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AGL

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

4 June 2010

By email: AERInquiry@aer.gov.au

Dear Mr Leuner,

AER Consultation – Developing National Hardship Indicators

AGL welcomes the opportunity to provide comments on the *Issues Paper: Developing National Hardship Indicators* ('the Issues Paper') published by the Australian Energy Regulator in April 2010.

AGL recongises that sections of the community suffer from financial hardship. This hardship can either be temporary or sustained, and can lead to a customer having difficulty maintaining access to essential goods and services, including energy. AGL understands that customers experience distress and disruption when they do not have continued access to energy. For this reason, in early 2003, AGL launched its national hardship program, Staying Connected – well before any regulatory requirement of this type was introduced.

AGL further recognises it that it has an important role in the energy industry and this role includes contributing to government and community efforts to assist those members of society who are, or at risk of, vulnerability with regard to their energy supply.

Summary

AGL considers that most of the proposed National Hardship Indicators are not comparing retailers' performances against their regulatory obligations but are information gathering tools to form social policy. AGL would be willing to participate in any social policy review that may influence governments to provide better assistance to vulnerable members of the community. AGL believes, however, that an MCE-endorsed review by the AEMC is likely to be more efficient and yield better results than regular reporting against social policy indicators that do not assess retail performance.

What is most concerning about the Issues Paper is the implication that data that is collected for social policy purposes will be published widely and used to effectively rank retailers on their ability to influence fate or customer behaviour – which is obviously beyond the control or legal obligation of an energy retailer.

For indicators that measure a retailer's performance against its regulatory obligations, AGL is comfortable with comparative data to be published if retailers are given the opportunity to review a draft report to ensure the accuracy of any assumptions made.

Best Practice Hardship Program

AGL currently supports customers in sustained hardship with programs that extend well beyond its regulatory obligations. It is in the interests of customers, retailers and the energy market for a holistic approach to be adopted and administered in a cost effective way that balances the need for administrative simplicity with sufficient safeguards against misuse. AGL believes a 'shared responsibility' model (where energy retailers, energy appliance manufacturers and retailers, government and community groups all have responsibility for customers in financial hardship) is the most effective way to prevent the continuation and escalation of customer hardship and ensure access to essential energy services. Under this model, energy appliance manufacturers and retailers, energy retailers, the government, community groups and customers should all share responsibility for assisting customers in financial hardship:

- energy consuming appliance manufacturers and retailers should be required to develop hardship prevention policies to ensure that customers vulnerable to hardship are provided with assistance to purchase the most energy efficient appliances;
- customers should contact energy retailers and inform them of any difficulty they are having in paying their bill. Retailers, community groups and government agencies should all work with customers to encourage them to make this contact and discuss their circumstances openly;
- retailers should continue to assist customers in short-term financial hardship through offering reasonable payment plans and extensions of time to pay;
- where customers lack the financial resources necessary to meet such payment plans, they should have access to direct and transparent payments from government funded agencies to enable them to clear their debts. An ability for customers to access assistance though a single point of contact would enhance the effectiveness of any assistance program; and
- community groups should assist in the identification of customers in hardship and provide information on, and assist customer access to, available support.

A shared responsibility model which seeks to prevent the continuation and escalation of customer hardship and ensure access to essential energy services is paramount. Critical to the success of such an approach is that it is transparent, easily accessible and does not distort the operation of the competitive energy market.

It is in the interests of customers, retailers and the energy market as a whole for a holistic approach to be adopted and administered in an efficient manner that balances the need for administrative simplicity with sufficient safeguards against misuse.

Purpose of Hardship Policies

Under the proposed Retail Law, energy retailers will be required to develop hardship policies to assist customers that are struggling to pay their energy bills due to financial distress or hardship to better manage their energy bills on an on-going basis. To achieve this retailers will be required to have:

- 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.

In summary, under the proposed Retail Law retailers are required to have processes to support customers entering into hardship programs, flexible payment options and timely responses. Yet, the National Hardship Indicators proposed by the AER assume that retailers are required, or able, to reduce a customer's debt permanently, to reduce a customer's chance of disconnection after leaving the program, to prevent hardship (ie to prevent customers getting sick or losing their jobs), or to ascertain whether customers are able to manage their energy bills purely based on their utilities debt.

National Hardship Indicators: Monitoring Compliance or Social Policy Formation?

The AER intends to publish Retail Market Performance Reports to inform Government, regulators, industry participants, consumer groups and the wider community about the performance and progress of retailers against the National Hardship Indicators. AGL considers that most of the proposed National Hardship Indicators are not comparing retailers' performances against their regulatory obligations but are tools to gather information to form social policy. It would be inappropriate to publish data that is collected for social policy purposes as this would lead to retailers being ranked on matters that are beyond their control; such as customer behaviour or the state of the economy. Given the impact that a negative report may have on a retailer, particularly a publicly listed one, the AER should only publish information that links to a specific regulatory obligation.

AGL would be willing to participate in any social policy review that may influence governments to provide better assistance to vulnerable members of the community. AGL believes, however, that an MCE-endorsed review by the AEMC is likely to be more efficient and yield better results than regular reporting against social policy indicators that do not judge retail performance.

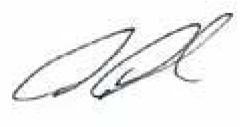
If the AER considers that it is appropriate for a regulatory body to collect data for social policy purposes that it needs to be mindful of the community service obligation clauses contained in the Australian Energy Market Agreement, particularly clause 14.11(b) which states that *'social welfare and equity objectives will be met through clearly specified and transparently funded State or Territory community service obligations that do not materially impede competition'.* For such community obligations it would be inappropriate for the AER to require reporting more frequently than annually.

For indicators that measure a retailer's performance against its regulatory obligations, AGL is comfortable with comparative data to be published as long as retailers are given the opportunity to review a draft report to ensure the accuracy of any assumptions made. When publishing any hardship reports, the AER should be conscious that the energy industry is the only industry that has such stringent hardship requirements (despite other industries having a greater impact on a customer's financial position) and that any report may skew the reality of energy retailers' obligations and treatment of customers in need.

Our responses to the questions for consideration contained in the Issues Paper are provided at Attachment A.

Should you have any questions pertaining to this submission please do not hesitate to contact Angela Gregory, Manager Regulatory Advice & Policy, on (03) 8633 6817 or angela.gregory@agl.com.au.

Yours sincerely,



Alex Cruickshank
General Manager Energy Regulation

Attachment A

What are stakeholders' views on the appropriateness of the purpose and aims of the National Hardship Indicators? What else, if anything, should the indicators seek to achieve?

Section 232(2) of the proposed Retail Law provides that the purpose of a hardship policy is to 'assist customers that are struggling to pay their energy bills due to financial distress or hardship to better manage their energy bills on an ongoing basis.' To support this purpose the proposed Retail Law sets out the minimum requirements that a retailer's hardship policy must contain, such as processes to support customers entering into hardship programs, flexible payment options and timely responses.

AGL is surprised that the AER failed to consider the purpose and minimum requirements of the Retail Law when drafting the National Hardship Indicators. The proposed indicators (and the assumptions around them) suggest that the AER is assuming a social policy role by setting considerably higher standards than that proposed in the Retail Law.

AGL also believes that the proposed indicators will be of little comparative value as they are not comparing activities against a common base since retailers have different programs with different characteristics.

AGL believes that any policy debate around what is an 'effective program' should be part of a formal AEMC review as opposed to statistical reporting that will be subject to discretionary interpretation.

Total number of customers currently on the hardship program

AGL accepts that this indicator could be used by the AER to gain a general overview of the need for hardship; however, AGL is concerned about how reported data may be interpreted. Trends could be explained in a number of competing ways. For example, decreasing numbers may result from improved economic conditions, more customers successfully completing programs or more customers failing to adhere to programs.

AGL is also concerned with the AER's expectation that over time 'the number of customers on hardship programs as a proportion of their total number of customers will generally be similar for most retailers.' This is not currently the reality nor is this likely to be the case in the future because:

- some retailers, especially small niche players, tend to market more profitable customers;
- usually for historical reasons, retailers have different customer bases; and
- retailers have different hardship policies.

Definitions and timing

In relation to the further decisions that need to be made in relation to this potential hardship indicator:

- the defining of what is 'on the hardship program' for the purposes of reporting is fraught with difficulty as each retailer has developed its own hardship program to best serve its customer base. For example, AGL accommodates customers experiencing short term cash flow difficulties through normal credit process by offering payment plans and payment extensions. This then leaves specialised retailer staff to deal with domestic customers who are in longer term hardship and who are the appropriate target of financial hardship policies. As a company that has dealt successfully with customers in financial difficulty over a long period of time we believe that this process best suits our customers' needs. While retailers have different entry criteria and definitions we must be able to retain the discretion to determine which customers enter our program.
- if a customer is on a hardship program for both fuels then they should be reported twice.
- if this data is required, AGL recommends annual reporting.

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

This indicator could provide useful information to support new social policy initiatives as it might suggest that concessions given to customers are not sufficient; as those receiving this assistance are still unable to pay for the energy they have consumed. Alternatively, the data could infer that concessions are applied too narrowly as not all customers who are unable to pay for their energy are eligible for concessions. This indicator, however, can not be used as a metric to determine a retailer's performance. Different customer bases and different state concessions can greatly impact how many concession holders a retailer may have.

Also, concession status is not necessarily an indicator of hardship. AGL has around 450,000 concession card holders but only around 11,000 of those need to be on our hardship program.

Number of customers entering the hardship program

AGL accepts that this indicator could provide useful data to form social policy. This data, however, could not be used to compare retailer performance as there is no optimal number of customers that should be entering a hardship program, retailers have different entry requirements and entry onto programs is dependent on customer behaviour that may not be influenced by access to information.

Third party referrals to hardship programs

AGL supports the AER's proposal not to include an indicator on how people entered a hardship program. Community groups are well placed to assist with the identification of customers in financial hardship and are essential to a successful hardship program. If the AER was concerned that a retailer was not accepting third party referrals (and the Retail Law required retailers to accept referrals) then it would be appropriate for the AER to consider taking enforcement action.

Number of customers denied access to the hardship program

AGL understands that this indicator could give an indication of the demand for hardship assistance but this information would be very difficult to report accurately.

The definition of 'denied access' is also problematic. Staying Connected is available to AGL's residential customers who are experiencing temporary or long-term financial difficulties and having trouble paying their energy bills. AGL will, however, deny access to customers that refuse or fail to participate in the program. Theoretically, a customer is 'denied access' if a customer service representative decides that another path, such as extension to pay, is a more appropriate option for that particular customer. In this case, a customer service representative is unlikely to recognise that the more appropriate option is actually denying access and should be recorded.

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

AGL is not aware of any other indicators that would be effective at assessing entry into hardship programs.

Average debt upon entry into the hardship program

Collecting data on the average debt upon entry into a hardship program may be useful for social policy purposes but does not reflect the quality of a retailer's identification processes of hardship customers. The AER expect retailers "to have suitable systems and processes in place to monitor customers' accounts to prevent unmanageable levels of debt before assistance is offered". The AER also expects that average debt levels will lower over time.

AGL is extremely concerned about these expectations as:

- these expectations are greater than the obligations set out in the proposed Retail Law. Retailers are not required to generally monitor all customers' accounts or prevent unmanageable debt levels. Early responses are required once customers are identified as experiencing payment difficulties;
- late payments, reminder notices or debts do not equate to 'financial hardship';
- AGL offers assistance on all bills and every reminder notice but this does not mean that a customer will seek to enter our hardship program;
- they suggest that the AER believes it is appropriate for retailers to actively target customers just because they have an energy debt;

- they suggest that retailers should be able to decipher from a customer's consumption and payment history whether a debt is 'manageable' for that particular customer; and
- they suggest that retailers can identify customers in hardship without first being told.

Average debt upon exiting the hardship program

The average level of debt upon exit from a hardship program will not be a good indication of a retailer's hardship program. Customers only successfully complete a hardship program once they have reduced their debt to a level where they are only paying for consumption, which means that their debt level should be zero. Customers who are revoked from the program, who are likely to have higher debts due to non-engagement, would distort this figure; as would those customers that churn after receiving subsidised payment options as a support mechanism.

The AER expects that the average debt upon exit would be lower than the average debt upon entry. This expectation fails to take into consideration that some customers consume more energy than they can pay for. It also assumes that retailers have control over a customer's actions and that paying energy bills are a priority for customers in financial hardship.

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.

This alternative approach would be very difficult to report as the same group of customers do not join and exit at the same time. If this approach involves reporting and comparing individual customer's debt levels then AGL does not support this approach.

Average length of participation in hardship program

As some customers may always remain on a hardship program (as their consumption will always be greater than their ability to pay) AGL does not believe that this indicator should be included as part of the National Hardship Indicators

Number of customers exiting the hardship program & Number of customers exiting the hardship program for non-compliance with program requirements

AGL acknowledges that these indicators may provide interesting data for the formation of public policy but they will not demonstrate a retailer's level of compliance with its regulatory obligations. The reasons that a customer may fail a hardship program is unlikely to result from a retailer 'establishing payment plans that do not adequately take into consideration a customer's circumstances to pay'. It is not uncommon for retailers to have customers on payment plans that are less than the customer's consumption. Failure is more likely a result of external factors (such as a health crisis, debtor pressure, stress levels, personality type, etc) that retailers are unable to control or even be privy to.

This indicator should be separated into two.

Number of customers who were disconnected and who had been on the hardship program in the previous 24 months

AGL is extremely concerned that the AER believes that retailers can and should influence customer behaviour. While customers are participating in a hardship program retailers are required to 'assist hardship customers to better manage their energy bills on an ongoing basis'. Once a customer has left a hardship program retailers cannot, and are not obliged to, prevent customers from falling into debt in the future. Retailers can advise on appropriate concessions or the availability of financial counselling but energy retailers are not equipped to teach customers life skills or to determine whether a customer's energy bill is a priority in their life.

Furthermore, it is a failure of current public policy settings not to include appliance retailers in any consideration of influencing customer behaviour. One of the primary drivers of customer consumption is the capital stock of a home. A retailer cannot influence consumption once a customer has installed energy inefficient appliances. AGL believes that appliance retailers must be included in any discussion about influencing customer behaviour as they are a primary driver of the composition of the residential energy consuming capital stock.

Indeed, disconnection (or the threat of disconnection) is sometimes the trigger a customer needs to seek assistance.

Number of customers who were reconnected within 7 days of being disconnected and who had been on the hardship program in the previous 24 months

The comments directly above also apply to this indicator.

***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*?**

As we have stated, AGL does not believe that the proposed National Hardship Indicators will assess the impact of retailers' hardship policies. Some indicators may assist in social policy development but a formal AEMC review is likely to be more efficient and have greater impact on state governments than reports on the proposed indicators.

What are stakeholders' views on the proposed reporting requirements?

AGL believes that data that is collected purely for social policy purposes should not be collected more frequently than annually. We also support national reporting of National Hardship Indicators.

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?

Additional reporting requirements that require system changes can be very expensive to implement.

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?

AGL supports a reporting regime that allows retailers to submit anonymous case studies or examples of good practice once a year.