to include wrongful communication of disconnection warnings</p> <p>Restrict disconnections for non-payment, using guidance provided during coronavirus periods that require retailers to assess whether the disconnection would endanger the health and safety of a person<sup>65</sup>.</p>

<sup>63</sup> Energy Retail Code of Practice clause 130

<sup>64</sup> Energy Retail Code of Practice proposed Version 3 clause 185

<sup>65</sup> Essential Services Commission [RM/21/2634 Advice to retailers and distributors on disconnection during stage four restrictions](#), February 2021

# 06

## COSTS AND BENEFITS

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

When considering costs and benefits, they must be contextualised and relative. As outlined in section one of this submission, there are significant financial and non-financial costs and detriments to people who are experiencing energy poverty. Access to an essential service as crucial as energy should be upheld, regardless of income. This access should be protected as a right, and not a benefit, and its equitable provision should be accounted for in cost by industry.

In the UK, the Right to Energy campaign has outlined a standard of universal access and social tariff that is funded through utility industry profit<sup>66</sup>. As part of the Inquiry into Price Gouging, Prof. Alan Fels AO noted in his submission that corporate profit recorded its highest year in Australian history at 28.7% of GDP in 2022<sup>67</sup>. He further notes that the energy industry's inefficient costs have caused consumers to be price gouged, and never compensated after reforms had been implemented<sup>68</sup>. The Australian energy retail industry could support a principles based approach through apportioning part of their profits towards a social tariff model.

As we transition into renewables, an equity-based model could support additional benefits for low-income Victorians to be protected from the risks of being stuck on a legacy grid, or bearing a disproportionate cost of electrification, by distributing the costs of infrastructure development by income measurement.

One example of this approach is California's recently established three-tier rate setting decision<sup>69</sup>, wherein concession card holders automatically pay the lowest discounted fixed amount; customers with low incomes automatically pay a discounted fixed amount; and all other customers pay a standard fixed amount.

<sup>66</sup> Kieran Pradeep, Right to Energy coalition [People-Powered-Winter-Plan.pdf \(righttoenergy.org\)](#)

<sup>67</sup> Prof. Allan Fels AO, [Inquiry into Price Gouging Report to the ACTU, Final Report](#), February 2024, p. 19

<sup>68</sup> *Ibid* p.50

<sup>69</sup> State of California Public Utilities Commission, Agenda ID #22469 [528422138.PDF \(ca.gov\)](#) March 2024

## APPENDIX A – SUMMARY OF RECOMMENDATIONS

- RECOMMENDATION 1.** The AER to conduct a review and identify areas for targeted reform of the National Energy Market in partnership with the ACCC and ASIC with a view to structurally reform price, purchase, derivative and hedging markets.
- RECOMMENDATION 2.** The AER investigates introducing a social tariff as outlined in the Game Changer Design Report.
- RECOMMENDATION 3.** For the AER to consider and develop indicia of energy poverty
- RECOMMENDATION 4.** Introduce a requirement in the NECF assistance framework that retailers identify customers experiencing energy poverty and assist them to access energy efficiency upgrade schemes.
- RECOMMENDATION 5.** For the AER to consider integrating the International Standard on Consumer Vulnerability for the Design and Delivery of Inclusive Services (soon to be adapted for Australia) with a view to increasing compliance measures for retailers found in breach of protections for vulnerable consumers, and deterrence of these practices more broadly.
- RECOMMENDATION 6.** Require retailers to provide information and confirm where applicable, tariff checks and government assistance measures including concessions, Utility Relief Grants before confirming a payment plan with the person experiencing payment difficulty.
- RECOMMENDATION 7.** The NECF be amended to encourage retailers to take a positive approach to energy usage data as a method to identify consumers in energy poverty, and provide energy appliance and connection checks, and access to government energy efficiency schemes.
- RECOMMENDATION 8.** For the NECF to require retailers to calculate payment arrangements with regard to benchmark income and expenditures, and consumers' average fortnightly income.
- RECOMMENDATION 9.** Wrongful disconnection payments should be expanded to include wrongful communication of disconnection.
- RECOMMENDATION 10.** Restrict disconnections for non-payment, using guidance provided during coronavirus periods that require retailers to assess whether the disconnection would endanger the health and safety of a person.

## APPENDIX B – Data sample

### Six Year Data Sample

	1st Report			2nd Report	3rd Report	4th Report
2017-2023	2017	2018	2019	2019-2020	2022	2023
	1/07/2017	-	31/05/2019	1/07/2019-31/12/2020	1 Jan-31 Dec	1 Jan- 31 Dec
No. of total Contacts	583	1166	507	808	6494	7087
No. of Energy Contacts*	94	107	56	133	697	846
% of total contacts	18%	11%	14%	16%	11%	12%