5 July 2024

Ms Danielle Chifley
Acting General Manager, Policy
Australian Energy Regulator
GPO Box 3130
Canberra ACT 2601
Lodged electronically: ConsumerPolicy@aer.gov.au

Dear Ms Chifley,

RE: Review of payment difficulty protections in the NECF

Origin Energy (Origin) appreciates the opportunity to provide a response to the Australian Energy Regulator's (AER) review of payment difficulty protections in the NECF – issues paper.

A key objective of this review should be to ensure that customers can easily access assistance that will support them in managing their energy costs. This is best achieved through early and effective engagement as well as eligibility criteria that does not restrict customers from accessing this support.

Origin considers that the current NECF protections framework is operating well and that wholesale changes to the framework are not required. The current framework provides sufficient flexibility for retailers to provide assistance to customers that meets their individual circumstances. Furthermore, the AER's quarterly reporting requirement provides the AER with an ongoing picture of customer debt and the performance of assistance measures. This provides the AER with valuable evidence for the early identification of issues and to investigate the causes and propose interventions.

Notwithstanding, we agree that the framework should be reviewed to ensure it remains fit for purpose and is delivering its intended outcomes. We also agree that harmonisation is a desirable objective. However, ongoing consistency is unlikely because it relies on both the AER and Essential Services Commission adopting any changes the other regulator makes. Without this ongoing commitment, the respective frameworks will diverge which will result in higher system costs for retailers to maintain compliance.

Furthermore, our experience is that the Victorian payment difficulty framework (PDF) is too prescriptive and creates a rigid approach to how retailers interact with customers. This has resulted in a decline in customer outcomes and engagement.

We agree that disconnection should be viewed as a last resort. However, in some circumstances a notice of disconnection is the only means of engaging with a disengaged customer. In the absence of a credible threat, the incentive for a disengaged customer to engage is significantly diminished.

Origin's response to the AER's questions is set out at Attachment A.

If you have any questions regarding this submission, please contact Gary Davies in the first instance at [redacted].

Yours sincerely

[redacted]

Sean Greenup
Group Manager Regulatory Policy
[redacted]

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Attachment A

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

Origin supports the approach to testing whether there is a case to change the current framework. We also support the proposed indicators.

Potential additional indicators could include a measure of sustainable energy consumption where a customer moves to a situation where the cost of their energy consumption and their usage level is at rate they can sustainably pay.

Irrespective of the indicator, we think it is vital for stakeholders to have a clear understanding of how these indicators will be assessed. For example:

- What are the values that trigger a change?
- How are these set?
- Are measures considered collectively or is there a weighting of importance across indicators?
- How is that weighting determined?
- How are changes translated into policy changes?

It is important that when assessing these measures that decision making does not become overly complex and that stakeholders can clearly see how the AER has arrived at any decision. Importantly, how the AER sets triggers should be well explained and objective.

We also consider that how historic data is considered is vital in achieving an accurate picture of the effectiveness of the framework. Unusual events should not distort or bias decisions. For example, recent data is impacted by a number of issues, including:

- Emergence from the COVID pandemic.
- Recent cost of living increases impacting household budgets.
- Government energy bill assistance programs.
- In the case of Origin, significant disruption resulting from the adoption of new operating models. As a result, Origin has adopted a cautious approach to customers on assistance plans i.e. leaving customers on plans that would otherwise be migrated from the program.

As a result, we do not consider the last 4 years represent a business-as-usual environment. Any analysis of available data would need to account for these issues.

In addition, some measures can be misleading because of differences in the way data is reported. For example, a customer who moves from one payment plan to another could be reported as exiting a payment plan program despite simply moving to another plan. Concise definitions of the success measures are therefore required to avoid confusion.

It is also important to consider any unintended outcomes associated with payment difficulty assistance measures. For example, allowing customers to access lower payment plans can result in higher debt for customers if consumption is also not addressed.

The success of a payment difficulty scheme is heavily influenced by the level of customer engagement. A retailer cannot enter a customer into a payment plan, provide the customer with energy efficiency support, or refer them to a financial counsellor without the customer's agreement or engagement. Irrespective of how the framework is designed, there is likely to be a cohort of customers who choose not to engage. Under these circumstances, it is inevitable that a portion of customers will not receive assistance.

More broadly, consumer vulnerability is a wider social issue. While payment difficulty programs provide valuable assistance to customers and helps them access assistance, it cannot resolve chronic poverty. Sometimes for reasons outside of retailer or AER control, a customer is simply so disadvantaged that no level of sector-based assistance will be sufficient. These customers need greater government support. We strongly support the AER pursuing this matter outside of this policy review.

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

The Victorian PDF is the most readily comparable scheme to the NECF protections framework.

We consider the Victorian PDF is overly prescriptive and does not operate effectively for customers. For example, customer calls are highly scripted and often result in the customer disengaging from the process. Information provided to customers can also be repetitive with customers becoming frustrated hearing the same scripting each time they call. This means that personal attention can potentially be diminished at the expense of regulatory compliance.

The distinction between the various types of assistance (tailored, standard and practical) and the benefits of each are not clear and are difficult to explain to customers. We have found that the six-month debt freeze often does not support customers, with customers accruing more debt. With no scope for review, these customers may not be aware of how much debt they are accruing.

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

We agree that the distinction between hardship and non-hardship customers is not clear.

The focus should be on ensuring that customers who want to pay and stay engaged (even if they don't have the capacity to pay for their ongoing use) are provided appropriate assistance. The definition of hardship should be broad enough to capture a wide range of circumstances, with the flexibility to offer hardship-related assistance where this would best meet the customer's needs. The overall aim for both retailers and customers should be to ensure that the eligibility criteria does not restrict a customer from accessing the assistance that would allow them to best manage their energy costs.

To the extent that a customer does not qualify as a hardship customer, there should be no barrier to accessing payment difficulty assistance.

Self-identification should not be a limiting factor to accessing assistance. Retailers should have the tools and practices to identify customers without the customers identifying themselves. For example, subclause 50(1) of the National Energy Retail Law requires retailers to offer payment plans to both hardship customers and other residential customers experiencing payment difficulties if the retailer believes the customer requires payment assistance. This clause effectively provides a minimum standard of assistance for all customers.

Automated triggers may be useful for identifying customer eligibility but can be difficult to apply in practice. For example, the triggers applied in the Victorian PDF are based on debt levels, not the need for assistance. The prescriptiveness of the Victorian approach means that identified customers are often 'over' provided with information that they may not need. As a result, a retailer's resources are diverted away from those customers most in need of support to fulfilling regulatory obligations for customers who do not require assistance.

We consider that the NECF customer protection framework provides retailers with the flexibility to effectively interact with customers and cater to individual circumstances. While Origin adopts a risk averse approach to customers experiencing payment difficulties and offers assistant commensurate with individual customer needs, we appreciate that this may not be the practice of all retailers. We encourage the AER to actively review the application of eligibility by individual retailers to identify specific areas of non-compliance / ambiguity and ensure that those customers requiring assistance are provided with the appropriate assistance.

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

Retailers have a variety of tools to support early identification of consumers experiencing payment difficulty. Retailer billing systems allow for identification of customers who miss payments or are not fulfilling payment plans. In these instances, retailers can proactively contact customers e.g. via SMS, email etc to inform them of the situation and provide information on further assistance or other available options.

In addition, retailer customer communications (bills) should provide payment difficulty assistance advice to customers including web address and phone contact details for customers to obtain information. A retailer's website should also publish options for financial support.

Assistance options should include:

- Payment extensions.
- Tailored payment plans.
- Information on available government grants.
- Practical assistance to lower energy costs, including:
  - Energy plans to suit individual circumstances.
  - Energy efficiency tips to help use less energy.
  - Ways to monitor energy use.
  - Estimates of future energy costs, and advice on how to keep them down.
  - Ongoing reviews for customers.

While there is scope to identify customers that may be experiencing payment difficulty, accessing support or setting up payments plans requires customer engagement. The gap that retailers need to bridge involves getting the customer to access the available support. We consider that increasing the frequency and content of communications will not necessarily encourage assistance uptake.

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

The uptake of assistance is largely dependent on customer engagement. For those customers willing to engage, there should be a variety of assistance measures and the flexibility to cater assistance to individual customer circumstances.

However, there is a balance. Our experience with the Victorian PDF suggests that overloading the customer with information has the potential to cause customer disengagement. For example, Origin's tailored assistance scripting under the Victorian PDF takes 45 minutes to 1 hour to complete. This is both costly for the retailer and ineffective for the customer, especially where the customer is a returning customer and has previous been through the scripting process. Customers can find this information repetitive and as a result can become disengaged because these interactions are highly scripted and can take a significant amount of time to complete. This is a poor outcome because disengaged customers are at risk of eventual disconnection.

To be effective, it is important that options for the provision of assistance and the associated conditions and obligations are clearly understood by customers. Customer communications should be simple, easy to understand and relatively quick to relay to customers.

Conversely, the communication protocols in the Victorian PDF are overly complex and difficult to understand for customers. As discussed, the volume of information and length of interactions required under the Victorian PDF can often result in customer disengaging from the process. We believe that the over-reliance on regulatory requirements means that regulatory compliance can often be pursed at the expense of better understanding a customer's individual circumstances. This is inefficient for both retailers and customers.

Notwithstanding the above, the current payment difficulties framework could be improved by extending communication requirements to better cater for customers with English as a second language and customers who may not be sufficiently literate.

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

The current framework provides adequate flexibility to both understand and cater to an individual's specific circumstances for both hardship and 'others' experiencing payment difficulty. Retailers are able to interactively communicate with customers to understand their circumstances and tailor assistance measures accordingly. In principle, tailored assistance should be offered on a case-by-case basis to those customers that are either interested or require it.

Customer interactions can extend beyond simple debt reduction to include, for example, strategies for reducing energy usage. Discussions around reducing a customer's energy costs can be limited by the customer's circumstances. In many instances, these strategies can be cost prohibitive i.e. cost of more energy efficient appliances, rental providers reluctance to make energy efficiency improvements to rental properties. Nevertheless, it is important that retail staff are well versed in the full gamut of strategies to assist customers.

The success of any customer interaction depends both on the customer's willingness to participate and the communication skills and knowledge of the retailer's staff. Staff need to be appropriately trained in both the available assistance options and strategies for effectively communicating with customers to adequately understand their individual circumstances. This is an ongoing and iterative process for retailers. It can be difficult to pre-empt every situation that may arise. For this reason, Origin routinely monitors customer calls to review our Energy Specialists' performance and identify areas of improvement. The findings from these reviews are incorporated in our ongoing staff training program.

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

Origin agrees that disconnection should be viewed as a last resort and adopts this approach in practice. Origin adopts a risk averse approach to disconnection and only disconnects in rare circumstances and after significant (failed) customer engagement.

While clearly not ideal, disconnection acts as a circuit-breaker for customers accruing unmanageable debt. A disconnection notice also acts as a trigger for engaging a disengaged customer. In the absence of a credible threat of disconnection we consider that a portion of customers will continue to accrue debt, to their own detriment.

The existing minimum disconnection amount ($300) remains appropriate. A higher threshold risks the customer accruing more debt and would generally only serve to delay the disconnection process. Also, the accelerated roll out of smart meters will result in increased monthly billing. Accordingly, the minimum debt threshold will apply to monthly rather than quarterly bills (resulting in a de facto increase in the threshold).

While the process for disconnections is reasonably clear under NECF, the time taken to initiate a disconnection service order can be lengthy and the process can be delayed by a customer adopting multiple payment plans (thus resetting the process). This delay can result in the customer accruing additional debt.

The AER should provide further clarification (including examples) of when it is appropriate to commence disconnection proceedings. This should include a clear and unambiguous description of the conditions under which disconnection is deemed appropriate, the retailer's obligations associated with the disconnection and the documentation required from the retailer in order to confirm it has complied with the approved process for disconnection.

A retailer should have the confidence to commence the disconnection process where a customer meets the criteria without fear of a wrongful disconnection finding.

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

Extending or modifying obligations under the current NECF framework is likely to increase compliance costs for retailers resulting in higher costs for customers. It is important that the benefits of any change to the existing framework are assessed against potential costs. Any change to the framework is likely to involve changes to operating systems and labour costs. In the absence of specific details of proposed amendments, it is difficult to quantify the associated costs.

Harmonisation of jurisdictional payment difficulty frameworks is not likely to be practical. A minor change in either scheme would result in significant operational changes for retailers at significant cost. To the extent schemes are aligned, there is no guarantee that that alignment would continue in the future. For example, the ESC is currently conducting a review of its Retail Code of Practice. This has the potential to impact the ESC's payment difficulty framework.

Additional issues

There are a number of other issues that could be addressed in the payment difficulty framework, specifically:

- Ideally the framework should allow retailers to reduce the instalment amount on a customer's payment plan when a customer's account is in credit or when the customer's usage drops so that it more appropriately aligns with the customer's ongoing usage cost without having to obtain consent from the customer before making this change.
- The framework should contain provisions to allow retailers to end a customer's payment plan early once their account is back on track without having to gain consent (or by obtaining consent at payment plan set up).
- The current framework adequately provides for appropriate delivery of payment assistance and hardship support. The bigger challenge for retailers involves obtaining customer uptake of support and customer engagement. It may be more effective for the AER to explore engaging independent parties to provide information about payment assistance and hardship support available from retailers. Customers can be wary of energy advice from companies who are selling them energy and the prevalence of scams / fraud.