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AER Draft Consumer Vulnerability Strategy – Tango Energy submission

Tango Energy thanks the Australian Energy Regulator (AER) for the opportunity to comment on the Draft Consumer Vulnerability Strategy published on 20 December 2021.

Tango Energy is the wholly owned subsidiary retail arm of Pacific Hydro Australia (PHA). PHA was founded in 1992, and is a leading owner, operator and developer of renewable energy assets. It operates a high quality, diversified portfolio of wind, hydro and solar assets with an installed capacity of 665 MW; it also has a development pipeline of substantial projects totaling over 1100 MW of potential capacity, as well as over 300 MW of energy storage solutions.

We are a relatively new and growing retailer with approximately 150,000 small and large customers as of February 2022. While our customer base is predominantly in Victoria, Tango Energy also recently started selling to small customers in New South Wales, Queensland, and South Australia and expects to grow our presence in those jurisdictions.

The AER is interested in understanding whether stakeholders already use a set of indicators to identify customers who may be experiencing vulnerable circumstances. What factors should we consider in developing this toolkit? What else could the AER do to recognise and support industry participants who are providing effective early intervention?

Tango Energy uses a range of indicators through our client facing team to identify and assist customers who may be experiencing vulnerable circumstances. These indicators allow us to get a stronger understanding of the circumstances around the customer and help them understand the type of support we can offer as an energy retailer.

Tango Energy uses a variety of different verbal trigger words or phrases to identify whether the customer could be considered vulnerable. The following are some examples customers have communicated to us in which we have determined that they are a vulnerable customer:

- “I just lost my job.”;
- “I’m having a bit of trouble at the moment.”;
- “My partner passed away”;
- “A pipe broke in the laundry and flooded the house”.

In these circumstances customers may not specifically ask for help or for any assistance, however through the list of verbal triggers we are able to interpret that they may or will have issue with paying their bills and, therefore, could be deemed as a vulnerable customer. It is also important to note that contextual circumstances may vary significantly across customers. Agents are trained to effectively listen to our customers to understand their circumstance, and to be able to communicate with a diverse range of customers as well as discuss potential options that are available to them. Allowing a degree of flexibility in this aspect allows client-facing staff to learn and increase Tango Energy’s understanding of vulnerability and adjust trigger words and conversations specific to that context as appropriate. As an example, contextual knowledge of the rental situation in regional Australia[1] may prompt staff to use their judgement to listen out for mortgage or rental induced debt stress. Allowing retailers to engage freely and directly with their customers gives them the ability to engage in respectful communication with the customer, be able to develop a strong rapport and give the customer certain options that are most suited to their circumstances.

We note that the AER is considering, as an option, giving guidance to retailers on how to assist customers in vulnerable circumstances through an exhaustive list of proposed indicators. We advise that the AER refrain from imposing any prescriptive requirements on retailers in how staff must communicate and determine who is a vulnerable customer, as this is likely to restrict retailers’ ability to adapt and learn to tailor strategies to suit the constantly changing contexts in which vulnerability exists. As discussed above, it is critical that retailers are given sufficient flexibility in determining which customers are in vulnerable circumstances due to the complex interpersonal nature of communication, and the constantly changing context of vulnerability. We therefore propose that any “toolkits” being considered by the AER must be sufficiently flexible, principles and outcomes-based for them to be effective in identifying vulnerability.

[1] https://www.afr.com/property/commercial/nsw-regional-rental-vacancies-drop-below-1pc-20211122-p59ayv

Should the AER's Retailer Report Cards be extended to report on quality-of-service metrics? How would this information best be presented to consumers? What costs and other considerations are relevant?

We understand that the AER intends to increase the information provided in Retailer Report Cards to provide customers with more comparable information. It is currently unclear whether customers utilise Retailer Report Cards in their choice of retailer. In addition, there is no publicly available information that would suggest increasing the metrics in the Retailer Report Cards will assist vulnerable customers in their ability to choose between different retailers. Consideration and research would also need to be undertaken as to whether an energy customer would prefer to use these metrics to compare different retailers over a readily available comparator website, such as Energy Made Easy, or how they may be used together (e.g. how would a vulnerable customer react to a hypothetical retailer that scores high on Energy Made Easy with low prices, but does poorly on the Retailer Report Card, or vice versa?)

We also understand that the AER has suggested that the information that may be provided to customers could range from customer service levels to accessibility of a retailer's website, and we seek clarity as to whether this will be obtained from the current performance reporting indicators, new performance reporting indicators, or further reporting requirements yet to be established. As the AER may be aware, any new reporting measures will ultimately result in further costs to retailers to adjust to these changes, and for the AER to administer, and these must result in net benefits to the consumer. To minimise duplication, we strongly encourage the AER to utilise existing performance reporting measures[2], or alternatively, review the performance indicator and compliance reporting framework in its entirety to identify any duplication.

We therefore consider it is critical that the AER, in consultation with stakeholders, obtains a detailed understanding of how the AER's Retailer Report Cards are utilised by customers before considering any further extension of the AER's Retailer Report Cards. We also note that further clarification needs to be given as to how retailers will be assessed on any proposed metrics around their 'design' and 'clarity of information', as it is ambiguous as to whether this would come from consumer research or the AER's own determination. We note that the AER's Better Bills guideline identified that the AER did not have expertise to assess any design issues[3].

[2] AER (Retail Law) Performance Reporting Procedures and Guidelines , 9 Apr 2018. Accessed 21 Feb 2022

[3] Notice of Draft Instrument: Draft AER Better Bills Guideline, 20 December 2021, pg. 29.

Do stakeholders see merit in implementing a payment difficulty framework for the NECF? What are the risks and opportunities, costs and benefits? What consumer and market outcomes could a NECF payment difficulty framework focus on?

We understand that the AER, in its vulnerability strategy, is considering the implementation of its own payment difficulty framework. We understand that the AER will take guidance from the Victorian framework, as well as the Essential Services Commission ("ESC") of Victoria's 'Getting to fair strategy'[4] released in August 2021.

Tango Energy generally supports the harmonisation of jurisdictional requirements and considers that the payment difficulty framework in Victoria has its benefits.

Notwithstanding, in implementing a framework into the NECF, it is critical to acknowledge and account the differences in policy settings, and the compliance and enforcement regime. The payment difficulty framework operates within Victorian legislation and in practice is heavily prescriptive, based on technical compliance, enforcement, and punitive fines. It is also important to note that the ESC also regulates several other government owned utility service providers such as water and local councils and sets similar expectations for private sector energy providers it regulates within this framework, in partnership with the Victorian Department of Health and Human Services responsible for the Victorian concessions scheme.

It is therefore critical that expectations, roles, and responsibilities are resolved at Governmental policy level which clearly sets out the role that the AER, retailers, and other stakeholders (such as state government bodies responsible for administering social services and concessions), are expected to play within this framework.

At an implementation level, the AER should consider any potential duplication or redundancy with existing frameworks such as the Customer Hardship Policy guideline. We suggest that to assist its consideration developing the proposed framework, the AER may also use current performance reporting metrics to shape their understanding of vulnerable customers. The current reporting indicators require retailers to provide specific information relating to customers on payment plans and hardship programs, which give the AER significant background into the number of customers who are currently accessing assistance measures throughout the NECF.

Do stakeholders support the AER exploring options around improved engagement between energy businesses and consumers at risk of disconnections, such as knocking before disconnection? Are there other alternatives, options or practices that energy businesses are using to provide

[4] Getting to Fair: decision paper, Breaking down barriers to essential services, ESC, 12 August 2021.

supports in this area? Do stakeholders support the idea of a further disconnection threshold review at this time?

Currently under the NERR, retailers are required to prove that they used their 'best endeavours' to contact the customer either in person, by telephone or other electronic means (as well as various warning notices advising them of impending disconnection) prior to proceeding to disconnection.[5] In addition, the customer has to have refused or failed to take *any reasonable action* to settle the debt for disconnection to proceed.[6]

It is important to note that disconnection is often a last resort that is not in the best interests of the retailer or the customer, as it ends the market contract between the retailer and customer. We are concerned that requiring specific practices to be undertaken may prescribe a checklist of "things to do before disconnecting", and inadvertently limit the scope of communication with customers and hinder further innovation (such as the 'knock before disconnection' initiative) that is mutually beneficial to both customers and retailers.

We consider that while it is encouraging that the AER is supportive of industry-led practices that are beneficial to customers in meeting the intent and requirements of the NERR in a collaborative and educational approach, the AER should also undertake careful consideration and education of stakeholders (such as various state Ombudsmen) as to the distinction between providing best-practice guidance, and obligations to implement specific requirements to fulfill 'best endeavours' obligations (such as specifically requiring a 'knock before disconnection' practice).

Are vulnerability impact assessments an approach that other sector participants should incorporate into their decision-making processes? We would like to learn from organisations that currently consider these impacts.

Vulnerability impact assessments can provide benefits to retailers when making certain decisions, as it would allow them to consider any potential effect a business decision may have on vulnerable customers.

However, we seek clarity on how the AER expects this would operate in practice so that the assessment is both effective and does not add unnecessary costs to consumers. We consider that if a vulnerability impact assessment has been effectively incorporated into rule and decision-making by the AER through its guidelines and determinations, this is likely to be implemented more effectively and efficiently by retailers and industry

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[5] NERR Rule 111 (1) (e).
[6] NERR Rule 111 (1) (f).

participants by compliance with the respective guideline, rather than a separate assessment being conducted during each customer interaction. In this regard, we consider the AER is also better placed to consider the impacts of vulnerability on energy consumers more holistically by considering how its guidelines and rules interact with one another (for example, the provision of information to a vulnerable customer through the Retailer Report Card and government comparator website Energy Made Easy).

Do stakeholders see merit in a broad review to identify regulations and protections that have become redundant or unnecessary over time, as well as opportunities to promote consistency and reduce cost to serve across jurisdictions? Are there regulations that stakeholders consider should be particularly targeted for review due to their cost-to-serve implications? What regulations can be reviewed or removed while still maintaining and improving consumer outcomes?

Tango Energy consider that while the AER's draft vulnerability strategy has introduced two obvious candidates for review, i.e. the Customer Hardship Policy Guideline in the context of a potential payment difficulty framework being implemented, and existing performance reporting indicators in the context of Retailer Report Cards, there is merit in undertaking a holistic review to identify inconsistent and outdated regulations, particularly where there is potential for competing regulations as new regulations are being introduced.

If you would like to discuss this submission in detail, please contact me at the details provided with the submission.

Yours sincerely,

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