

28 June 2018

Ms Kate Wild
Senior Adviser
Australian Energy Market Commission
PO Box A2449
SYDNEY SOUTH NSW 1235

Dear Ms Wild,

Strengthening Protections for Customers in Hardship

Simply Energy welcomes the opportunity to provide feedback on the Australian Energy Market Commission's (AEMC) consultation on strengthening protections for customers in hardship.

Simply Energy is a leading second-tier energy retailer with over 650,000 customer accounts across Victoria, New South Wales, South Australia and Queensland. As a growing retailer, Simply Energy supports customer engagement and access to energy services.

Simply Energy is committed to supporting all its customers, particularly those who are experiencing financial difficulty and struggling to pay their household utility expenses. In exploring this commitment in the context of the proposed rule change and the questions raised in the AEMC's consultation paper, Simply Energy's submission evaluates:

- the role of hardship policies within the current regulatory framework;
- the need for, and scope of, the Australian Energy Regulator's (AER) proposed rule change; and
- a balanced way forward focused on strengthening hardship protections.

Overall, Simply Energy considers that the current regulatory arrangements are adequate in protecting the interests of those in financial hardship, but is open to working with the AER to address identified deficiencies and improve the services provided to hardship customers.

Importance of hardship policy and regulation

Simply Energy acknowledges that energy is an essential service required by households to power cooking, heating and general home entertainment devices. For this reason, it is an essential policy and regulatory requirement that those facing financial difficulty are supported and protected.

The National Energy Retail Law places a requirement on authorised retailers to develop and maintain an approved customer hardship policy. Simply Energy, in turn, takes its obligations under its policy seriously, actively working with identified hardship customers to offer payment plans and other forms of debt relief.

Having the flexibility to offer individualised assistance is important to ensuring positive consumer outcomes, given the unique circumstances that are often faced by those in financial difficulty. In this context, Simply Energy has developed various approaches to encourage those facing financial difficulty to work alongside our hardship team, in order to positively adjust their usage, meet payment requirements, and ultimately break their cycle of indebtedness.

The minimum requirements under the National Energy Retail Law, in turn, provide for this flexibility by setting high-level procedural requirements. While hardship policies may differ between individual retailers, the flexibility under the Law provides retailers with the ability to cater to the differing needs of customers across varying socio-economic environments.

Further, the AER prescribing in detail the requirements to be included in retailer hardship policies could lead to retailers taking a more conservative approach focused on meeting their mandatory requirements rather than serving the best interests of customers

In view of this, Simply Energy is concerned about the scope of the AER's rule change proposal. In particular, if the rule change is advanced in its proposed form it would effectively give the AER unfettered discretion to make and police hardship policy requirements with minimal external oversight.

Position on the AER's proposal

If any form of guideline making powers for retailer hardship policies were introduced, then Simply Energy considers that the scope of this power should be restricted to allowing the AER to provide high-level direction around the minimum requirements under the National Energy Retail Law. Simply Energy would not, however, support the AER being provided with a broad discretion to publish enforceable guidelines that extend to any matter it considers necessary, as presently proposed under its amended rule 75(4)(b).

Furthermore, the AER already publishes guidance around the content and intent of retailer hardship policies. In view of this, providing the AER with the power to develop additional guidelines may just lead to unnecessary duplication and complexity, potentially leading to unintended negative customer outcomes.

In summary, Simply Energy considers that the National Energy Retail Law already provides the AER with sufficient enforceable powers to compel the review of deficient hardship policies. Specifically, section 43(3) of the National Energy Retail Law provides the AER with the ability to compel retailers to review and amend their hardship policies.

Simply Energy considers that this power is sufficient to address the concerns raised by the AER without the need to confer the AER with additional powers under the National Energy Retail Rules. In this context, the proposed rule change could be seen as an overreaction to an isolated finding of one market participant failing to meet its customer hardship obligations. As the AER acknowledges, there are no widespread issues of non-compliance.¹

Way forward

Given the AER's acknowledgment that there are no widespread issues of non-compliance, if the AER considers that retailer hardship policies need to be improved, then retailers should be able to work cooperatively with the AER without the need for AER-prescribed regulatory requirements. Simply Energy would welcome the opportunity work with the AER to make improvements should there be any identified concerns with its hardship policy.

Also, Simply Energy considers the AER need not prescribe further requirements around hardship indicators than what is currently required under the Retail Performance Reporting Guidelines.

¹ AER, Request for rule change – strengthening protections in the National Energy Retail Rules for customers in financial hardship, 21 March 2018, 7.

The AER should, instead, undertake tailored audits and work directly with individual retailers to understand how recent trends, including the uplift in customers being excluded from hardship programs, can be addressed.² This will help address and potentially remove the perceived operational disconnect from desired consumer outcomes on a targeted basis. No matter how much guidance or regulation directs, it is outcomes for consumers that really matter.

Concluding Remarks

Simply Energy would also welcome any further discussion in relation to this submission and the development of customer hardship protections. To arrange a discussion or if you have any questions please contact Anthony O'Connell, Senior Regulatory and Compliance Officer, on (03) 8807 5134 or at Anthony.OConnell@simplyenergy.com.au.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'James Barton', with a stylized flourish at the end.

James Barton
General Manager, Regulation
Simply Energy

² Australian Energy Market Commission, 2018 Retail Energy Competition Review, x.