

14 January 2019

Sarah Proudfoot
General Manager, Consumers and Markets
Australian Energy Regulator
GPO Box 520
Melbourne VIC 3001

Dear Ms Proudfoot

Hardship Guideline Issues Paper

National Seniors welcomes the opportunity to respond to the Australian Energy Regulator's (AER) Hardship Guidelines Issues Paper.

National Seniors is the leading consumer lobby group for older Australians and the fourth largest organisation of its type in the world.

National Seniors strongly supports the need for a nationally consistent approach to customer hardship. All retailers should have a consistent approach to managing hardship to ensure that vulnerable customers do not experience disconnection of essential services or experience further financial hardship as a result of subscription to inappropriate energy offers.

We are concerned that even a simple analysis of hardship policies demonstrates inconsistency in: the way hardship is defined; the processes used to address hardship; and the criteria used to assess eligibility for assistance.

We agree with the AER that the early identification of customers at risk of hardship will maximise opportunities to minimise hardship. National Seniors supports efforts to make retailers more proactive in identifying customers requiring assistance. However, identification is not enough. We also believe retailers must be required to be more proactive in aiding vulnerable customers to avoid financial hardship in the first instance.

National Seniors is not confident this situation will be remedied under the proposed changes unless the issue of eligibility addressed. The use of standardised statements is clearly a step in the right direction because it outlines consistent conditions under which a retailer must refer someone to a hardship program (e.g. if payment patterns show late payments and requests for payment extensions). However, this will not improve access to formal assistance because it does not specify the threshold for eligibility, which will continue to be defined by the retailer.

The inclusion of statements such as “If you are accepted onto our hardship program” indicates retailers will continue to have discretion about who gets access to assistance. It continues to give retailers the ability to limit eligibility for assistance when a more proactive and early intervention approach would be more beneficial to vulnerable customers. It is also disappointing there are not effective means of compelling retailers to be proactive in supporting customers at risk of financial hardship.

Retailers will continue to set limits to access, which will likely mean that only those who have already reached unbearable financial hardship will receive support. These customers may have avoided spiralling debt and constant disconnection if earlier assistance was provided. In this regard, it is unsurprising that only a small minority of those in hardship programs complete them as these are likely to be people who are at the far end of the financial hardship spectrum. The Retail Law and Rules reinforce this reactive worst-case approach by setting an unrealistically high threshold for obliging retailers to inform customers that a hardship policy exists (three disconnections in a month for longer than 240 minutes).

A more proactive approach is required to ameliorate or lessen hardship and avoid imposing significant debt and disadvantage on vulnerable households. Retailers should be required to implement proactive approaches (e.g. changing plans, offering people early use of payment plans and Centrepay etc), which guard against hardship rather than waiting until insurmountable crises occurs. This will have benefits for retailers because it will reduce their exposure to debt and other financial risks.

National Seniors agrees with the Public Interest Advocacy Centre (PIAC) that “effective early identification of, and assistance for customers facing payment difficulty due to hardship requires the setting of simple, broad and objective gateway criteria.” As with PIAC, we believe that all customers facing payment difficulties should be offered access to advice and supports available through retailer hardship policies. However, without some form of regulatory compulsion, it is unlikely that this will occur.

National Seniors also believes retailers should not be able to profit from vulnerable customers or contribute to the hardship experienced by vulnerable customers. However, by leaving customers on energy offers which contribute to debt, disconnection and financial hardship, retailers are failing vulnerable consumers.

For example, one of the key risk factors for financial hardship is consistent late payment. Not only does this signify vulnerability but it also, where it results in excessive fees and penalties, exacerbates and entrenches financial hardship.

If retailers were taking a proactive approach to addressing hardship, as they are required to under the National Energy Retail Law, they would be identifying vulnerable customers at risk and offering them assistance, including simple things such as offering a more suitable plan. However, this is only required if they are accepted into hardship program. Retailers should therefore be banned from recouping outstanding debts for late payment fees and charges if a customer is found to be eligible for hardship assistance.

National Seniors believes that retailers should be supported to be proactive in identifying vulnerable customers by creating a nationally consistent approach to identifying vulnerability factors. Households at risk of hardship will likely display vulnerabilities that could be used to pre-empt hardship and target interventions and assistance.

National Seniors recently participated in workshops conducted by Energex to design a Vulnerable Customer Policy. As part of this process, risk factors or vulnerabilities for financial hardship were identified. We had hoped that this process would lead to a more proactive approach to identifying and helping customers at risk of hardship by focusing on early intervention. Unfortunately, this process has not progressed since the formation of Energy Queensland. This work should be taken up nationally with vulnerability identification processes integrated into the National Energy Retail Law and Rules and Hardship Guidelines.

National Seniors would also like to see other protections for hardship customers, including prohibition of disconnection for customers identified as vulnerable and implementation of processes to independently review eligibility decisions.

The changes proposed in the Issues Paper are welcomed as they will increase customer awareness of hardship programs and the rights and responsibilities of customers. However, unless issues of eligibility are addressed, it is likely that support to proactively avoid and ameliorate hardship will remain limited.

Yours sincerely

Brendon Radford
Manager Policy (Acting)