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Australian Energy Regulator  
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Submitted by email to Simon Kidd (simon.kidd@aer.gov.au)

### **Sustainable Payment Plans Framework – Additional Feedback**

Thank you for the opportunity to provide additional feedback to the Draft Sustainable Payment Plans Framework (the Consultation document).

The Australian Energy Regulator (AER) has proposed to introduce a payment plan framework that energy retailers can apply voluntarily.

Simply Energy welcomes this proposed framework to further assist customers with payment difficulties. We are concerned that the framework is conflicted between operating as good practice and requiring retailers to be publicly registered for utilising and administering the requirements of the framework. We are yet to receive certainty about how a retailer who is registered is assessed by the AER, compared to those who are not registered.

We also raise concerns that the Good Practice Principles and the Good Practice Guide Chart (Sections 1 and 2 respectively of the Sustainable Payment Plans document) could unintentionally encourage consumer behaviour that is contrary to the basic principle of aiming for a customer to pay for what they use.

#### **Proposal to publish a list of retailers that have adopted the Framework**

With the scheme confirmed as voluntary we would like further feedback from the AER about the way in which adherence with the framework will be assessed. In relation to those retailers who choose not to adopt the Framework, will they be undertaking the same regulatory requirements in terms of assisting customers in hardship as those who have adopted the Framework?

If the AER chooses to act upon “feedback from stakeholders” on a retailer not performing to the framework, how will those who choose not to adopt the Framework be reviewed? It could be perceived that those retailers who assist customers further by adopting the framework will be under more scrutiny. We would like to see further feedback from the AER on how they would address this issue.

Given the subjective and aspirational nature of some of the elements that can be open for different interpretations, we are mindful of the potential for complaints which focus on a retailer’s compliance to the framework, being used as a means to exert inappropriate pressure on retailers.

In this regard, we suggest that public dissemination of the list of retailers might not necessarily be beneficial (at least in the early stages). Instead, the framework could be used as a means of internal review or control to continually assess current practices and processes against the industry standard.

#### **Transitional period**

Simply Energy supports the provision of a transitional period before the AER publishes a list of retailers.

In light of the Essential Services Commission Victoria's (ESC) recent Energy Hardship Inquiry Final Report release, we expect that a number of significant compulsory regulatory changes will need to be implemented over the course of the next 12-18 months. This will:

- involve significant resource and expense to a retailer such as Simply Energy;
- Prioritising resources towards any mandatory changes (ESC) over voluntary changes (AER);
- Dealing with the complexities involved in having two disparate and sometimes conflicting frameworks to administer.

Simply Energy believes that best timing for any discussion around implementing a framework can be fruitful once the final report is confirmed and made available. Only with a material position will stakeholders hold a strong degree of confidence to start implementation of such a framework. Any timelines will need to respect an assessment of any implications or reach of the proposed changes. The AER should undertake an implementation process commencing with retailer workshops now that the framework is in final mode.

We encourage the AER to be cognisant of the above factors and a retailer's performance to this framework when it is released.

### **Commencing conversations with payment plan customers**

We have concerns that the Good Practice Principles and the Good Practice Guide Chart if applied by retailers and other industry stakeholders may have unintended consequences. We outline those concerns below. Those concerns relate to the commencement of the conversation and content within the conversation that is important to the process of providing the customer appropriate advice.

#### Principle; Empathy and respect

One dot point outlined under this principle asks a retailer to '*Avoid unnecessarily asking the customer for personal information*'. When making an assessment of a customer's capacity to pay their energy bill, the dot point should be reworded to suggest that there be an allowance for a retailer to make a 'reasonable request' for personal information so the retailer can confirm and/or assess a customer's capacity to pay under the framework.

A successful capacity to pay assessment attains a reasonable amount of personal information from a customer (eg: other household bills, consumption habits). The retailer needs to retain the right to request certain information for these assessments in order to provide the best outcome for the customer. A sole reliance on financial counsellor referrals would be costly and inefficient for the customer.

The other dot point that requires review is '*Give the customer an opportunity to fully consider a proposed payment plan before agreeing to it*'. If a customer is allowed time to consider an instalment plan offer and does not respond within a reasonable period of time, then the customer needs to understand that they have taken on the responsibility of contacting the retailer to accept/renegotiate the offer made. The dot point also assumes that there will always be financial counsellors on hand to assist a customer to prevent any delays and does not seem to recognise that any delays can decrease a customer's ability to afford their energy.

#### Principle; Flexibility

One of the dot points states '*Understand that some customers may not be able to make sufficient payments to cover their energy usage and/or debt repayment, and that this situation could be short-term or long-term. In most cases small payments are better than no payments*'. We agree that any contribution towards a customer's energy debt and payment for their usage is a positive step. However we believe the dot point

potentially diminishes the obligation of a customer to pay for what they use. To disclose that 'something is better than nothing' does not encourage a customer to fully understand and address their energy affordability issues. We would encourage the removal of the last sentence of this dot point and allow the retailer to work with the customer and where appropriate their financial counsellor.

The dot point *'Recognise that a missed payment is not necessarily a sign of non-engagement or unwillingness to pay'* we believe acts in conflict with Section 2 – Good practice guide chart. A missed payment logically means the customer was not engaged with their energy bill. This would be the first trigger for a retailer to assume there may be an affordability issue be it short or long term and commence a conversation with the customer regarding their energy bill. If a missed payment is not considered non-engagement then the customer may never receive the attention they may require from the retailer in order to assist them. We believe the dot point should remove "non-engagement".

#### Principle: Consistency

We are concerned that the framework would expect a retailer to provide a *'consistent contact person whenever possible'*. Understanding this is a broad approach, the reality is that retailers cannot and do not have such significant resources cost allocations to dedicate specific staff to specific customers. From Simply Energy's perspective, 'whenever possible' will be rare. We would endeavour to provide this service for Option C customers under the Good Practice Guide Chart.

#### **The Good Practice Guide Chart**

Under this chart we will be encouraged to ask the customer what they can afford to pay without any prompting. We believe that this is not the ideal starting point for discussion of energy debt. Customers with affordability issues will for a variety of reasons nominate an amount that could not only fail to address their current usage amount but also expand any debt that they may have accrued. It inappropriately assumes the customer will understand the ramifications of nominating a certain amount.

If a customer responds with an amount that is insufficient to cover at least ongoing consumption, a retailer would necessarily have to engage in further questions/discussion/negotiation. We also note that feedback from the community sector suggests that customer-initiated payment amounts often resulted in payment default. We believe that customer education and ownership over energy usage behaviours is critical to establishing viable payment plans.

Whilst we believe that financial counsellors are appropriately qualified to assist these customers and can assist these customers, we believe the referral parameters within the framework will increase demand for financial counselling services. Industry is aware that any additional burden placed on an already under resourced financial counselling community may not be beneficial to customers. Any delays in providing financial counselling advice may have the undesirable effect of increasing debt amounts and delaying action to assist customers as advised above.

We also recommend that financial counsellor advice and the retailer's perspective be added together in a collaborative manner to provide the best outcomes for consumers. In contrast, the current proposal document states that retailers should "accept payment proposals from financial counsellors on face value and without challenging the validity of the view expressed or asking for supporting documentation".

A creditor's right to request supporting documentation for a reduced payment arrangement (or waiver of debt) as per the ACCC Debt Guidelines needs to be respected. Furthermore, it is our anecdotal experience that some financial counsellors have sought to push the boundaries of existing rules by requesting debt waivers or cease on action when not appropriate to do so.



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Please don't hesitate to contact Alan Love on (03) 8807 5113, or at [alan.love@simplyenergy.com.au](mailto:alan.love@simplyenergy.com.au), if you wish to discuss this submission further.

Yours sincerely

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