Issues Paper

Developing National Hardship Indicators

April 2010

AUSTRALIAN ENERGY REGULATOR

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Contents

1 Introduction

The Australian Energy Regulator (AER) is an independent statutory authority that is part of the Australian Competition and Consumer Commission (ACCC) under Part IIIAA of the *Trade Practices Act 1974* (Cth).

The AER is currently responsible for the economic regulation of the electricity networks in the National Electricity Market (NEM) and gas pipelines in jurisdictions other than Western Australia. It also monitors the wholesale electricity and gas markets and is responsible for compliance with and enforcement of the National Electricity Law and Rules and the National Gas Law and Rules.

A National Energy Customer Framework for gas and electricity retail/distribution regulation is being developed. It is likely that the AER will assume responsibility for the enforcement of the proposed National Energy Retail Law (Retail Law) and National Energy Retail Rules (Retail Rules) under the proposed framework. This will include responsibility for the regulation of electricity and gas retail markets (other than retail pricing) in most jurisdictions. It is currently understood that the AER will not undertake this role in Western Australia, the retail electricity market in the Northern Territory and some retail gas markets.

Under the proposed Retail Law, the AER is likely to be required to approve retailers' hardship policies. The purpose of these policies is to assist customers experiencing financial hardship to better manage their energy bills on an ongoing basis.

The AER is also likely to be required to publish reports on the retail energy market and the performance of energy retailers in a number of areas. As part of this, the AER will be required to determine National Hardship Indicators, monitor retailers' compliance with their hardship policies and report on the performance of retailers against the Hardship Indicators as part of retail market performance reports. The AER is also likely to be required to publish Performance Reporting Procedures and Guidelines which will prescribe the data and information retailers must provide to measure their performance in a number of areas, including against the National Hardship Indicators.

This issues paper has been published to provide an opportunity for preliminary consultation on the development of National Hardship Indicators in preparation for the hand-over of retail functions to the AER. It discusses the purpose of the National Hardship Indicators, examines hardship indicators already in place and seeks stakeholders' views on a number of issues raised throughout the paper. We also welcome any comments on issues not specifically raised in this paper.

2 Public consultation process

This issues paper constitutes the first step in the AER's consultation process to develop National Hardship Indicators.

It is based on the second exposure draft of the National Energy Customer Framework, which was released for consultation in November 2009[1]. Any changes to the framework prior to its passage through South Australian Parliament may result in changes to the content of the guidelines and issues papers.

Upon the passage of the Retail Law, the AER will be seeking stakeholder comment on the National Hardship Indicators as part of the Performance Reporting Procedures and Guidelines, under a 'formal' prescribed consultation process (as set out in the Retail Law). This may have to occur within a tight timeframe. Accordingly, the AER is undertaking preliminary consultation during 2010 to provide stakeholders with as much opportunity as possible to consider the key issues and comment on the development of the National Hardship Indicators.

How to make submissions to this issues paper

The AER invites comments on the issues paper. Submissions can be sent electronically to: AERInquiry@aer.gov.au or by mail to:

General Manager
Markets Branch
Australian Energy Regulator
GPO Box 520
Melbourne VIC 3001

The closing date for submissions is **4 June 2010.**

The AER prefers that all submissions be publicly available to facilitate an informed and transparent consultative process. Submissions will therefore be treated as public documents unless otherwise requested, and will be placed on the AER's website (www.aer.gov.au). Parties wishing to submit confidential information are requested to:

- Clearly identify the information that is subject of the confidentiality claim; and
- Provide a non-confidential version of the submission, in addition to the confidential one.

The AER does not generally accept blanket claims for confidentiality over the entirety of the information provided and such claims should not be made unless all information is truly regarded as confidential. The identified information should genuinely be of a confidential nature and not otherwise publicly available.

[1] http://www.ret.gov.au/Documents/mce/emr/rpwg/default.html

In addition to this, parties must identify the specific documents or relevant parts of those documents which contain confidential information. The AER does not accept documents or parts of documents which are redacted or ‘blacked out’.

For further information regarding the AER’s use and disclosure of information provided to us, please refer to the *ACCC–AER information policy: the collection, use and disclosure of information* on our website under ‘Publications’.

Stakeholder Working Group

The AER intends to convene a working group consisting of a broad representation of industry stakeholders with a particular interest and expertise in hardship, to discuss issues surrounding the development of the National Hardship Indicators. The AER expects that the working group will include representatives from energy retailers, consumer organisations and energy ombudsman as well as others who identify themselves to the AER.

The AER is seeking expressions of interest from stakeholders to participate in this working group. It is anticipated that the working group will be active in the development of the National Hardship Indicators and then go on to consider wider issues relating to retail performance reporting. The group will likely meet several times during 2010 and early 2011.

The first stakeholder working group meeting will be held in **Melbourne** on **27 May 2010**. This scheduling is to allow those attending the meeting sufficient time to review and consider the issues raised in the paper. It will also enable discussions at the working group meeting to inform participants’ written submissions when responding to the issues paper. Further meetings of the stakeholder working group will be arranged to discuss the ongoing development of the National Hardship Indicators as and when required.

Membership of the group will be limited. The AER will also be contacting peak representative bodies to assist in determining membership. Expressions of interest should be emailed to AERInquiry@aer.gov.au by **4 May 2010**. The subject of the email should state "Expression of interest for Stakeholder Group - attention Markets Branch".

Next steps

The next step in developing National Hardship Indicators will be meetings of the stakeholder working group. The AER will most likely then release a preliminary draft of the indicators later this year which will take into consideration the responses to this issues paper.

Following that, as is discussed above, there will be the ‘formal’ prescribed consultation process once the Retail Law is passed. This prescribed process will allow for further consultation and submissions on the National Hardship Indicators as part of the draft Performance Reporting Procedures and Guidelines.

3 Proposed hardship provisions under the National Energy Customer Framework

Retailers' customer hardship policies

Under the proposed Retail Law, energy retailers will be required to develop, maintain and implement a customer hardship policy for their residential customers.

The purpose of a hardship policy is to assist customers that are struggling to pay their energy bills due to financial distress or hardship (hardship customers) to better manage their energy bills on an ongoing basis. Hardship policies should therefore assist those customers who have the intention but not the capacity to pay their energy bills to remain connected to their electricity and gas supply.

The proposed Retail Law sets out a number of minimum requirements that retailers' customer hardship policies must contain. These include:

- Processes to identify customers experiencing payment difficulties due to hardship, including identification by the retailer and self-identification by the customer;
- Processes for early response by the retailer where customers are identified as experiencing payment difficulties due to hardship;
- Flexible payment options (including payment plans) for the payment of energy bills by hardship customers;
- Processes to identify appropriate government concession programs and appropriate financial counselling services and to notify hardship customers of those programs and services; and
- An outline of a range of programs that the retailer may use to assist hardship customers.

The retailer will be required to give effect to the general principle that disconnection (or 'de-energisation') of the premises of a hardship customer due to their inability to pay their energy bills should be a last resort option.

Retailers will also be required to inform customers of their hardship policy where it appears that non-payment of an energy bill is due to the customer experiencing payment difficulties due to hardship.

Retailers will be required to submit their hardship policy to the AER for approval. When approving retailers' hardship policies (or variations to their policies), the AER must be satisfied that they contain the specified minimum requirements and that they will (or are likely to) contribute to the achievement of the purpose of the hardship policy as set out above. Once approved the retailer must publish their customer hardship policy on their website.

Monitoring retailers' performance regarding their hardship policies

Under the proposed Retail Law, the AER will be required to monitor and report on retailer performance, including in relation to their customer hardship policies. In particular, the AER will be able to develop, consult on and determine National Hardship Indicators[2], against which the performance of retailers and the implementation of their hardship policies will be measured.

The proposed law specifies that the National Hardship Indicators must cover:

- Entry into hardship programs;
- Participation in hardship programs; and
- Assistance available to and provided to customers under customer hardship policies.

The AER may also conduct audits in respect of the performance of retailers by reference to the National Hardship Indicators. Furthermore, the AER may require a compliance audit in respect of the adequacy of a retailer's customer hardship policy and the retailer's implementation of that policy.

It is important to note that the National Hardship Indicators will be part of the AER's wider performance reporting regime. They will therefore form one part of a more holistic and broader package of indicators designed to assess retailers' performance in a number of areas, including:

- Disconnections and reconnections;
- Customer service and customer complaints;
- The use of prepayment meters;
- Concessions; and
- Security deposits.

Under the proposed Retail Law, the AER will publish Retail Market Performance Reports which will include information and statistics on the above areas as well as the National Hardship Indicators[3]. The AER will develop Performance Reporting Procedures and Guidelines setting out the specific indicators to measure performance in these areas and the manner and form in which retailers must submit this information. The National Hardship Indicators will form part of this Performance Reporting Procedure and Guidelines.

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[2] Under section 1216 of the proposed National Energy Retail Law, http://www.ret.gov.au/Documents/mce/_documents/NECF%20Package%20-%20Second%20Exposure%20Draft.pdf

[3] See section 1214 of the proposed National Energy Retail Law.

As previously set out, this is a preliminary consultation to inform the development of National Hardship Indicators. The AER will be undertaking further formal consultation, under the prescribed retail consultation procedure in the proposed Retail Rules. The AER proposes that the National Hardship Indicators will be published as part of the Performance Reporting Procedures and Guidelines.

The next section of the paper examines current arrangements and requirements for hardship policies and any hardship indicators that are already in place across Australia and internationally. The remainder of the paper explores a number of possible National Hardship Indicators and seeks the views and input of stakeholders in relation to the issues raised.

4 Current hardship arrangements and indicators

All jurisdictions in Australia have protections in place for small customers experiencing difficulty in paying and managing their energy bills. This includes requirements to offer payment arrangements which take account of a customer's capacity to pay, provision of appropriate advice and disconnecting only as a last resort. All jurisdictions also have a range of indicators in place to measure retailer performance in these areas and the general affordability of energy for customers. These typically include the number of customers disconnected and reconnected, the number of payment plans offered, the number of direct debit defaults for example.

In New South Wales and Victoria retailers are also explicitly required to have hardship charters or policies in place, however, it is currently only mandatory for retailers in Victoria to have their hardship policy approved by the regulator.

It is recognised, however, that there are a number of incentives and benefits to retailers to offer hardship programs. The Productivity Commission stated that hardship programs can help retailers to recoup some payment in situations where a customer is simply unable to pay immediately, thus reducing the costs of debt collection. Furthermore, they highlighted that it can also assist retailers to identify potential problem customers and enable them to apply preventative measures before substantial debts accrue[4].

Some retailers in other jurisdictions have therefore voluntarily developed and implemented hardship programs.

In looking to develop a set of National Hardship Indicators, we first considered what existing hardship arrangements and indicators have already been implemented in the different jurisdictions within Australia and internationally. This section provides a brief overview of the indicators currently in place to measure and monitor outcomes of retailers' hardship programs. It does not provide an overview of the other access or affordability indicators that are in place in each jurisdiction. This will be considered as part of the AER's future consultation on Performance Reporting Procedures and Guidelines.

The following section then looks at a number of these indicators in greater detail, examining their effectiveness and appropriateness for inclusion as part of the set of National Hardship Indicators.

Australian approaches

Victoria

Legislation which took effect in August 2006 requires energy retailers in Victoria to prepare and seek approval of financial hardship policies. The Essential Services

4 Productivity Commission Inquiry Report, *Review of Australia's Consumer Policy Framework*, Volume 2, April 2008

Commission of Victoria (ESC) developed a guideline[5] to assist retailers in preparing their financial hardship policies. It provides additional guidance to retailers in meeting their hardship obligations to assist the approval of their financial hardship policies.

In 2008, the ESC completed an audit of retailers' compliance with the guidelines and the implementation of their hardship policies and programs[6].

The ESC also monitors, on an ongoing basis, how effective retailers' hardship policies are in meeting their statutory objectives through a set of performance indicators which they developed in 2007[7].

The indicators cover the following areas:

Entry into hardship programs

- Number of hardship program participants;
- Number of hardship participants where access was sought by a third party, such as a financial counsellor, welfare agency or consumer advocate acting on behalf of the customer;
- Number of hardship program participants who are concession cardholders;
- Number of customers denied access to a retailer's hardship program.

Participation in hardship programs

- Average debt of new entrants into a hardship program;
- Average debt upon exit from a hardship program;
- Average length of participation for customers in a hardship program;
- Number of participants exiting a hardship program by agreement with the retailer;
- Number of participants excluded from a hardship program for not complying with program requirements and failing to engage with the retailer.

Assistance in hardship programs

- Number of disconnections of customers who participated in a hardship program within the previous 12 months;
- Number of reconnections, within seven days of disconnection, of customers who participated in a hardship program within the previous 12 months.

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5 ESC, *Guideline No. 21 – Energy Retailers' Financial Hardship Policies*, April 2007
6 ESC, *Summary Report: Compliance Audit – Retailer Financial Hardship Policies*, October 2008
7 ESC, *Energy Financial Hardship Policy Performance Indicators: Final Decision*, September 2007

Energy audits and appliance assistance

- Number of energy field audits provided at no cost to customer;
- Number of energy field audits provided at partial cost to customer;
- Average cost contributed by customers where a partial contribution was required.
- Number of appliances provided under a hardship program.

The ESC also collects data from the Victorian Department of Human Services (DHS) with regard to the number and outcome of applications for grants to repair and/or replace major essential electrical and gas appliances and grants to assist customers to pay their utility bills.

The hardship indicators in Victoria have been in place since September 2007. The ESC published a report incorporating the first full year of data, for the 2008-09 period[8]. In this report the ESC noted that the information provided by retailers on the assistance to customers through their financial hardship programs raises some questions and concerns. The ESC is currently undertaking a review of energy retailers' hardship programs, including further analysis of the 2008-09 hardship performance indicators, which they expect to complete by the end of April 2010[9]. We will be monitoring the outcomes of the ESC's review to ensure this work informs the development and implementation of the National Hardship Indicators.

Queensland

The Queensland Electricity Industry Code[10] states that where a residential customer informs the retailer that they are experiencing payment difficulties, or the retailer identifies that a residential customer is experiencing payment difficulties, the retailer must offer the customer an instalment plan.

Furthermore, where appropriate, the retailer must provide the customer with information about the right to have a bill redirected to a third person and information on independent financial and other relevant counselling services. The retailer must also advise the customer of any concessions, rebates or grants that may be available to assist with financial hardship and advise the customer on how they may arrange for an electricity audit at their premises.

In February 2010, the Queensland Competition Authority (QCA) announced amendments to the reporting requirements under the Electricity and Gas Industry Codes[11]. From 1 July 2010, retailers in Queensland will be required to report on the:

- Number of residential customers that are participating in a hardship program;

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8 ESC, *Energy Retailers Comparative Performance Report – Customer Service 2008-09*, December 2009

9 ESC, *Open Letter: Review of Energy Retailers' Hardship Programs*, January 2010

10 QCA, *Electricity Industry Code made under the Electricity Act 1994*, 20 November 2009 (effective 1 July 2010

11 QCA, *Final Decision: Reporting Requirements and Special Meter Readings – Electricity and Gas Industry Code Reviews*, February 2010

- Number of residential customers that were denied access to a hardship program;
- Number of residential customers that have exited a hardship program;
- Average debt on entry to a retail entity’s hardship program; and
- Average length of time the retail entity’s residential customers that are participating in a hardship program remain in that program.

New South Wales

Retailers operating in New South Wales are required to develop and implement a customer hardship charter that will assist residential hardship customers better manage their energy bills on an ongoing basis. The charter must be published on the retailer’s website.

As soon as practicable after a customer is identified by the retailer as a hardship customer, the retailer must inform the customer of the existence of the hardship charter, and provide the customer with a copy of the charter.

A customer hardship charter must contain the following:

- Processes to identify hardship customers;
- Processes for the early response by the retailer for hardship customers;
- Flexible payment options;
- Processes to identify appropriate government concession programs and appropriate financial counselling services and to notify hardship customers of those programs and services;
- An outline of a range of programs that the supplier may use to assist hardship customers; and
- Information in community languages about the availability of interpreter services for the languages concerned and telephone numbers for the services.

There are currently no specific indicators in place in New South Wales to monitor outcomes under these hardship charters. However, the Independent Pricing and Regulatory Tribunal (IPART) is required to monitor retailers’ compliance with their hardship charter obligations.

South Australia

Retailers that operate in South Australia are not specifically required to offer a hardship program to customers experiencing financial difficulty.

However, under the South Australian Energy Retail Code[12], where a residential customer informs the retailer that they are experiencing payment difficulties, or the retailer's credit management processes indicate that a residential customer is experiencing payment difficulties, the retailer must offer the customer, an instalment plan and, where appropriate:

- Information about the right to have a bill redirected to a third person;
- Information about, and referral to, State Government assistance programs; and
- Information on independent financial and other relevant counselling services.

As hardship programs are not required in South Australia, the Essential Services Commission of South Australia (ESCOSA) does not report on specific performance indicators regarding hardship programs.

Australian Capital Territory

In the Australian Capital Territory retailers are not required to offer hardship programs to customers experiencing payment difficulties. However, under the Consumer Protection Code[13], if the customer informs their retailer that they are experiencing payment difficulties, the retailer must offer the customer:

- An advance payment plan or instalment payment plan option;
- Information about and referral to, any hardship program offered by the retailer;
- Information about, and referral to, any Territory Government assistance program; and
- Information about independent financial counselling services at no cost to the customer.

The *Utilities Act 2000* prescribes a hardship assistance scheme which is delivered through the ACT Civil and Administrative Tribunal (ACAT). ACAT has power to order utilities to maintain energy supply, to case manage hardship customers and to discharge customer debt.

There are currently no specific indicators in place in the Australia Capital Territory to monitor outcomes under hardship policies and programs.

Tasmania

Tasmanian retailers are not required to offer hardship programs to customers experiencing payment difficulties. We note however that Tasmania's incumbent retailer has its own hardship policy which provides assistance to customers that are independently assessed by the welfare sector as experiencing hardship.

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12 ESCOSA, *Energy Retail Code,* March 2004 (as last varied in December 2009)
13 ICRC, *Consumer Protection Code,* July 2009

There is also a range of legislated and voluntary undertakings that seek to address financial hardship experienced by electricity customers. The Electricity Supply Industry (Tariff Customers) Regulations 1998 ensure that steps are in place to protect customers from disconnection for non-payment except as a last resort. These include a requirement on the retailer to:

- Offer information to the customer about independent financial counselling services; and
- Offer the customer an opportunity to pay the amount outstanding in accordance with a payment plan agreed between the retailer and customer.

Where these customers have a prepayment meter, the retailer must also offer to replace it with a standard meter and provide information about other payment methods.

Furthermore, the Tasmanian Electricity Code requires the retailer to provide the customer, upon request, with a reasonable level of advice about strategies for managing electricity consumption.

As hardship policies are not required in Tasmania, there are currently no specific indicators in place to monitor outcomes under hardship policies and programs.

Western Australia

Western Australia's Economic Regulation Authority's (ERA) Code of Conduct for the Supply of Electricity to Small Use Customers[14] requires electricity retailers to offer customers experiencing difficulties a hardship program.

The Code stipulates that the retailer's hardship policy must:

- Be developed in consultation with relevant consumer representative organisations;
- Provide for the training of staff on a retailer's obligations to customers; and
- Ensure that customers are treated sensitively and respectfully.

The ERA has also developed Financial Hardship Policy Guidelines[15]. The Guidelines cover the retailers' requirements to:

- Provide staff training;
- Identify and engage with customers in financial hardship;
- Offer hardship customers flexible payment arrangements;
- Engage with consumer representative organisations and financial counsellors; and

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14 ERA, *Code of Conduct for the Supply of Electricity to Small Use Customers*, 2008
15 ERA, *Financial Hardship Policy Guidelines*, August 2008

- Provide transparency and accessibility.

There are currently no specific indicators in place in Western Australia to monitor outcomes under hardship policies and programs.

International approaches

Great Britain

In Great Britain, issues of energy hardship and affordability have been more formally recognised and defined as “fuel poverty”. A household is considered to be in fuel poverty if it needs to spend more than 10 per cent of its income on fuel to maintain an adequate level of warmth. The Government has statutory targets to eradicate fuel poverty and has implemented a number of policies and programs which aim to remove households from fuel poverty[16].

Energy retailers operating in Great Britain have a number of licence obligations which provide protection for customers who are experiencing difficulty in paying and managing their energy bills. These are similar to those in operation in Australia, for example requirements to offer payment arrangements and to consider a customer’s capacity to pay; as well as actions to be taken before disconnecting customers or installing prepayment meters.

In addition to these obligations, the six major energy retailers operating in Great Britain[17] agreed with Government to collectively spend at least £150m each year, by 2011, on their programs to assist the fuel poor.

The main types of initiatives that can be counted towards this spend target include:

- ‘Social’ and discounted tariffs;
- Rebates and discounts off energy bills;
- Grants from retailer trust funds to pay off arrears or replace/repair appliances;
- Installation of energy efficiency measures (where these are additional to existing statutory obligations); and
- Partnership working with fuel poor charities and consumer organisations and joint industry initiatives.

Ofgem, the energy regulator in Great Britain, reports on the retailers’ activities under this voluntary agreement and whether the collective spend target agreed with

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[16] http://www.decc.gov.uk/en/content/cms/what_we_do/consumers/fuel_poverty/strategy/strategy.aspx

[17] Over 99 per cent of domestic energy customers in Great Britain are supplied by the follow six major energy retail companies: British Gas; EDF Energy; E.ON; npower; ScottishPower and Scottish and Southern Energy. http://www.ofgem.gov.uk/Markets/RetMkts/ensuppro/Documents1/Energy%20Supply%20Probe%20-%20Initial%20Findings%20Report.pdf (paragraph 2.39)

Government has been met[18]. For each retailer, they typically report on how many customers benefited from each type of initiative and the contribution from each initiative towards the collective spend target.

Given that the measures adopted by Ofgem to monitor retailers' 'social' programs primarily focus on whether the spend target under the voluntary agreement has been met, they are of less direct relevance to the sort of hardship indicators proposed under the Retail Law. Ofgem, like Australian jurisdictions, also reports on a number of other performance indicators regarding affordability, such as debt and disconnection levels, and prepayment meter use[19].

New Zealand

The Electricity Commission of New Zealand has developed a 'Guideline on Arrangements to Assist Vulnerable Consumers'[20]. The Guideline requires retailers to:

- Ensure that there is regular communication with all consumers on their payment options;
- Arrange debt recovery in a timeframe that avoids an adverse credit situation for the retailer and minimises hardship for the consumer;
- Ensure consumers enter into the most appropriate contracts for their needs;
- Provide consumers the opportunity to identify themselves as potentially vulnerable;
- Consult with the Ministry of Social Development to assist vulnerable consumers who are unable to pay; and
- Visit a consumer's home before the final disconnection takes place.

There are currently no specific indicators in place to monitor outcomes under hardship policies and programs.

Other international approaches

The AER has investigated a number of international approaches in place for small customers experiencing difficulties paying their energy bills. Although many countries have protections in place for vulnerable customers, the regulatory and monitoring regimes are quite different to the approaches in Australia.

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18 http://www.ofgem.gov.uk/Sustainability/SocAction/Suppliers/CSR/Pages/CSR.aspx

19 http://www.ofgem.gov.uk/Sustainability/SocAction/Monitoring/SoObMonitor/Pages/SocObMonitor.aspx

20 Electricity Commission, *Guideline on Arrangements to Assist Vulnerable Consumers,* 5 March 2010

5 Purpose and objective of the National Hardship Indicators

In developing a set of National Hardship Indicators, we have considered a number of principles and aims that should be achieved. Namely, we are seeking to develop a set of National Hardship Indicators that will:

- Monitor the performance of hardship policies, how they are being implemented by retailers and the effectiveness of the programs in achieving their purpose;
- Focus on elements of retailers’ hardship policies that can be evaluated through measurable performance indicators;
- Inform interested stakeholders (including Government, regulators, industry participants, consumer groups and the wider community) about the performance and progress of retailers in this area;
- Provide sufficient and appropriate incentives on retailers, through comparative competition, to maintain and improve performance in this area over time;
- Highlight areas and examples of good practice and enable these to be promoted and shared across industry to improve the service and response provided to customers experiencing financial hardship;
- Signal to the AER potential areas of concern regarding retailers’ performance in relation to their hardship policies and programs and highlight where further investigation, performance or compliance audits or potential enforcement action may be required.

We are conscious that assessing the impact of retailers’ hardship policies can however be very complex and difficult, typically because so many other external factors can play a role in determining the extent and nature of a customer’s hardship, in particular general economic and employment conditions as well as the personal circumstances of the customer.

The Productivity Commission noted that while it is hard to disentangle the impacts of hardship programs from such external influences, they are generally regarded as having been successful in helping disadvantaged consumers. In particular, they highlighted that Victoria, which has the strictest hardship regime, also has the lowest disconnection rates in Australia and that these have fallen more than in any other jurisdiction in the past few years[21].

Q 1.	What are stakeholders’ views on the appropriateness of the purpose and aims of the National Hardship Indicators as set out above? What else, if anything, should the indicators seek to achieve?

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[21] Productivity Commission Inquiry Report, *Review of Australia’s Consumer Policy Framework*, Volume 2, April 2008.

6 Possible National Hardship Indicators

Under section 306 of the proposed Retail Rules[22], the AER must determine National Hardship Indicators and these indicators must cover:

- Entry into hardship programs;
- Participation in hardship programs; and
- The assistance available and provided to customers under these hardship policies.

For each of these areas, we have identified below a number of possible hardship indicators.

For each indicator identified, we have set out our rationale for its possible inclusion as part of the national hardship indicators. We have outlined our views on what the indicator might tell us and noted that in many instances the data reported against these indicators could be open to a wide variety of interpretation. We have also considered what requirements on retailers for collecting and reporting this information might be appropriate and where specific definitions may be required. We welcome the views of stakeholders in all of these areas and in particular on what benefits stakeholders think including the possible indicator will bring.

Further issues relating to the frequency of data collection and whether the data is collected on a state-by-state basis, for example, are explored in the final section of this report titled “Reporting requirements”.

Entry into hardship programs

1. Total number of customers currently on the hardship program

As previously set out, the proposed Retail Law requires retailers to develop and implement hardship policies. They are required to have processes in place to identify customers who may be struggling to afford their energy bills and they are required to inform these customers of their hardship policies. Retailers will also need to enable and encourage customers to continue to participate in their hardship programs to ensure these programs and policies are effective in achieving their purpose.

Our preliminary view is that *the number of customers on a hardship program* is a key measure for monitoring entry into hardship programs. It will provide an overall picture of the level of activity by retailers in this area and the demand for hardship assistance. This indicator will also be critical in providing context as it will be the baseline against which to interpret retailer performance and the data from the other hardship indicators.

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[22] http://www.ret.gov.au/Documents/mce/_documents/NECF%20Package%20-%20Second%20Exposure%20Draft.pdf

Increasing numbers reported against this indicator may mean that retailers are being particularly proactive in identifying and promoting their hardship policies to customers. It may also reflect, as highlighted earlier, more challenging circumstances which are effecting customers' abilities to manage their energy bills (for example, the global financial crisis or natural disasters, such as the recent floods in New South Wales and Queensland or the Victorian bushfires).

Decreasing numbers reported against this measure may indicate that retailers are not informing customers of their hardship policies or adequately identifying customers in financial hardship. It may also indicate that the eligibility criteria for their hardship programs are too stringent. This may signal to the AER that further information or investigation is required. However, decreasing numbers for this measure may also indicate improved financial conditions for households in the area or across the population more generally.

We note that not all retailers or all jurisdictions are currently required to offer hardship programs to customers experiencing financial difficulty. In jurisdictions and for retailers where these requirements are newly implemented, we would expect to initially see lower numbers reported along with steady growth as customers become aware that such policies are available to them. Over time we anticipate that the number of customers on retailers' hardship programs as a proportion of their total number of customers will generally be similar for most retailers.

As is discussed below, further decisions will need to be made in relation to this potential hardship indicator, in particular to:

- Define specifically what "on the hardship program" means and when entry to the hardship program occurs;

- Determine whether gas and electricity hardship customers should both be recorded and if so, whether they should be reported together or separately. For example, if a customer has the same retailer for their electricity and gas account and is on their retailer's hardship program to assist with their electricity bills only, they would be reported once. If however they require assistance with both their electricity and gas accounts, should they be recorded twice, as they would if they had different retailers for each fuel?

- Clarify the timing associated with the reporting of this indicator:

  - To specify how retailers report against this measure, for example whether a specific date is chosen or whether the number of people on the hardship program over a period is reported (i.e. the number of households on the hardship program as of 30 September, versus the number of households that were on the hardship program at any point during the period 1 July to 30 September);

  - To set out the timing of data collection. Would, for example, using the start of a month or quarter (i.e. 1 January) as a date reveal different results to using the middle of a month or quarter (i.e. 15 February), reflecting that more people may fall into hardship post-Christmas?

- Frequency of data recording by retailers (for example, the end of each month, or the end of each quarter) and the frequency of data being reported to the AER (quarterly, biannually or annually);
- Whether the data is collected on a state-by-state or national basis.

Should this indicator be adopted, our preliminary view is to require retailers to collect data against this indicator for each month as this will highlight any seasonal trends in the data. The AER also considers that it may provide more clarity and consistency in reporting if a specific date for retailers to collect and record this information is chosen (for example, retailers report on the number of customers on their hardship programs as at the last day of each month). Whilst retailers would collect this data each month, our view is to (at least initially) require it to be reported to the AER on a quarterly basis. We particularly welcome the views on stakeholders on these areas and the issues presented.

Q 2. Do stakeholders support the inclusion of this indicator? Please set out your reasons why / why not.

Q 3. What are stakeholders' views on the definition and timing issues raised in relation to this indicator?

2. Number of hardship program participants who receive any appropriate government energy concessions

The Productivity Commission's consumer inquiry report cited a survey which showed that 53 per cent of respondents who experienced disconnection from an essential service had been on income support at the time of disconnection[23]. Furthermore, the ESC reported that in Victoria during 2008-09, the average proportion of a retailer's hardship program participants who held a concession card was 41 per cent[24].

We recognise that having a concession card does not automatically mean a customer is experiencing financial hardship, nor would we expect all concession card holders to be on a retailer's hardship program (or for a customer's concession status to be a criterion for entry into a retailer's hardship program). However, we consider it more likely that customers in receipt of Government income support may find it more difficult to manage energy bills on an ongoing basis, given they are typically on a limited and fixed income. This can be particularly so if an unexpectedly large energy bill is received, for example after winter or after a number of previously under-estimated bills. In these circumstances, customers holding a concession card may be more likely to require assistance from their retailer's hardship program.

Our preliminary view is to therefore include in the National Hardship Indicators, *the number of hardship program participants who receive any appropriate government*

[23] Productivity Commission Inquiry Report, *Review of Australia's Consumer Policy Framework*, Volume 2, April 2008.

[24] ESC, *Comparative Performance Report – Energy Retailers, Financial Hardship Programs*, March 2010

energy concessions. We would expect to see a higher percentage of customers in receipt of energy concessions on hardship programs when compared to the general population.

Furthermore, given that retailers are required to identify appropriate government concessions programs and to notify hardship customers of those programs, we would expect that the numbers reported against this indicator would be a high, or increasing, proportion of those reported against the first possible indicator considered above. Conversely, if the number of hardship customers who are not in receipt of concessions is high, this may indicate that the retailer is not fulfilling its obligations to provide customers with information on appropriate concessions. This may signal to the AER that further information or investigation is required.

This indicator may also provide insight into how retailers target and identify customers who may be experiencing hardship. The proposed Retail Law requires retailers to identify customers and to have processes in place for the early response to those customers identified as experiencing payment difficulties due to hardship. The concession status of a customer could be one readily identifiable signal or trigger to retailers to offer their hardship program if it appears that customer is experiencing payment difficulties.

As with the first possible indicator considered above, issues relating to the timing and definition of this potential indicator arise, particularly given that energy concessions will vary across each jurisdiction. We would also expect that the timing for the reporting and collection of data against this indicator would be consistent with the other indicators proposed in this area i.e. retailers record monthly data and report quarterly to the AER.

Q 4. Do stakeholders support the inclusion of this indicator? Please set out your reasons why / why not.

Q 5. What are the views of stakeholders on any definition and timing issues raised in relation to this indicator?

3. Number of customers entering the hardship program

Under the proposed Retail Rules, the indicators must cover entry into hardship programs. Our preliminary view is therefore to collect data on the *number of customers entering the hardship program* each month. This will provide a clear indication of each retailer's ongoing activity in this area to appropriately identify customers experiencing hardship as well as their activity to promote their hardship policies amongst their customers, relevant consumer groups and financial counselling organisations.

This data may also provide an indication that a retailer's staff awareness of their hardship policy has improved, if more customers are being proactively identified and included on hardship programs.

This indicator, alongside the overall number of hardship program participants, will provide a good picture of how accessible retailers' hardship programs are. It will also help to highlight examples of good practice across retailers in the types of activities listed above, or where a retailer's performance in this area may be lagging. It may highlight where a retailer's hardship policy is not accessible enough or where the eligibility criteria for entry to the program are too restrictive. Our preliminary view is that this indicator will provide useful comparative data across all retailers.

Consistent with the other possible indicators in this area, we would have the data for this indicator recorded for each month should it be adopted. This would highlight any seasonal trends in financial hardship or periods of activity by retailers in this area.

Q 6. Do stakeholders support the inclusion of this indicator? Please set out your reasons why / why not.

Q 7. What are stakeholders' views on any definition and timing issues raised in relation to this indicator?

Third party referrals to hardship programs

At this stage, we are not proposing to include any further indicators which would provide a breakdown on *how* people entered the hardship program, for example through self identification, identification by the retailer or referral from a third party such as a financial counsellor or welfare agency etc.

We are aware that a number of consumer organisations who responded to the second exposure draft of the National Energy Customer Framework suggested that the national hardship indicators cover "the number of hardship program participants for whom access was sought by a third party"[25]. However, we note that under the proposed Retail Law there is no explicit requirement for retailers' hardship policies to include processes which allow relevant third parties to identify customers who are experiencing hardship. Despite this, we would expect that retailers' hardship policies will be flexible enough to accept referrals for hardship customers from a range of sources, especially as some customers may not feel confident in approaching their retailer directly to ask for assistance. We intend to consider this as part of our proposed hardship policy approval role.

In responding to this issues paper, we would welcome the views of stakeholders on the inclusion of this indicator and in particular what this indicator would tell us and why it is an important measure to collect.

The AER's preliminary view is that data collected under this indicator may be particularly difficult to interpret and that the underlying trends would already be captured by other indicators. For example, if a retailer reports a high number of third

25 http://www.ret.gov.au/Documents/mce/_documents/Energy%20Market%20Reform/National%20Energy%20Customer%20Framework/a-coss.pdf

party referrals, this could mean that the retailer is not allowing customers to self identify or that the retailer's hardship policy is not accessible enough. Alternatively, it could reflect that the retailer is actively promoting their hardship policy to relevant third party representatives to assist in identifying hardship customers. Conversely if a low number of third party referrals is reported, this may indicate that the retailer is not promoting its hardship policy and accepting referrals from appropriate third party agencies. It could however also reflect that customers experiencing payment difficulties prefer to contact their retailer directly for hardship assistance.

In light of the above, we consider that third party referrals to retailers' hardship programs could be monitored as part of our compliance regime. As previously set out, the proposed Retail Law requires retailers to have adequate processes in place to identify customers experiencing financial hardship. The AER will monitor retailers to ensure that they are compliant with their obligations under the Law and that retailers are actively allowing hardship customers to be identified in a variety of ways, in accordance with their approved hardship policies. If they are found to be non-compliant, the AER will take appropriate measures.

Q 8. What are stakeholder views on the advantages and disadvantages of monitoring third party referrals to retailers' hardship programs under our compliance regime rather than as part of the national hardship indicators?

4. Number of customers denied access to the hardship program

Finally, when considering how to effectively assess entry to retailers' hardship programs, we consider it may be appropriate to monitor the *number of customers denied access to the hardship program*. It is anticipated that customers would only be denied access to a retailer's hardship program in instances where they did not meet the specified eligibility criteria as set out in their approved hardship policy. We would assess this data alongside the total number entering the hardship program which would give an indication of the demand for hardship assistance and the total number of hardship program applicants.

We expect this measure will provide an indication of the transparency of the hardship program's entry criteria as high numbers reported here may signal a high number of inappropriate referrals or requests to join the hardship program and that the program is being inappropriately targeted or promoted. It may also indicate that further staff training is required if customers who are eligible for the hardship program are being denied access. We would also expect this indicator to signal where the eligibility criteria for retailers' hardship programs are too restrictive or stringent and therefore large numbers of customers requiring hardship assistance are deemed ineligible to access the program. These instances may signal to the AER that further information or investigation is required.

This indicator on its own will not provide any context, details or explanations as to why these customers were denied access. We would therefore expect in instances where retailers are reporting high numbers (or proportions) of customers being denied access to their hardship program that these retailers would provide accompanying commentary setting out the reasons for the high numbers reported and any actions they are taking, or intend to take, to address the issues identified.

If this indicator were adopted, it is proposed that the same frequency of reporting be applied to enable comparison with the other indicators in this area. The definition of "denied access" will also need close scrutiny. For example, a customer asking questions about the hardship program and being told by their retailer they will most likely be refused access, could be considered a form being denied access. This area is also likely to have implications for any possible performance or compliance audits that the AER may undertake and we would expect retailers to keep appropriate records of instances where customers contact them about their hardship programs. We welcome stakeholders' views on an appropriate definition to apply to this indicator.

Q 9. Do stakeholders support the inclusion of this indicator? Please set out your reasons why / why not.

Q 10. How should "denied access" be defined if this indicator is adopted?

Summary of proposed "Entry into hardship program" indicators

The AER's preliminary view is that four possible indicators focussing on entry into hardship programs could be:

- Total number of customers currently on the hardship program;
- Number of hardship program participants who receive any appropriate government energy concessions;
- Number of customers entering the hardship program;
- Number of customers denied access to the hardship program.

Q 11. What are stakeholders' views on the overall effectiveness of the above four indicators in measuring the entry into hardship programs?

Q 12. What other indicators, if any, should the AER consider adopting that would also be effective at assessing entry into hardship programs and why?

Hardship program participation and assistance

The National Hardship Indicators also must cover "participation in hardship programs" and "the assistance available to and provided to customers under these hardship policies". This section of the issues paper explores possible indicators that cover these areas.

5. Average debt upon entry into the hardship program

Under the proposed Retail Law, retailers are required to have processes in place to identify customers who may be struggling to afford their energy bills and they are required to inform these customers of their hardship policies. Retailers must also have processes in place for responding early to customers identified as experiencing payment difficulties. Retailers are therefore obliged to take action to assist customers experiencing hardship before their debt levels become unmanageable.

It is the AER's preliminary view that collecting data on the av*erage amount of debt upon entry into a hardship program* will identify whether retailers are fulfilling their obligation to employ effective processes that identify customers who are experiencing payment difficulties and to provide an early response. Whilst we note that the level of energy debt a customer has when joining a hardship program will vary considerably across customers depending on their personal circumstances, we would expect retailers to have suitable systems and processes in place to monitor customers' accounts to prevent unmanageable levels of debt from accruing before assistance is offered. In addition to this possible indicator we also intend to examine, as part of our hardship policy approval role, the processes retailers have for identifying customers experiencing hardship and the relative hardship thresholds applied by retailers.

As retailers become more efficient at identifying and targeting eligible customers, earlier participation in programs should result in a lowering of average debt levels on entry. We would therefore expect to see the average debt owed to retailers upon entry gradually reducing over time as retailers' hardship programs develop. It will be important to monitor the data reported against this indicator over time, should it be adopted.

This indicator will also highlight where there are differences in performance across retailers. It will enable the AER to identify where retailers are being particularly proactive at identifying customers and responding early and where other retailers are less effective in this area. For example, the ESC reported that during 2008-09 in Victoria the average debt levels upon entry to hardship programs ranged from $289 to $1446, suggesting that some retailers are more proactive at identifying hardship customers earlier than other retailers. By comparing the performance of all retailers against this indicator it may be possible to draw out examples of good practice which can be shared across industry. Where a retailer's performance is lagging, this may highlight a need for that retailer to review the effectiveness of their hardship policies and processes. Furthermore, it may signal to the AER possible performance or compliance issues and where further information or investigation is required.

The data reported against this indicator will also provide some context to, and a means of comparison with, the data reported for the average debt upon exiting the hardship program.

It is recognised that the hardship experienced by customers can be either long- or short-term, depending on the individual circumstances of the customer. For the purposes of reporting against this indicator, however, it is the AER's preliminary view that 'debt' should be defined as the dollar amount which has been outstanding to the retailer for a period of 90 days or more. This is consistent with the approach adopted in Victoria[26]. We welcome the views of stakeholders on the definition of ‘debt’ and on the timing for reporting against this indicator. In particular, whether reporting against this indicator on a monthly basis would provide any additional benefits over reporting on a quarterly basis.

Q 13. Do stakeholders support the inclusion of this indicator? Please set out your reasons why / why not.

Q 14. What are stakeholders’ views on how ‘debt’ should be defined and on the timing issues raised in relation to this indicator?

6. Average debt upon exit from a hardship program

Our preliminary view is that the *average level of debt upon exit from a hardship program* should provide a good indication of the effectiveness of the assistance that retailers are providing to their hardship customers. A reduction in debt upon exiting retailers’ hardship programs will indicate that the retailers have been able to successfully engage, encourage and enable the customer to participate in the program. It will indicate that the assistance offered under the program is effective and appropriate and that it has been successful in assisting customers experiencing hardship to better manage their energy bills on an ongoing basis. It is likely to reflect that the payment plans being established under the program take suitable account of a customer’s ability to pay for both their arrears and ongoing consumption. It may also be a good indication that retailers are offering customers access to their hardship programs for an appropriate length of time.

We would expect that for effective hardship programs, the average amount of debt upon exit would be lower than the average debt upon entry. However we recognise that some care must be taken when interpreting this indicator particularly when comparing it with the average debt upon entry as it is likely that the sample of customers captured will be different. Furthermore, the average level of debt upon exit will include customers who have been excluded from the hardship program for non-compliance as well as those customers who have successfully completed the hardship program.

An alternative approach could be for retailers to report, for those customers exiting the hardship program, both the average level of debt for these customers when they entered the hardship program and what it was upon exiting the program. This would allow a direct comparison of debt levels for the same group of hardship customers both before and after their participation in the hardship program. This would therefore give a better indication of how effective the individual retailer’s hardship program has been in reducing these customers’ debt levels. We welcome the views of stakeholders on this approach and in particular on any practical issues that may arise in collecting and reporting this data.

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[26] ESC, *Information Specification (Service Performance) for Victorian Energy Retailers*, June 2008

As with the previous possible indicator, this indicator will also enable comparisons to be made across retailers to highlight any differences in performance. It will assist the AER to identify hardship programs that have been particularly effective in reducing customers' debt and therefore provide examples of good practice which can be shared. It will also highlight by comparison where other retailers' hardship policies and programs are less effective and possibly require review. Where retailers are reporting increased levels of debt upon exiting their hardship programs, we would expect accompanying commentary to be provided setting out the reasons for this any actions being taken or planned to address the issues identified.

For the purposes of reporting against this possible indicator, the definition of 'debt' would be consistent with that applied to previous indicator, should this be adopted. We would also apply consistent reporting requirements and we again seek the views of stakeholders on whether quarterly reporting against this indicator is appropriate or whether there is additional benefit in requiring monthly recording of this data.

Q 15. Do stakeholders support the inclusion of this indicator? Please set out your reasons why / why not.

Q 16. What are stakeholders' views on the alternative approach considered, i.e. where retailers would report, for those customers exiting the hardship program, both the average level of debt when they entered the hardship program and what it was upon exiting the program? Please set out any reasons why you would or would not support the inclusion of this indicator and any practical issues that may arise in collecting and reporting this data.

Average length of participation in hardship programs

At this stage, we are not proposing to include an indicator measuring the average length of time participants stay on a retailer's hardship program. We are aware that a number of consumer organisations who responded to the second exposure draft of the National Energy Customer Framework suggested that this be included in the national hardship indicators[27].

We would expect that the length of time that a customer would stay on a retailer's hardship program would depend very much on the level of debt the customer had when they entered the program as well as the personal circumstances of that customer. This will dictate the type of assistance that is appropriate, for example a customer in short term hardship may require less assistance and be able to leave the hardship program earlier than a customer in long-term financial hardship with an aged or considerable debt problem. Retailers will therefore need to tailor how long customers remain on their hardship programs on an individual basis and this could result in significant variation reported by retailers against this indicator. We note that this was the case in Victoria, with the ESC reporting the average length of time customers

27 http://www.ret.gov.au/Documents/mce/_documents/Energy%20Market%20Reform/National%20Energy%20Customer%20Framework/a-coss.pdf

stayed on a retailer's hardship program during 2008-09 ranged from just 2 days to 463 days, with an average across all Victorian retailers being 212 days[28].

Our preliminary view is that data collected under this indicator may be particularly difficult to interpret and that the underlying trends would already be captured by other indicators. As set out above, we would expect that the average debt upon exiting hardship programs to reflect that payment plans are taking suitable account of a customer's ability to pay (for both their arrears and ongoing consumption) and that retailers are offering customers access to their hardship program for an appropriate length of time. If retailers were not allowing their customers to remain on their hardship programs for an appropriate length of time, we would expect to see poor performance reported against the indicators monitoring debt levels upon exiting the hardship program and the number of disconnections where customers were previously on the hardship program. Given this, our preliminary view is not to include a specific indicator to measure the length of time customers remain on hardship programs.

In responding to this issues paper, we would welcome the views of stakeholders on the inclusion of this indicator and in particular what this indicator would tell us and why it is an important measure to collect.

> Q 17. What are stakeholder views on whether this indicator should be included as part of the National Hardship Indicators? Please set out any additional benefits that would arise from collecting this data, in particular what this indicator would tell us and why it is an important measure to collect.

7. Total number of customers exiting the hardship program <u>and</u> the number of customers excluded from the hardship program for non-compliance with program requirements

The *total number of customers exiting the hardship program* minus the *number excluded for non-compliance* will give an indication of the proportion of hardship program participants who are successfully leaving the retailer's hardship program. It is assumed that for these customers, they have agreed with the retailer that they have satisfied the programs requirements, that their energy bills and debt are at a manageable level and they are not at risk of disconnection.

We note that the *number of customers exiting the hardship program* can be derived using the data from *the number of customers on a hardship program* and *the number of customers entering the hardship program*. Despite this we consider it important for retailers to continue to report this data as it will allow the AER to undertake a check of the accuracy of the data reported. It is also important to have accurate figures for the purpose of working out the proportion of customers who are excluded from the program for non-compliance.

[28] ESC, *Comparative Performance Report – Energy Retailers, Financial Hardship Programs*, March 2010

The *number of customers excluded for non-compliance with hardship program requirements* will give an indication of the proportion of hardship program participants who are removed from the retailer's hardship program due to non-compliance with the program requirements. We would expect customers to be excluded for non-compliance only in exceptional circumstances and in accordance with the criteria specified in the retailer's approved hardship policy.

The AER's preliminary view is that this indicator will provide an assessment of how effective the retailer has been in engaging and enabling the customer to participate in the program. It will also indicate that the assistance offered under the program is effective and appropriate. A retailer with a high proportion of customers excluded from the program for non-compliance may indicate that the retailer's program is not effective or that the program requirements are not flexible enough for customers. A key example would be retailers establishing payment plans that do not adequately take into consideration a customer's circumstances and ability to pay. In these instances, the customer would be unable to maintain the payment arrangement and would be subsequently excluded from the hardship program.

High proportions of customers being excluded from retailers' hardship programs would be a cause for concern and should signal to the retailer that their policy may not be as effective as it could be and that their program requirements may be too stringent. High numbers here may signal to the AER that further information or investigation is required.

Q 18. Do stakeholders support the inclusion of this indicator? Please set out your reasons why / why not.

8. Number of customers who were disconnected during the reporting period and who have been on a hardship program in the previous 24 months

The *number of customers who were disconnected during the reporting period who have been on a hardship program in the previous 24 months* provides an indication of the effectiveness of the assistance provided to hardship customers. Furthermore, it is potentially an important long term measure of the overall effectiveness of a retailer's hardship policy. The purpose of hardship policies is to assist customers to better manage their energy bills on an ongoing basis. Therefore, if the assistance provided under hardship programs is effective and hardship policies are achieving their stated purpose, we would expect that the number of customers previously on a hardship program who are disconnected to be low. The AER's preliminary view is that this indicator is a key measure of the assistance available and provided to customers under hardship policies.

We have suggested monitoring the disconnection of hardship program customers for a period of 24 months. This is based on a report by the Utility Regulators Forum Steering Committee on National Regulatory Reporting Requirements (SCONRRR) who recommended that a period greater than 12 months is warranted to develop some customer history. This is especially relevant given the time it can take to meet all the procedural requirements such as warning notices prior to effecting a disconnection[29].

The AER anticipates that if the number of customers being disconnected is high then it may indicate that retailers are taking their customers off hardship programs too soon. Further, it may indicate that the hardship programs are not providing customers with sufficient assistance to be able to maintain normal bill payments.

It may also mean that the retailers are not appropriately identifying customers experiencing payment difficulties and hardship. If a customer has previously been on a hardship program and again struggles to maintain bill payments, it should be a trigger for retailers to engage with that customer and offer them further assistance to help them better manage their energy bills.

High numbers of disconnected customers who have previously been on the retailer’s hardship program should send a clear signal to the retailer that their hardship policy is not as effective as it could be. It may also indicate to the AER that further information or investigation is required to understand why this was occurring.

The AER notes that this indicator will only capture those customers who have been on a retailer’s hardship program and remain with that same retailer for the following two years. It will therefore not capture those customers who subsequently switch retailer. We seek the views of stakeholders on any other limitations in this data and whether quarterly reporting against this indicator is appropriate or whether there would be additional benefit in requiring monthly recording of this data.

Q 19. Do stakeholders support the inclusion of this indicator? Please set out your reasons why / why not.

Q 20. What are stakeholders’ views on the potential limitations of this indicator and the timing issues raised?

9. Number of customers who, during the reporting period, were reconnected within seven days of being disconnected and who have been on the hardship program in the previous 24 months

The *number of customers disconnected and reconnected within seven days who have been on the hardship program during the previous 24 months* may also provide a long term measure of the effectiveness of retailers’ hardship policies.

When a customer is reconnected shortly after being disconnected this can typically indicate that the customer was most likely disconnected as a result of financial hardship. In these circumstances, the disconnected customer is prompted to contact their retailer to arrange their reconnection and seek hardship assistance. High levels of customers being disconnected and reconnected within seven days may indicate that

[29] SCONRRR Retail Working Group, *Final Paper: National Energy Retail Performance Indicators*, May 2007

the retailer is disconnecting a large number of customers who are in financial hardship. It is also likely to indicate that the retailer's hardship policy is not effectively identifying customers in financial hardship prior to them being disconnected.

The purpose of a retailer's hardship policy is to assist customers experiencing hardship to better manage their energy bills on an ongoing basis. Effective hardship policies should therefore result in very few hardship customers being disconnected. Most customers who have participated in and exited a retailer's hardship program should be able to manage their ongoing energy bills and not be at risk of disconnection.

If high numbers of customers who have previously been on a retailer's hardship program are being disconnected and reconnected within seven days, this is likely to signal that the retailer's hardship policy and program are ineffective. In particular, this might suggest that retailers are removing customers from their hardship programs too quickly and that customers experiencing further financial hardship are not being adequately identified.

We would also expect that prior to disconnecting a customer, the retailer would undertake a thorough review of that customer's account, including whether the customer had previously been on their hardship program. If the customer had previously been on their hardship program, this could indicate to the retailer that the customer may be experiencing another period of financial hardship or was previously removed from the hardship program too early. This should signal to the retailer that further assistance and engagement may be required to ensure they can manage their energy bills on an ongoing basis and remain on supply.

We note that not all hardship customers will be captured by this indicator as some will seek reconnection after seven days or may switch retailer or arrange to be reconnected at the same address but under a different name, etc.

We welcome stakeholders' views on what we might interpret from the data and trends reported for this indicator and where it might indicate a performance issue with a retailer. For example, in contrast to the interpretation set out above, could low numbers reported against this indicator signal poor retailer performance, suggesting that customers who have previously experienced hardship and been disconnected are unable to quickly negotiate the reconnection of their gas or electricity supply?

Q 21. Do stakeholders support the inclusion of this indicator? Please set out your reasons why / why not. The AER is particularly interested in stakeholders' views on the benefits of collecting this data and what the trends in this indicator would tell us about retailer performance.

Summary of proposed "Hardship program participation and assistance" indicators

The AER's preliminary view is that five possible indicators focussing on hardship program participation and assistance could be:

- Average debt upon entry into the hardship program;
- Average debt upon exiting the hardship program;
- Number of customers exiting the hardship program and those excluded for non-compliance with program requirements;
- Number of customers who were disconnected and who had been on the hardship program in the previous 24 months;
- Number of customers who were reconnected within seven days of being disconnected and who had been on the hardship program in the previous 24 months.

In considering appropriate indicators to measure and assess hardship program participation and assistance, the AER has sought not to focus on specific hardship indicators regarding the *types* of assistance provided under hardship policies (for example on the provision of energy audits or assistance to repair or replace appliances).

We note that under the current Victorian legislation, retailers are explicitly required to provide audits of a customer's energy usage and flexible options for the replacement of energy appliances as part of their hardship policies. Therefore in Victoria there are a number of indicators currently in place to monitor the provision of energy field audits and appliance assistance.

There are no such requirements under the proposed Retail Law regarding the types of assistance that retailers must provide under their hardship policies. Therefore, it is the AER's preliminary view not to include specific indicators relating to the types of assistance provided under hardship policies. This approach ensures that retailers have some flexibility in developing their hardship programs to ensure the assistance they offer to customers will best meet their individual needs.

Q 22. What are stakeholders' views on the effectiveness of the above five indicators in measuring hardship program participation and assistance?

Q 23. What other indicators, if any, should the AER consider adopting that would be more effective at assessing hardship program participation and assistance?

Q 24. What are stakeholders' views on the overall scope of the proposed set of National Hardship Indicators as a whole and whether they will, as far as possible, assess the impact of retailers' hardship policies?

Q 25. What other information or indicators from other jurisdictions or industries could the AER draw on or consider when developing the National Hardship Indicators?

7 Reporting requirements

Further decisions will need to be made in relation to the reporting of the possible hardship indicators. For example, the frequency of collecting and reporting the data must be considered. The AER's preliminary view is for retailers to report data against 'hardship program entry' indicators on a monthly basis, while 'assistance and participation' indicators could be recorded on a quarterly basis.

Our initial view is that all data would be submitted to the AER on a quarterly basis. Once the indicators have been implemented and in operation for some time, it may be appropriate to consider reporting some of this data less frequently, for example on a biannual or annual basis. We welcome the views on stakeholders on these issues.

The AER must ensure that the definitions of terms used within the indicators enable the collection of information that they have been designed to capture and that this is applied clearly and consistently across all retailers. We welcome stakeholders' views on where definitions may be appropriate and on the specific terms we have highlighted in individual indicators.

Furthermore, we must also consider whether it is appropriate and of benefit to collect and report data on a state-by-state basis or on a national basis. Our preliminary view is that it will be important to report data separately for each state, particularly as these obligations will be newly implemented in some jurisdictions which may result in differences in performance across retailers and jurisdictions.

We are also seeking views on whether there are any implications for reporting gas and electricity hardship customers together and how dual fuel customers requiring hardship assistance for both fuels should be recorded.

Finally, we are mindful in developing these indicators to balance the requirements of ensuring retailers' hardship policies can be adequately monitored and assessed against the costs and burden of regulatory reporting this imposes on retailers. We welcome the views of stakeholders in these areas.

Q 26. What are stakeholders' views on the proposed reporting requirements?

Q 27. What concerns, if any, do stakeholders have regarding the ability to report data against the proposed indicators, and any costs associated with the reporting requirements?

The consumer experience of retailer's hardship policies

The AER is also aware that it is difficult to fully assess the impacts and effectiveness of retailers' hardship policies without considering the experiences of customers who have participated in, and been assisted by, these programs.

To that end, the AER is seeking stakeholders' views on whether it would be beneficial to enable retailers to submit anonymous case studies or examples of good practice once a year. These case studies could accompany the National Hardship Indicators data and may provide useful context and qualitative information to highlight and promote good practice. The case studies could focus on the impact and outcomes for customers on retailers' hardship programs and how these programs have enabled them to better manage their energy bills on an ongoing basis. The AER could choose to highlight particularly effective case studies as part of its reporting against the indicators.

Q 28. What are stakeholders' views on the benefits and usefulness (or otherwise) of seeking case studies or examples of good practice from retailers which highlight the consumer experience of participating in retailers' hardship programs?

AER's Performance Reporting Procedures and Guidelines

The detail prescribing the required form and manner of the data to be reported under the National Hardship Indicators, including when the data is due, will be set out in the AER's Performance Reporting Procedures and Guidelines. As previously advised, formal consultation on this document will take place after the passage of the Retail Law. The submissions received by the AER on this issues paper will be used to inform that work.

It is important to note that the National Hardship Indicators will be only one part of the AER's wider performance reporting regime. They will be part of a more holistic and broader package of indicators designed to assess retailers' performance in a number of areas, including:

- Disconnections and reconnections;
- Customer service and customer complaints;
- The use of prepayment meters;
- Concessions; and
- Security deposits.

The AER will be undertaking preliminary consultation on Compliance and Performance Reporting Procedures and Guidelines in the coming months. Consistent with the approach adopted here, this preliminary consultation will precede a formal consultation process that will take place after the passage of the Retail Law.

Under the proposed Retail Law, the AER will publish Retail Market Performance Reports which will include information and statistics on the above areas as well as the National Hardship Indicators[30].

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30 See section 1214 of the proposed National Energy Retail Law.

Glossary

Customer hardship policy means a customer hardship policy approved under Division 6 of Part 2 of the National Energy Retail Law. The purpose of a retailer's customer hardship policy is to assist hardship customers to better manage their energy bills on an ongoing basis.

De-energisation or ***disconnection*** of a premises means—

(a) in the case of electricity—the opening of a connection; or

(b) in the case of gas—the closing of a connection;

in order to prevent the flow of energy to the premises.

Hardship customer means a residential customer of a retailer who is identified as a customer experiencing financial payment difficulties due to hardship in accordance with the retailer's customer hardship policy.

Hardship program means a program outlined in a customer hardship policy.

National Hardship Indicators means the National Hardship Indicators determined under section 1216 of the National Energy Retail Law.

Payment plan means a plan for a hardship customer; or a residential customer who is not a hardship customer but who is experiencing payment difficulties; to pay a retailer, by periodic instalments in accordance with the National Energy Retail Rules, any amounts payable by the customer.