PO Box 4136
East Richmond VIC 3121
T 131 806
F 1300 661 086
W redenergy.com.au

PO Box 4136
East Richmond VIC 3121
T 1300 115 866
F 1300 136 891
W lumoenergy.com.au

5 July 2024

Danielle Chifley
Acting General Manager, Policy
Australian Energy Regulator
GPO Box 3130
Canberra ACT 2601

Submitted electronically: ConsumerPolicy@aer.gov.au

Dear Ms Chifley,

**Re: Issues Paper - Review of payment difficulty protections in the NECF**

Red Energy and Lumo Energy (Red and Lumo) welcome the opportunity to make this submission to the Australian Energy Regulator's (the AER's) issues paper for its Review of payment difficulty protections in the National Energy Customer Framework (NECF).

**Introduction**

We are sensitive to the impact of higher retail prices across recent years and as such, are very mindful of our responsibilities and obligations as a provider of an essential service. In our view, there are a number of key—and interrelated—principles that underpin an effective framework for addressing payment difficulty and which we encourage the AER to consider as it proceeds with this review.

The framework should offer some flexibility for retailers to tailor their support to the needs, preferences and circumstances of their customers and to adjust that support when circumstances change. One example might be the flexibility for consumers and retailers to adjust repayments under a payment plan following review or in line with a pre-agreed arrangement; this means the amounts to be repaid can adjust to account for changes in consumption and other relevant factors and avoid the further accumulation of debt.

Without this flexibility, support may not continue to meet a customer's needs, particularly if they only require short term assistance, or their debt may accumulate to an unsustainable level. More prescriptive frameworks that limit flexibility have the potential to deliver support in a form or at a time that does not account for individual circumstances. They also run the risk of over  capture, which can be costly for retailers and for consumers.

Another core principle for the support framework is that it should maintain incentives for consumers and retailers to engage; this leads to more effective support and more sustainable outcomes over the longer term. Engagement should occur at the earliest possible stage and then continue as support is delivered, i.e. over the course of a payment plan or during participation in a hardship program. Engagement is important for all consumers experiencing challenges, whether that is due to more entrenched financial hardship or where a consumer may only require more short-term support. In our experience, engaged consumers ask for support at the time they need it and work with their retailer to agree on what support is best suited to their circumstances. On the other hand, greater prescription can discourage engagement and compound the challenges referred to above.

Further to this, regulation should avoid measures that encourage the further accumulation of debt. We agree with the AER's focus on this metric as a key indicator of the success of a framework for delivering support. Examples of prescribed measures that may not deliver better outcomes over the longer term might be a prescribed debt freeze, triggered by an amount or specific event (as is the case under the Victorian Payment Difficulty Framework (PDF), for example) or the prescription of additional stages in the disconnection process.

It is unfortunate that for a limited number of consumers, disconnection warnings are a trigger for them to seek support. Disconnection for non-payment remains a last resort in all instances but for this small cohort, further delays and additional notifications may delay engagement and allow debt to accrue. This was a notable learning from the effective prohibition on disconnections during the pandemic, which contributed to unsustainable debt accumulation for a significant number of consumers. The potential disconnection for non-payment should be addressed at a much earlier stage by promoting trust and engagement, and better awareness of the availability of support.

Therefore, we encourage the AER to consider the implications for engagement and for debt accumulation when it evaluates potential changes to the current framework.

While we are mindful of our obligations to proactively identify payment difficulty, we note that consumer engagement is also key in providing meaningful financial assistance. Obstacles to engagement and to self identification of payment difficulty include lack of awareness of the availability of support, fear, embarrassment and distrust. Therefore, we look for opportunities to work with policymakers, regulators, consumer advocates and consumers' representatives to build trust and awareness of regulatory support. This was one of the key reasons why Red and Lumo are providing ongoing support to the Financial Counselling Industry Fund.

Payment difficulty arises due to a number of factors that fall outside the control of the energy sector. These include the efficiency of appliances, the quality of housing stock and most significantly, income. There is clearly a limit to the ability of the regulatory framework to fully address these issues. Therefore, we support measures to ensure that consumers are aware of and can easily access their entitlements, such as rebates, concessions and emergency payments. We also support the AER's Gamechanger recommendation to pursue concessions reform, subject to the resolution of any privacy considerations.

The remainder of this submission addresses the AER's issues paper more directly and includes some suggestions about potential changes that it might consider. They reflect the principles that we discussed above, namely, the importance of encouraging and maintaining engagement between retailers and their customers, and avoidance of debt accumulation.

**Response to specific issues**

***Eligibility for protections***

Red and Lumo have consistently argued that all residential consumers should receive the same protections, including support to address payment difficulty and hardship, irrespective of the mechanism through which they receive their supply. Therefore, we recommend that core consumer protections should apply to any entity involved in the sale of an essential service or who has the ability to interrupt the supply of that service to a small customer. This includes sale through an embedded network but also through any new business model that might emerge in the coming years and which falls outside the current scope of the NECF.

The broad application of protections ensures fairness for all consumers, fostering trust and engagement at a time when the energy sector is transforming. It also ensures competitive neutrality in the market for retail energy services, which produces better outcomes over the longer term. The AER has addressed these issues in its review of consumer protections for future energy services and we look forward to the response of Energy Ministers to the AER's final advice.

***Identifying and engaging with consumers experiencing payment difficulty***

We consider it to be in our customers' and our commercial interest to ensure payment difficulty is addressed early and that the framework delivers effective support. Retailers need to understand their customers' circumstances if they want to remain a viable operator in a competitive market. Effective support enhances retention and satisfaction, whether it relates to payment difficulty or to awareness of the drivers of energy bills. There is also an incentive to identify and manage any potential exposure to bad and doubtful debt.

Prescribed triggers for support can be problematic, delivering support at a time when it is not needed or to those who may never need it. It is also problematic to focus on very specific triggers, such as changes to payment methods or a price change, when there are many factors that contribute to payment difficulty and hardship. A consumer may change their preferred payment method for a range of reasons, such as membership of a loyalty program or the accrual of rewards points.

In our experience, regulatory obligations that are broad ranging or require a retailer to provide a large volume of information at a specific time or following a specific event are frequently ineffective. The volume of information that is conveyed can be overwhelming and irrelevant for many, particularly if it is expected to involve a consumer's unique circumstances, better offers, different pricing structures, payment plans, hardship programs and energy efficiency advice.

We consider the greater issue to be one of awareness of the availability of support, whatever form it might take. Therefore, we would support the introduction of a $55 trigger as a prompt to initiate further contact that could lead to a discussion about tailored support and how they can obtain it. We also note that some degree of self-identification cannot be completely avoided and would support broader measures to promote trust, awareness and engagement.

***Assistance for consumers experiencing payment difficulty***

The issues paper identifies capacity to pay as a complex concept under the current framework. We agree that navigating payment plans and assessing capacity to pay under the current rules is inherently complex for retailers who often do not have a full picture of their customers' circumstances. Red and Lumo will offer to conduct a customer's capacity to pay prior to entering into a payment plan however if a customer does not wish to disclose their financial information, we will generally take them at their word for how much they can afford when discussing payment plans. We must also balance the customer's current debt level and payment plan goals.

Given the above, Red and Lumo recommend the AER provide more definitive guidance about its expectations for retailers' regarding the creation of payment plans within the payment difficulty framework.

We also recommend that the AER allows for flexibility with longer term payment plans to ensure they remain within the initially agreed parameters. This means allowing for variations that do not necessarily require further capacity to pay assessments. A retailer could adjust a plan on pre-agreed terms or agree to notify a consumer in advance of any change with a view to avoid the accumulation of debt.

The AER should avoid prescribing the precise nature of support, such as the timeframe over which debt is to be repaid or a blanket debt freeze for some prescribed period. This prevents a retailer and its customer from agreeing to an arrangement that suits their respective needs and circumstances, and limits their ability to adjust that arrangement in line with changing circumstances. In particular, a mandatory debt freeze (e.g. for 6 months in some instances under the Victorian PDF) can lead to worse outcomes for a consumer over a longer term.

We also encourage the AER to avoid prescribing that a retailer shift a consumer who is receiving support to a different retail product, e.g. the cheapest offer in market. Our preference is for a retailer to have the opportunity to discuss alternative offers at a time that suits their customer and as part of a broader conversation. For example, some consumers may prefer to retain some non-financial benefits that come with some retail offers; this was noted in some discussions with vulnerable consumers as part of the AER's Gamechangers project. Explicit informed consent should remain a core element of discussions about different offers.

These discussions will also evolve in line with the energy transition and more specifically, as more consumers across NECF jurisdictions have smart meters. Retailers do not want their customers to face pricing structures that they do not understand or have no capacity to adjust to. The competitive market will drive retailers to offer appropriate retail products that manage risk for their customers, and to leverage the additional information and visibility of consumption patterns that smart meters offer.

However, the broader discussion of sharper price signals is still at an early stage. For the purposes of this review, we encourage the AER to keep discussions about pricing structures separate from conversations about payment difficulty and hardship. It is unreasonable to expect consumers to absorb a large volume of information at the same time that they are discussing how their retailer might support during a time of payment difficulty.

We are aware of suggestions that retailers might be obligated to offer flat pricing structures as the AER is concerned that some consumers may experience payment difficulty if they are exposed to sharper price signals (through Time of Use pricing, for example). However, this cannot be considered independently of distribution networks' tariffs and assignment policies given the significance of network costs as a component of the retailer cost stack.

The AER's recent decision regarding headroom in the Default Market Offer is also highly relevant. The Australian Energy Market Commission (AEMC) is reassessing the obligations on retailers to provide information to consumers ahead of the installation of a smart meter, and is soon to commence another review that should provide further clarity about the likely direction of network tariff reform. It will also provide an opportunity for the AEMC (and the AER) to consider retailers' capacity to absorb more cost reflective network tariffs.

***Disconnection as a last resort***

Red and Lumo welcome the AER's detailed discussion of the implications of changing the minimum threshold for disconnection. Our strong preference is for the AER to retain the current debt threshold of $300. This would present another timely opportunity to encourage engagement. In the case of consumers who have chosen not to engage at all with their retailer to this point—and this includes a failure to respond to numerous attempts at contact and the offer of payment plans—it could be the trigger for them to initiate a discussion about available support.

We are aware of the *Knock to Stay Connected* project and other proposals to introduce another stage prior to disconnection for non-payment. Aside from potentially delaying a trigger for engagement, there are many issues that need to be resolved. An unsolicited contact at a consumer's premises is likely to be a challenging and confronting experience for many that is also unlikely to build trust with consumers. In our view, this represents a failure to encourage engagement and build trust at an earlier stage.

Furthermore, the process simply increases the risk of privacy issues if third parties are utilised as has been suggested by some stakeholders. Therefore, we would recommend against prescribing obligations such as this, leaving retailers with the discretion to operate in this way if they believe it delivers better outcomes.

As noted above, we observed a significant increase in debt during the pandemic following the removal of disconnection warnings.

**About Red and Lumo**

We are 100% Australian owned subsidiaries of Snowy Hydro Limited. Collectively, we retail electricity and gas in New South Wales, Queensland, South Australia, Victoria and the Australian Capital Territory to more than 1.3 million customers.

Red and Lumo thank the AER for the opportunity to respond to the issues paper. Should you wish to discuss or have any further enquiries regarding this submission, please call Jordan Rigby, Regulatory Manager, on [redacted].

Yours sincerely

[redacted]

**Geoff Hargreaves**
Manager - Regulatory Affairs
**Red Energy Pty Ltd**
**Lumo Energy (Australia) Pty Ltd**