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Sent via email to: [ConsumerPolicy@aer.gov.au](mailto:ConsumerPolicy@aer.gov.au)

RE: Review of payment difficulty protections in the National Energy Customer Framework – Issues paper

### **About Shell Energy and Powershop in Australia**

Shell Energy is Shell’s renewables and energy solutions business in Australia, helping its customers to decarbonise and reduce their environmental footprint.

Shell Energy delivers business energy solutions and innovation across a portfolio of electricity, gas, environmental products, and energy productivity for commercial and industrial customers, while our residential energy retailing business Powershop, acquired in 2022, serves households and small business customers in Australia.

Shell Energy Australia Pty Ltd and its subsidiaries trade as Shell Energy, while Powershop Australia Pty Ltd trades as Powershop. Further information about Shell Energy and our operations can be found on our website [here](#).

### **General Feedback**

Powershop welcomes the opportunity to provide feedback to the Australian Energy Regulator’s (AER) review of payment difficulty protections in the National Energy Customer Framework (NECF) Issues Paper (Issues Paper).

Powershop has provided responses to the consultation questions in the pages following, and the table below summarises our key points for this submission. We would be happy to meet with the AER to discuss any of the points raised throughout this submission.

Please contact Shelby Macfarlane-Hill at [REDACTED] if you would like to discuss our submission further. if you would like to discuss or submission further.

Yours sincerely,

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## Summary of Powershop Submission

Consultation Questions	Powershop Submission Summary
<p><b>Q1:</b> Do you have any feedback on the proposed approach for the review?</p>	<ul style="list-style-type: none"> <li>• The issues raised in this paper are largely societal and relevant to the whole of the system rather than energy retailers specifically. Further regulation of energy retailers will not solve cost of living pressures that stem from deeper issues.</li> <li>• AER should be cautious when drawing qualitative conclusions without stakeholder input on context.</li> </ul>
<p><b>Q2:</b> What can we learn from other approaches to strengthening protections for consumers experiencing payment difficulty?</p>	<ul style="list-style-type: none"> <li>• Support the AER reviewing other relevant frameworks to take on learnings. However, the cultural context of those frameworks is also relevant in how it is applied both internationally and domestically.</li> </ul>
<p><b>Q3:</b> How adequate, effective, and appropriate is the current eligibility framework for payment difficulty protections?</p>	<ul style="list-style-type: none"> <li>• Consider including guidance to enable consistency for when and how assistance is offered by retailers.</li> </ul>
<p><b>Q4:</b> How could the framework better support early identification of consumers experiencing payment difficulty?</p>	<ul style="list-style-type: none"> <li>• Support outcomes that ensure payment support is explained and offered in a consistent way before or after payment has been missed.</li> <li>• Some early identification triggers outlined in the Issues Paper may not be appropriate hardship indicators, i.e., changing payment methods or sudden increase or decrease in consumption could be circumstantial.</li> </ul>
<p><b>Q5:</b> How could the framework better support engagement with consumers experiencing payment difficulty?</p>	<ul style="list-style-type: none"> <li>• Support reducing the stigma around hardship terminology but must ensure any such changes have a net benefit.</li> </ul>
<p><b>Q6:</b> How could the framework better ensure that consumers experiencing payment difficulty are supported appropriately</p>	<ul style="list-style-type: none"> <li>• Agree that retailers are in the best position to identify and provide certain support to customers, particularly short-term support such as payment plans.</li> <li>• Note that long-term drivers of payment difficulties are diverse and have a society-wide footprint which cannot be solved by energy retailers alone.</li> </ul>
<p><b>Q7:</b> How could the framework better ensure disconnection is a last resort?</p>	<ul style="list-style-type: none"> <li>• Disconnection is already a last resort.</li> <li>• Support practices which keep the customer engaged.</li> </ul>
<p><b>Q8:</b> What are the costs and benefits of potential changes to the framework?</p>	<ul style="list-style-type: none"> <li>• Support a cost benefit analysis on potential changes to the framework.</li> <li>• Other comments in relation to this question have been answered throughout the submission.</li> </ul>

## Powershop Response to Consultation Questions

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

#### ***The effectiveness of the indicators for measuring the intended outcome***

Powershop agrees that performance reporting data is a rich source of information and should be used as the basis for discussion for stakeholders including customers, customer advocates, retailers, and Government.

Retailers working on the frontline with customers should be able to provide context to data where appropriate. For example, the statement below from the Issues Paper does not take into consideration factors including a customer's level of debt, the duration of repayment, or qualitative elements of a customer's interaction and experiences which a retailer could provide to prevent erroneous and broad assumptions being made. As a retailer, Powershop can provide context around irregularities and trends to ensure accurate insights can be drawn from the data.

*"...the current framework may not be able to ensure that payment plans are affordable and appropriately tailored to a customer's individual circumstances. In quarter 2 of 2023–24, over 22% of electricity payment plans had a fortnightly payment of \$200 or more and 45% had fortnightly payments between \$100 and \$200."*

We caution the AER against drawing qualitative conclusions based on quantitative data, or vice versa, without further context from stakeholders. While there are opportunities to improve and refine the framework, we consider it critical that a full understanding of circumstances is required, and assumptions are tested prior to drawing conclusions that may inform policy change. Powershop is supportive of providing further data, or engaging with the AER further, to further assist the development of its payment difficulties review.

#### ***The effectiveness of the proposed criteria for assessing options***

Powershop considers that the proposed criteria sufficiently cover off the retailer/ customer relationship impacts. However, we note the review is narrowly focused on retailers and the customer-retailer relationship and does not cover customers who seek credit or other support to pay bills outside of their relationship with their energy retailer.

The paper highlights this issue throughout, and specifically states that:

*"The data above does not include those consumers who are experiencing payment difficulty but have not been identified as a hardship customer or are avoiding energy debt through other means, such as using other forms of potentially harmful credit or making sacrifices in other aspects of their lives."*

Powershop agrees this is a significant issue and in principle, we agree that there should be more support for individuals who struggle to pay for essential services. However, hardship

can be complex and impact a customer's ability to pay for other essential services and basic needs, and the AER needs to consider the degree to which societal issues outside the control of energy retailers are driving hardship and cost of living pressure.

While there are numerous practices used by retailers to engage customers, they are not guaranteed to generate a response. Further public education is needed to highlight what support is available across all essential services and all levels of government.

Nelson et al, said that a number of essential services drive cost of living pressure, including all utilities, transport, groceries and telecommunications. We need to look at all the drivers, not just energy in isolation, and all assistance available (including government programs and subsidies) to determine whether an adequate standard of living, including access to essential services, can be maintained.<sup>1</sup>Cost of living is a whole of society issue which will require broad measures across industry, governments and consumer support facilities.

There are many factors driving cost of living pressures, and while retailers may be closest to the consumer where the energy sector is concerned, there are other sectors and government programs that are also well positioned to provide necessary relief to consumers. We acknowledge that concession schemes exist to manage affordability for some consumers, and further context on this matter is provided in our response to Question 6 below.

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

The AER should consider as part of its review how the relationship between retailers, as well as energy industry, and customers could be reset to better empower those who require support.

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

Though payment difficulty and affordability are often conflated, payment difficulties protections are only a part of helping energy affordability. Powershop notes that it is in a retailer's best interest to assist a customer in clearing their debt. Additionally, we assume that a customer that has sufficient funds to pay, will pay.

While we recognise that there may be opportunity to improve customer protections, Powershop considers that affordability outcomes are largely driven by the general cost of living circumstances that are broader than the customer/ energy retailer relationship.

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<sup>1</sup> Tim Nelson, Eleanor McCracken-Hewson, Gabby Sundstrom, Marianne Hawthorne, *The drivers of energy-related financial hardship in Australia – understanding the role of income, consumption and housing* (2019), Energy Policy - Volume 124, Pages 262-271. Accessed via: <https://www.sciencedirect.com/science/article/pii/S0301421518306621>.

Retailers are better positioned to help customers in relation to short-term financial difficulties in paying for energy, identifying consumption savings or where customers need help managing energy bill debt that they have the capacity to repay over time.

However, the level of support a retailer is able to offer customers experiencing long-term financial difficulties (for example, disability, unemployment, family violence) is more limited. In those cases where a customer is unable to clear previous debt or afford current plans and where measures to reduce consumption such as energy efficient advice has not aided a customer's capacity to pay for energy, Powershop considers that a wider level of support may be required beyond the assistance of energy retailers.

The AER might consider the following factors when assessing whether energy retailers, other parts of the energy sector or government or other support programs are best placed to support customers experiencing payment difficulties:

- What should the role of energy retailers be in helping customers manage payments over the long- and short-term?
- Are government-funded energy concessions and grants consistent, equitable, efficient, and fit for purpose?
- Is there opportunity for further education programs for customers? For example, financial literacy and energy efficiency programs.
- What role or obligation can networks and generators have in assisting customers facing financial difficulties?

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

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

Powershop agrees that the AER should take learnings from other regulatory frameworks. As identified in the Issues Paper, the most valuable framework to draw learnings from would be the Victorian Payment Difficulties Framework. While this framework is not perfect, the AER does have the opportunity to gain insights from the Victorian experience.

Information about available assistance should be consistent and simple. There is an expectation on retailers to provide customers an exhaustive list of everything that they may be eligible for with respect to payment options and additional support. While it may be positive to provide comprehensive information to customers, there may be circumstance where this may be overwhelming for customers and there would be benefit in being more refined and specific to customers' needs. We consider that there should be an option to provide simplified explanations of support available to assist customers with low literacy or from culturally and linguistically diverse (CALD) backgrounds.

We consider that the information provided should be able to be understood by customers with basic English literacy and translation services should be available. For example, immigrant families or those who are CALD may often rely on their children learning English

at school to translate for them in everyday life. This is particularly relevant in a CALD person's understanding of basic information or documents such as medical bills, utility bills, or discounts at the supermarket. This is called 'language brokering' and can affect how effectively information is received as well as the response.<sup>2</sup>

Powershop encourages having clear and simple, easy to understand terms and concepts in hardship communications to ensure that people of any background will understand what support is available to them and how to get it. Overwhelming consumers with information can act as more of a barrier than an enabler.

We also believe that timely, direct, and personalised communication ensuring customer awareness of the support they require should already be critical core practice. For instance, there should be different levels of information provided to a customer who has missed one payment compared to a customer who has repeatedly missed or underpaid their bill. Customising the information received to the individuals circumstances can assist in ensuring appropriate support is available or accessed.

The AER should also investigate other channels where customers may be informed about support when they need it, in addition to the current method of referral by a retailer and retailer information provision. This may include providing information in an accessible manner through the AER Hardship Factsheet on the AER website or through Energy Made Easy, which could provide a single source of information relevant to their circumstances. The Victorian government and Essential Services Commission energy bill assistance webpages are good examples of this.

Powershop believes that the success of any policy change will hinge on the practical implementation of the policy but also the support of customers who continue to experience payment difficulty after all entitlements have been applied. As previously mentioned, we believe that retailers are best placed to assist customers facing short-term financial difficulty. However, policy reform must also consider how to address long-term payment difficulty that cannot be solved by retailers alone, for example, improving energy efficiency in homes.

There is an underlying assumption in energy regulations (including the Victorian Payment Difficulties Framework) that a customer will reduce their energy consumption to a level that they can afford and that a customer will eventually be able to pay back their energy debt. However, there is a rising cohort of customers who cannot afford the energy they consume. Powershop considers that this is a societal and whole of system issue, and while retailers have a role to play, it is not an issue that retailers alone have the ability to remedy completely or significantly impact. Powershop agrees that debt waivers, or variations are

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<sup>2</sup> AKam, J., & Lazarevic, V. *Communicating for One's Family: An Interdisciplinary Review of Language and Cultural Brokering in Immigrant Families* (2014) *Annals of the International Communication Association*, 38(1), 3–37. <https://doi.org/10.1080/23808985.2014.11679157>

beneficial to customers and retailers in some circumstances. Based on our experience, payment matches can boost a customer's engagement and trust with retailers and encourage a customer get better control over energy debt. As a result, customers are more likely to implement the assistance provided and continue to engage going forward.

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

Powershop agrees with the underlying assumption that there could be enhancements made to the AER's regulatory framework around payment difficulties. Powershop also agrees that any proposed regulatory framework should not have differing levels of assistance based on retailer subjective judgement. For this reason, we would support guidance in aligning different retailer approaches.

There are other elements that the AER should seek to address to ensure consistency, for example, when and how assistance is offered. Powershop considers that the benefits of minimum standards are consistency and clarity for retailers and customers, and less compliance risk and operational complexity.

The potential limitations of minimum standards/ items that the AER may need to address:

- **Who** the minimum standards are designed to assist/ who will be best assisted by the minimum standards. There are cohorts of customers that may not be able to be assisted by 'typical' regulatory frameworks/ traditional payment plans. For example, the AER should consider how assistance should be provided when customers have long-term payment difficulty, are unable to commit to payment arrangements and are at risk of debt becoming unmanageable. These customers may not be easily identifiable until the minimum standards prove ineffective.
- **How** vulnerable customers engage. Low engagement by vulnerable customers, driven by a number of factors including poor financial and general literacy, can lead to suboptimal outcomes. For example, customers committing to inappropriate financial arrangements because they feel they 'must' or because they don't fully understand their financial situation and what is affordable.

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

We agree that there are cohorts of customers that find engaging with retailers challenging (e.g. CALD backgrounds). However, we caution that there would be significant cost in enforcing and regulating payment assistance self-service. Identifying this cohort for eligibility would be difficult and could lead to unsustainable costs in addition to high implementation costs. Furthermore, the proposal suggests that that retailers would need to develop a service for customers to set up their own payment plan, which could engrain disengagement further. Powershop urges the AER to consider other options as there may be more efficient and cost-effective ways for retailers to deliver this.

Powershop acknowledges that some of the proactive methods listed in the Issues Paper may indicate a consumer facing payment difficulties, such as the issuance of multiple reminder notices. However, we consider that majority of the indicators listed could be purely circumstantial and cannot be labelled indicators of financial difficulty in isolation; for example, significant shifts in consumption (up or down), or changes in payment methods. This is likely to lead to inefficient, impractical and unfeasible practices that may only capture a small cohort of customers that are facing payment difficulty. Requiring retailers to build systems to capture and connect these elements will be unfeasible due to the cost of implementation against the uncertain benefits to be derived from these indicators. The same outcome could be met by ensuring that payment support is explained and offered in a consistent way before or after payment has been missed or empowering the consumer through the availability of relevant information.

Artificial Intelligence (AI) may have a role in identifying payment difficulty in the future. However, given it is a developing technology, is not available to all retailers, and has potential accuracy and reliability issues as highlighted in the Issues Paper, we would encourage the AER to exclude this from the scope of any regulatory reform at this stage. We also believe that the Consumer Data Right, with or without the use of AI, could potentially play a role in helping retailers better understand individual customer circumstances and may assist retailers in either providing better payment options or be more proactive in identifying vulnerability. This would also require more work between the AER, retailers, and consumer groups, and could feed into a future review of the implications of AI for retailers instead of being included in the current payment difficulties review. We suggest thorough testing be undertaken as part of further work in this space.

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

In relation to the role of retailer hardship policies in communicating what assistance is available to the consumer, we agree that consumer-centric language which steps away from the stigma of being a “hardship” recipient would be a positive change. However, any mandatory changes to terminology with a flow-on effect to compliance and reporting obligations should be subject to a cost-benefit analysis, consumer testing and discovery to ensure any costly system changes, which are borne by all customers, would be worthy of the benefits.

**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?**

Powershop agrees that retailers are in the best position to identify and provide certain support to customers such as payment plans, basic energy efficiency advice, or access to government rebates or concessions schemes. Powershop also agrees that elements such as payment matches, and debt waivers are highly beneficial in helping a customer manage debts. Currently, the obligation to fund this support sits with retailers. For measures such as payment matches and debt waivers, we believe the AER should consider that the supply



chain of energy provision should be sharing the burden of customer assistance so that the support may be sustainable. For example, without a shared model, retailers need to fund the network's proportion of customer debt, which is significant.

The AER also calls out the ESCV changes so that retailers must provide access to concessions and rebates and assist customers in applying. The changes that both the ESCV and the Department of Families, Fairness and Housing (DFFH) have made, particularly to the Utility Relief Grant Scheme (URGs) since 2020 have been highly beneficial to customers. For the URGs, retailers must support customers in applying for the URGs over the phone and the DFFH then assesses the customer's eligibility, and retailers can apply multiple times over a 24-month period.

For Powershop, this has resulted in the average balance of customer debt after government grant assistance being significantly less in Victoria than in other jurisdictions. Further information is in Appendix One of this submission.

We note that government concessions are not within the AER's jurisdiction, however it is worth highlighting that a scheme which allows retailers to apply on a customer's behalf alongside a scheme that allows a customer to apply multiple times within a given timeframe results in the best outcomes.

Powershop considers that each of the NECF jurisdictions have comparative barriers for consumers seeking hardship support through government concessions. Even if the AER were to implement the same level of customer assistance, there could still be inefficient outcomes where there are no barriers at a state government level. Detailed below are the comparative challenges.

- NSW (Energy Accounts Payment Assistance Vouchers) – we provide advice to customers on the EAPA scheme, however, customers must then apply with the NSW Government, rather than the retailer being able to apply on behalf of the customer. Additionally, there may be a delay between the retailer's conversation with the customer and the final application of the EAPA vouchers.
- QLD (Home Energy Emergency Assistance Scheme) – customers can only apply for the HEEAS once in a 24-month period, irrespective of if the cap has been reached. Customers wanting to receive their full benefit (\$720) therefore allow their arrears grow prior to commencing the application process. Additionally, the Queensland Government has circulated specific guidance, prohibiting retailers from completing the application process over the phone with the customer. This increases the barrier to support where previously a retailer could have assisted a customer through this process.

In relation to freeze periods on arrears, Powershop considers that these may not be beneficial for a customer who is facing long-term debt. Rather, the AER needs to address what occurs if a customer cannot afford ongoing or indebted energy costs. Expecting customers to pay ongoing costs and pay down any debt they have will result in failed payment arrangements and disengagement with the energy system.

Powershop also note that retailers are using productive measures to assist customers in this space. Budgeting tools that provide the customer access to their ongoing energy costs aids in successful outcomes for consumers. Powershop's 'product' provides customers with energy and cost monitoring tools, where, if a customer has a smart meter, customers can see and monitor their daily usage. Additionally, Powershop encourage pre-payment towards bills in the form of PowerPacks. This allows customers to pay for what they've used flexibly. We have received positive feedback that this greatly assists customers in their budgeting and is part of the reason, in addition to monthly billing, Powershop has a lower than market average number of customers repaying a debt.

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

Disconnection is already a last resort measure and is not used for customers experiencing payment difficulties who are engaged with retailers.

Disconnection notices are an important tool to reengage customers with their retailers and have not responded to previous prompts. Disconnection notices are a form of confirmed escalation that prompts customers to engage and take action. Escalation notices are commonly used across a variety of essential and government services, not just for energy. Commonly, disconnection notices have been a proven and effective tool for retailers as not only does it prompt engagement from the customer, but opens a dialogue of what support is available and what might be the most suitable to their individual circumstances.

A well-designed regulatory framework that focusses on enabling accessibility and engagement as well as providing tailored support is crucial. To be clear, disconnection is a last resort when all other methods of contact have failed.

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

Powershop supports the AER in completing a cost benefit analysis on potential changes to the framework. We consider that any regulatory changes which may impact compliance and reporting would inevitably cost the consumer in the long run where retailers need to implement system and process changes.

We also agree with the points raised in the Issues Paper that a prescriptive framework may be more restrictive in retailers being able to provide bespoke or tailored support to a customer's individual circumstances. We consider that clarifying or simplifying the NECF would be positive in providing customers with positive outcomes and may lead to further innovation from retailers in products used to assist customers.