

4 June 2010

Mr Tom Leuner
General Manager
Markets Branch
Australian Energy Regulator
GPO Box 520
Melbourne VIC 3000

By email: AERInquiry@aer.gov.au

Dear Mr Leuner

Re: Australian Energy Regulator Developing National Hardship Indicators Issues Paper

Thank you for the opportunity to provide comment on the Australian Energy Regulator (AER)'s *Developing National Hardship Indicators Issues Paper* (the Issues Paper).

Section 306 of the National Energy Retail Rules requires the AER to determine 'hardship indicators'. Given that this set of indicators is meant to measure the performance of retailers' hardship programs and is not meant to establish criteria for determining when a customer is experiencing financial hardship, the Energy and Water Ombudsman (Victoria) (EWOV) supports the suggestion made during the Stakeholder Forum that *Hardship Program Indicators* would be a more suitable term to use.

EWOV supports the objectives outlined on page 12 of the Issues Paper, particularly the objective to inform interested stakeholders about the performance and progress of retailers in this area and to alert the AER to potential areas of concern about retailers' hardship programs. Highlighting areas and examples of good practice is a welcome approach, as it can contribute to improving retailer performance and customer experience and thereby assist in reducing complaints.

During the Stakeholder Forum on 28 May 2010, retailers expressed concern that most of the proposed indicators can be interpreted in different ways and as this information will be publicly available, there is the potential to cause harm to a retailer's reputation.

While it is true that great care will have to be taken when assessing this data, it does not mean there should not be high level indicators. The purpose of hardship programs is to assist customers who have difficulty paying their bills to better manage their energy bills and ensure continuity of supply. The recently published Victorian Essential Services Commission (ESC)'s Performance Report highlights the importance of having indicators, as it has led to a survey of retailers' hardship programs and encouraged discussion among stakeholders. The ESC specifically noted that the data 'is open to a variety of interpretation' and sought comments about 'how the data can be best interpreted and the contexts in which it fits'¹. EWOV assumes the AER will adopt a similar approach should there be concerns about the data reported.

Entry into hardship programs

Total number of customers currently on the hardship program

EWOV supports the inclusion of this indicator, as the total number of customers on the hardship program will show trends over time when compared across retailers in light of market share. It should be reported on a state by state basis because it is likely that even after the introduction of the national energy legislation, there will still be differences in regulatory requirements. Victoria, for example, may choose to keep the wrongful disconnection payment legislation and this could influence retailers' disconnection practices.

As for the definition of 'on the hardship program', it is assumed that this means the customer has been formally accepted into the retailer's program after a discussion of the rights and obligations of both parties involved.

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

EWOV notes that this will be a useful indicator, particularly if combined with information about the proportion of concession card holders among each retailer's customer base. It is also data that retailers would already be collecting and would therefore not place an additional burden on retailers.

Number of customers entering the hardship program

The Issues Paper states that the number of customers entering the hardship program each month will show how effective a retailer is in identifying customers experiencing financial hardship and also how transparent and accessible the program is. It could also show how successful staff training measures have been. In a previous study conducted by the Committee for Melbourne, in which EWOV was involved, transparency, accessibility and extensive and ongoing staff training were considered best practice aspects of a hardship policy². EWOV therefore welcomes the inclusion of this indicator.

¹ ESC Comparative Performance Report – Energy Retailers, Financial Hardship Programs March 2010, p 4.

² Committee for Melbourne, UtilityDebt Spiral Project 2004, page 219.

Third party referrals to a hardship program

The AER suggests that this indicator should not be included because the data collected under this indicator may be particularly difficult to interpret and the underlying trends would already be captured by other indicators.

It certainly should be possible for third parties to refer customers to retailers' hardship programs, however EWOV agrees that this indicator is open to very different interpretations and it is not quite clear what exactly it would demonstrate. It would be helpful to have information about how a customer entered a retailer's hardship program (self-referral/third party referral/retailer referral), as this could provide useful information about accessibility, transparency and staff training. On the other hand, EWOV acknowledges that this information may be too difficult to capture. Data about third party referrals does not seem meaningful enough to place the burden of reporting it on retailers. EWOV therefore agrees with the AER's approach.

Number of customers denied access to the hardship program

EWOV supports the inclusion of this indicator and agrees that it can provide valuable data about how accessible a program is and about the appropriate promotion of the program. It is of some concern to see a reference to 'entry criteria' for hardship programs, given that hardship is a subjective concept and customers who self-identify should not have to measure up to specific criteria. EWOV agrees that there needs to be a clear definition of what 'denied access' means.

Participation in hardship program

Average debt upon entry into the hardship program

EWOV agrees with the AER's view that the average amount of debt upon entry into a hardship program will assist in assessing whether retailers' early identification processes are efficient and welcomes the AER's intention to examine these processes as part of its hardship policy approval role.

In line with the ESC, the AER suggests that debt should be defined as the amount which has been outstanding to the retailer for a period of 90 days or more. It is not clear to EWOV why the AER has chosen this approach instead of the total amount outstanding at time of entry. EWOV seeks further clarification of the reasoning for this definition.

Average debt upon exit from a hardship program

The value of this indicator depends on what the definition of a successful hardship program is. Often customers who experience financial hardship will not only struggle to pay their utility bills but have other debts as well. It cannot be expected that a hardship program can 'fix' a customer's entire financial situation but it may help customers to regain control over one particular area of debt. As such, a reduction in debt levels when exiting the program would be a measure of success of a hardship program.

EWOV acknowledges that retailers will sometimes offer customers subsidised payment plans for an initial period to help them get back on track. Should a customer choose to leave the program during this period, their debt will not have decreased and

will potentially have increased and this could present a disadvantageous picture of a retailer's performance. However, the Issues Paper specifically states that where retailers are reporting increased levels of debt, the AER would expect an explanation and this would allow retailers to set out their approach to subsidised payment plans and what assistance has been offered to reduce consumption levels.

If practicable, EWOV would see it as particularly useful to compare average level of debt at entry to average debt upon exit for the same customers.

Total number of customers exiting the hardship program and the number of customers excluded from the hardship program for non-compliance with the program

EWOV supports the inclusion of this very important indicator, as it can assist in determining how effective a retailer has been in communicating and engaging with customers. It is assumed that 'customers exiting the program' refers to customers who have successfully completed the program. EWOV expects that the AER, in its hardship policy approval role, will give some thought to what the criteria for a customer's 'successful' completion of a hardship program are. EWOV acknowledges that retailers have the right to remove customers from the program if they fail to meet the program requirements. However, if a high proportion of a retailer's customers are excluded from the hardship program for non-compliance, this could also indicate that the payment plans offered under the program are not affordable and sustainable.

Number of customers who were disconnected during the reporting period and who have been on a hardship program in the previous 24 months

EWOV understands that the purpose of this indicator is to show the long-term effectiveness of hardship programs. The Issues Paper suggests that if the numbers of customers disconnected are high, this would show that customers are exiting the program too soon and the assistance offered was not enough to manage consumption on an ongoing basis. However, there is also the possibility that a customer's circumstances have changed and a payment plan that was manageable before, is no longer manageable without the customer notifying the retailer. Under section 605 of the National Energy Retail Rules, a retailer has to send a reminder and disconnection warning notice and use its best endeavours to contact a customer before arranging disconnection of the customer's premises. There is no additional obligation on retailers to take further steps to engage customers who have been on its hardship program in the previous 24 months.

The Issues Paper also states that this indicator could show that retailers are not appropriately identifying customers experiencing hardship. This could also demonstrate a lack of ongoing staff training. EWOV supports the inclusion of the indicator as a means of showing deficiencies in retailers' identification processes but is mindful that careful interpretation of the data will be required.

Number of customers who, during the reporting period, were reconnected within seven days of being disconnected and who have been on the hardship program in the previous 24 months

EWOV is of the view that this indicator should be included as it will also measure the effectiveness of the identification process and the success of hardship programs in helping customers manage ongoing consumption after they have exited the program.

Overall, the proposed indicators appear to be efficient as part of a broader performance monitoring and reporting framework. However, it is difficult for EWOV to comment in more detail when it is not clear yet what the AER's approach to the content requirements for retailers' hardship policies will be.

We trust the above comments are helpful. Should you require further information or have any queries, please contact Kerrie Milburn-Clark, Manager Public Affairs and Policy, on (03) 9649 7599 or at Kerrie.Milburn-Clark@ewov.com.au.

Yours sincerely

A handwritten signature in cursive script that reads "Fiona McLeod".

Fiona McLeod
Energy and Water Ombudsman (Victoria)