

28 February 2022

Mark Feather  
General Manager, Strategic Policy and Energy Systems Innovation Branch  
Australian Energy Regulator  
GPO Box 3131  
Canberra, ACT, 2601



Dear Mr Feather

**Consultation – Consumer Vulnerability Strategy**

Energy Queensland Limited (Energy Queensland) welcomes the opportunity to provide comment to the Australian Energy Regulator (AER) in response to its Consumer Vulnerability Strategy consultation.

This submission is provided by Energy Queensland, on behalf of its related entities, including: Distribution network service providers, Energex Limited (Energex) and Ergon Energy Corporation Limited (Ergon Energy Network); Retailer, Ergon Energy Queensland Pty Ltd (Ergon Energy Retail); and Affiliated contestable business, Yurika Pty Ltd and its subsidiaries, including Metering Dynamics Pty Ltd (Yurika Metering).

Energy Queensland supports the AER's intent in developing this Strategy, namely, to support consumers experiencing vulnerable circumstances. However, in our view the disjointed approaches to managing the different types of consumer vulnerability which have evolved over time is causing confusion between consumers, advocacy groups and industry. Consequently, before a strategy is adopted, we question whether there is a need for a review of the overarching consumer vulnerability rules to facilitate a more fit-for-purpose framework.

However, acknowledging that such a review is not currently proposed, Energy Queensland provides responses to the AER's consultation questions in the attached response template.

If you have any questions or require further information, please contact me or Laura Males on 0429 954 346.

Yours sincerely

A handwritten signature in black ink that reads "C. G. Martin".

Charmain Martin  
per Sarah Williamson  
**Acting Manager Regulation**

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**Encl:** Energy Queensland comments to consultation questions

## AER – Consumer Vulnerability Strategy

### Energy Queensland Response template

Consultation question	EQL response
<b>Language/terminology question</b>	
<p>1. Recognising that some consumers would not identify with or respond positively to the use of the term ‘vulnerability’, do stakeholders have insights about consumer preferences for the type of wording or language the AER could use?</p>	<p>Energy Queensland’s businesses note that some consumers or advocates may dislike the term ‘vulnerable’, as many do not consider themselves ‘vulnerable’ per societal or psychological definitions. We also suggest that the policy-level definition accepted by regulators and consumer advocates is different to the interpretation of consumers who attribute the term to a person who is disadvantaged or marginalised.</p> <p>In reviewing the Consumer Vulnerability Strategy (draft), Energy Queensland recognises that the intent is to foster inclusiveness underpinned by two principles - to ensure consumers are provided appropriate supports, and to enhance outcomes if barriers to engagement are addressed.</p> <p>Energy Queensland agrees that all engagement must be customer centric and across multiple channels. It is recognised, for example, that some consumers may be embarrassed to seek a payment plan and the provision of a digital channel to enable the request removes some embarrassment. Similarly, Culturally and Linguistically Diverse (CALD) customers will have different needs to a customer experiencing payment difficulties. Consequently communications with all customers should be inclusive.</p> <p>On this basis Energy Queensland suggests the terms ‘inclusivity’ or ‘resilience’ could be a more appropriate alternative to ‘vulnerability’.</p>
<b>Overarching Strategy questions</b>	
<p>2. Do you have research to share with the AER to help inform our understanding of vulnerability amongst your customers, clients or constituencies? We also welcome de-identified case studies and referrals to publicly available data points.</p>	<p>Ergon Energy Retail is willing to provide the AER with case studies of experiences related to customers in vulnerable circumstances, subject to privacy obligations.</p>

Consultation question	EQL response
<p>3. Should some or all of the proposed actions be implemented?</p> <p>Should some be prioritised over others?</p>	<p>Energy Queensland generally supports the AER's intent regarding the proposed actions. However, we are concerned that the development of specific actions to support the desired outcomes may be premature.</p> <p>Further, we acknowledge the AER's draft objectives are intended to assist customers across the breadth of the vulnerability spectrum. However, given that existing initiatives already address many of these issues, we suggest that greater priority should be assigned to objective 5 as it provides significant mutual benefits for consumers and retail businesses.</p>
<p>4. Are there barriers to implementing the proposed actions?</p> <p>If so, how could these be overcome?</p>	<p>Energy Queensland's businesses are committed to supporting customers, and in particular, those consumers in vulnerable circumstances.</p> <p>Ergon Energy Retail operates a vulnerable customer team which specifically serves consumers in vulnerable circumstances to ensure they are protected and feel safe when dealing with our business. This team works with customers to assist them through difficulties and can quickly evolve their approach based on direct customer feedback.</p> <p>We consider that our tailored response has proven to be an effective approach to assisting our customers. As such, we are concerned these actions will not make meaningful improvements for our customers and may detract from our successful approach.</p> <p>Energy Queensland considers that it may be more appropriate for the AER's strategy to feature a series of high level principles and call up important elements of a strategic approach to customer vulnerability, such as hardship guidelines, rather than create a series of new obligations for retailers.</p>
<p>5. What are the benefits or disadvantages, and risks or opportunities of each of the proposed actions?</p>	<p>Energy Queensland notes that retailers already provide significant support to customers experiencing vulnerability. In light of this, Energy Queensland questions the extent to which the AER's proposed actions will provide additional benefits for customers in vulnerable circumstances.</p> <p>New additional reporting obligations will add to retailers' regulatory burden, adding to retailers' costs to serve without delivering meaningful benefits to customers. Regulatory agencies must recognise the need to balance social responsibilities with the rapidly increasing financial burden being imposed on retail businesses. As a non-competing retailer who can only charge the regulated prices determined by the Queensland Competition Authority, Ergon Energy Retail is unable to recover the increasing costs of regulatory reform and compliance.</p>

Consultation question	EQL response
	<p>While some of these costs may be recouped by most retailers via higher prices, thus increasing the financial burden on customers and potentially contributing to additional customer vulnerability, we anticipate that most will not and these costs will be expected to be absorbed by retailers.</p> <p>The only potential benefit which may arise from the proposal is that there would be greater detail to guide retailers who currently may not be providing this level of support to consumers in vulnerable circumstances.</p>
<p>6. Are there alternative actions to the proposed actions that you consider the AER should pursue?</p>	<p>Energy Queensland acknowledges that there are other opportunities to assist customers in vulnerable circumstances manage their energy bills. Ergon Energy Retail would encourage the AER to work with consumer bodies (for example the Energy &amp; Water Ombudsman schemes) and industry representatives to determine a suite of possible actions and initiatives which can be assessed on their potential to deliver benefits for customers.</p> <p>We note that customers in Ergon Energy’s isolated communities have successfully used pre-payment via card-operated meters (COMs) to better manage their finances and energy usage, and avoid debt accumulation. The Queensland Council of Social Services report “<i>Empowering remote communities – Experiences of Aboriginal and Torres Strait Islander customers using electricity pre-payment meters in Queensland</i>”<sup>1</sup> acknowledges the use of COMs in isolated communities as the customer’s preferred electricity management tool.</p> <p>However, we acknowledge that pre-payment is a contentious issue and will require significant discussion among stakeholders to inform future policy direction.</p>
<p>7. What are the important steps and outcomes the AER should consider when engaging with stakeholders in implementing this Strategy?</p>	<p>Energy Queensland recognises that addressing customer vulnerability is a complex exercise and the successful implementation of any initiatives requires meaningful engagement with the various stakeholders. While the AER has engaged the BETA to inform the development of this draft strategy, Energy Queensland expects that more meaningful engagement is required with parties who will be subject to its initiatives, especially customers and retailers.</p>

<sup>1</sup> [https://www.qcoss.org.au/sites/default/files/20140819\\_QCOSS%20Report%20on%20Remote%20PPM%20Customers%20Final.pdf](https://www.qcoss.org.au/sites/default/files/20140819_QCOSS%20Report%20on%20Remote%20PPM%20Customers%20Final.pdf).

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<p>8. In what ways and for which actions would you like to collaborate with the AER and others?</p> <p>How can the AER support stakeholders to engage with each other?</p>	<p>Ergon Energy Retail would appreciate the opportunity to engage with the AER to discuss real lived experiences from operating in regional Queensland, and in particular, the impacts of legislation, regulation and guidelines on our business and the customer experience.</p> <p>Given the size and scale of Queensland, the types of vulnerability and hardship are significantly different between metropolitan areas and regional and remote areas. This includes job opportunities, travel distances, access to health facilities, access to education/training facilities, as well as cultural and community practices. Energy Queensland suggests that the AER should seek to develop a comprehensive understanding of the differences in customer circumstances as they relate to vulnerability in order to appropriately represent all stakeholders.</p> <p>Ergon Energy Retail sees less benefit in stakeholders (other retailers) engaging with each other as there will be concerns relating to commercial in confidence information or the perception of collusion.</p>
<p>9. What measures should the AER use to assess the impact of our Strategy?</p>	<p>Given the profound change that the Australian energy market is experiencing, Energy Queensland expects that assessing the impacts of this initiative will be difficult. Further, given that the draft strategy captures existing initiatives, we question whether it is possible to measure the impact of the strategy.</p>
<p><b>Objective 1: Improve identification of vulnerability</b></p>	
<p>10. The AER is interested in understanding whether stakeholders already use a set of indicators to identify customers who may be experiencing vulnerable circumstances.</p> <p>What factors should we consider in developing this toolkit? What else could the AER do to recognise and support industry participants who are providing effective early intervention?</p> <p>If you have insights, an existing list of indicators you would like to share with</p>	<p>Energy Queensland would be willing to participate in the development of a toolkit. However, it is Energy Queensland's view that when developing a toolkit of indicators, care should be taken not to include processes or steps that could put the retailer in breach of the <i>Privacy Act 1988</i> (Cth). An agency may only collect personal information that is reasonably necessary for their work. If the personal information is sensitive information, the customer's express consent is required in order to collect the information. Sensitive information is personal information that includes information or an opinion about an individual's:</p> <ul style="list-style-type: none"> <li>• racial or ethnic origin</li> <li>• political opinions or associations</li> <li>• religious or philosophical beliefs</li> <li>• trade union membership or associations</li> <li>• sexual orientation or practices</li> </ul>

Consultation question	EQL response
<p>us, or are interested in being involved in contributing to the development of the toolkit, please reach out to our team.</p>	<ul style="list-style-type: none"> <li>• criminal record</li> <li>• health or genetic information</li> <li>• some aspects of biometric information</li> </ul> <p>In terms of the list above, collating information about a person’s disability or other health condition requires express permission from the customer. If a person does not have English as a first language, any record of this could potentially fall under racial or ethnic origin. If a customer on a joint account is convicted of a domestic violence offence, this falls under criminal record and constitutes sensitive information.</p> <p>In our view, the indicators that are stated in hardship policies provide a comprehensive list of indicators to identify customers who may be experiencing vulnerable circumstances. There are also regulatory requirements to ensure details of interpreter services are provided.<sup>2</sup> Further, the <i>Disability Discrimination Act 1992</i> (Cth) makes it unlawful for a person who provides goods or services to discriminate against another on the ground of the other person’s disability.<sup>3</sup></p> <p>These instruments impose obligations on retailers to support persons in vulnerable circumstances such as the provision of large print bills for the vision impaired.</p> <p>Consequently, Energy Queensland is interested to understand what additional protections and support the proposed strategy would provide that are not already covered in current legislation.</p>
<p><b>Objective 2: Reduce complexity and enhance accessibility for energy consumers</b></p>	
<p>11. Should the AER’s Retailer Report Cards be extended to report on quality-of-service metrics? How would this information best be presented to consumers?</p> <p>What costs and other considerations are relevant?</p>	<p>Energy Queensland notes that this consultation relates to a draft customer vulnerability strategy and questions the relevance of quality of service metrics.</p> <p>Ergon Energy Retail does not believe that quality of service metrics would play a significant role in the choices of vulnerable customers. In our experience, a vulnerable customer is focused on the price they must pay and how to manage their account.</p>

<sup>2</sup> *National Energy Retail Rules* 19 (1) (d); 25 (1) (w); 55.

<sup>3</sup> *Disability Discrimination Act 1992* (Cth) s 24.

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	<p>Given this, it can only be assumed that the conclusions in the draft strategy that ‘consumers are most likely to choose retailers with the highest service quality’ relate to non-vulnerable customers, that is, outside the scope of this strategy.</p> <p>We also question whether customers in regional Queensland would consider a Retailer Report Card when deciding on a retailer given the limited competition which has emerged to date.</p> <p>Given current retail performance reporting is based on factual data, Ergon Energy Retail would be interested to understand how the AER would develop these metrics. In our view, a report card based on, for example customer surveys, is less tangible than the current reporting regime.</p> <p>Therefore, we do not see value in adding this quality of service metric.</p> <p>If the AER persists with this measure, Energy Queensland suggests the information should not include any metric that might indicate that a retailer is a ‘softer touch’ when it comes to dealing with non-payment of bills (for whatever reason). This sort of information could be manipulated by unscrupulous customers (who are not vulnerable) to avoid paying for electricity or obtaining advantageous credit terms.</p>
<b>Objective 3: Strengthen protections for consumers facing payment difficulty</b>	
<p>12. Do stakeholders see merit in implementing a payment difficulty framework for the NECF?</p> <p>What are the risks and opportunities, costs and benefits?</p> <p>What consumer and market outcomes could a NECF payment difficulty framework focus on?</p>	<p>Energy Queensland notes that the intent of the Victorian Payment Difficulty framework is already captured within the NECF. As such, we seek further clarity and details of how the proposed Payment Difficulty framework could be implemented into the NECF. In our view, market participants would benefit from understanding the specific details in relation to risks, opportunities, costs and benefits of the proposal prior to offering support.</p> <p>We also note that an assessment of the effectiveness of the Victorian Payment Difficulty framework is due for completion in June 2022. We suggest that discussion of this initiative would benefit from a delay until this review is completed.</p> <p>However, in Ergon Energy Retail’s experience, the issue with non-adherence to payment plans is not with the rules/framework of the Hardship Programs or the Sustainable Payment Plans Framework, but rather with customers not engaging or making contact with the retailer. A solution which</p>

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	alleviates the need for vulnerable customers on the hardship program to continually make contact for changes to payment amounts would reduce the number of broken payment plans.
<p>13. Do stakeholders support the AER exploring options around improved engagement between energy businesses and consumers at risk of disconnections, such as knocking before disconnection?</p> <p>Are there other alternatives, options or practices that energy businesses are using to provide supports in this area?</p> <p>Do stakeholders support the idea of a further disconnection threshold review at this time?</p>	<p>Energy Queensland notes the National Energy Retail Rules provide a customer with four distinct opportunities to contact their retailer to arrange payment of debt prior to disconnection, namely:</p> <ul style="list-style-type: none"> <li>• Receipt of their bill</li> <li>• Receipt of a reminder notice</li> <li>• Receipt of a disconnection warning notice</li> <li>• Best endeavours obligation on the retailer to contact in person, via phone or via fax</li> </ul> <p>However, as an element of the Energy Charter’s #BetterTogether Initiative, Energex has future plans to trial a customer “Knock before you disconnect” program in selected urban communities. Energex will seek to engage directly with the customer during the regulatory notice period to encourage them to engage with their retailer and obtain the financial support they may need. Learnings from this trial are expected to provide insights on future strategies to best support customers in vulnerable circumstances.</p> <p>Energy Queensland businesses do not support a further disconnection threshold review. We note that without further evidence, increasing the threshold may have the opposite effect and could increase the amount of debt consumers can accrue.</p>
<p><b>Objective 4: Use the consumer voice and lived experiences to inform regulatory design and change</b></p>	
<p>14. Are vulnerability impact assessments an approach that other sector participants should incorporate into their decision-making processes? We would like to learn from organisations that currently consider these impacts.</p>	<p>Energy Queensland notes that in other OECD countries where there is a bill of rights or Human Rights Act, it is a requirement to ensure that any new legislation does not impact adversely on human rights. In our view, a vulnerability impact assessment is akin to this type of check and should be included in the assessment of any National Energy Retail Law, National Energy Retail Rules and National Electricity Rules variations.</p>
<p>15. Are there other decisions that the AER currently makes, or assessments that the AER currently undertakes, in which</p>	<p>Ergon Energy Retail acknowledges the importance of protecting and supporting consumers in vulnerable circumstances. However, in our view there needs to be a thorough review of existing obligations rather than the piecemeal changes which have resulted in an overly complex and costly</p>



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<p>we should consider benefits to consumers experiencing vulnerability?</p>	<p>framework which benefits no-one. Regulation that allows consumers to never pay a bill, with no recourse available to the retailer, increases costs which are then worn by all customers. While we acknowledge the need for certain regulatory provisions, we suggest there is a need for retailer protections to be considered, such as the need for customers to reconfirm certain relief at say five yearly intervals.</p>
<p><b>Objective 5: Balance affordability and consumer protections by minimising the overall cost to serve where possible</b></p>	
<p>16. Do stakeholders see merit in a broad review to identify regulations and protections that have become redundant or unnecessary over time, as well as opportunities to promote consistency and reduce cost to serve across jurisdictions?</p> <p>Are there regulations that stakeholders consider should be particularly targeted for review due to their cost-to-serve implications?</p> <p>What regulations can be reviewed or removed while still maintaining and improving consumer outcomes?</p>	<p>Ergon Energy Retail strongly supports this suggestion. In our view, there is a need for regulation which balances the needs of customers with retailer sustainability. The continuing obligations placed on, and absorbed by, retailers will eventually result in financial repercussions for the industry. Ergon Energy Retail would welcome the opportunity to discuss our particular concerns with the AER.</p> <p>Further, we support additional research with respect to how and why consumers interact with retailers, further drawing out and identifying opportunities to reduce and/or remove barriers to engagement. We suggest this research could help inform any further reform of the vulnerable customer framework with greater understanding.</p>
<p><b>Enablers of success</b></p>	
<p>17. How can the AER and stakeholders best learn from each other, and embed understanding and consideration of vulnerability across our organisations and in our everyday systems?</p>	<p>In our view regulatory agencies need to actively listen to the challenges faced by the electricity industry, and in particular to retailers who are currently bearing the majority of customer obligations and risks. It is also important that consumer research and insights driving policy change include the views of regional customers and not just the insights of customers in metropolitan areas. We encourage the AER in future strategy workshops to invite a more diverse group of participants to better understand the exact needs of this consumer group.</p>

Consultation question	EQL response
<p>18. Are there impact-measuring approaches or initiatives already underway that we should draw on?</p> <p>How should the AER share and communicate with our stakeholders about the impact of this Strategy?</p>	<p>Energy Queensland makes no comment.</p>