



AGL Energy Limited
T 02 9921 2999 Level 24, 200 George St
F 02 9921 2552 Sydney NSW 2000
agl.com.au Locked Bag 1837
ABN: 74 115 061 375 St Leonards NSW 2065

Australian Energy Regulator

Level 17, 2 Lonsdale Street

Melbourne VIC 3000

7 December 2018

Submitted: online

Consultation paper – AER Hardship Guideline Actionable Statements

AGL Energy (AGL) welcomes the opportunity to comment on the Australian Energy Regulator (AER) consultation on the proposed actionable statements to be included in AER-developed Hardship Guidelines.

In general, AGL believes the proposed action statements are fit-for-purpose and will assist retailers in developing and delivering a more consistent customer experience in line with the intent of the National Energy Retail Law (NERL). The intent of the hardship provisions within the NERL is to:

- establish minimum standards of regulatory support for customers experiencing financial hardship in paying their energy bills;
- allow retailers flexibility through ownership of their hardship policy and procedures to outline how they will meet these minimum standards; and
- for the AER to ensure retailer policies meet the intent of the Law.

The AER approved AGL's variation to our hardship policy in November 2018 which added new early action steps for our customers. The AER's approval acknowledged that our revision was a positive improvement and met the minimum requirements of the NERL for hardship. Given this, we believe that the AER's proposed Guideline should ensure it provides flexibility for retailers to maintain and improve on their own investments and processes to remain aligned to changes in community's expectations as well as changes to technology that allows for new and innovative solutions. Based on this principle, AGL believes the proposed statement on identifiers for early action and the provision of information in that early action may inhibit rather than facilitate innovation above the minimum standard.

Since the approval of our revised policy in November, AGL has invested significant resources into building systems and communications to be live with new policy in mid-January 2019. These system improvements will help AGL to identify and support customers who may be experiencing payment difficulties due to hardship and we have developed specialised communications for these customers.



Given AGL's recently approved policy was deemed to meet the minimum standards required by the NERL, we recommend that any of the action statements that impact specific retailer action and process should not go beyond these statements at this time.

Some wording and scope of the proposed action statements may need further consideration including:

- The language within the Guideline should align to definitions under the National Energy Retail Rules (NERR) and NERL. For example, Disconnection warning notices should be referenced as a notice for the purposes of meeting the regulatory obligations.
- Terms such as "as soon as you enter" should also align with the NERR and NERL (i.e. as soon as practicable).
- The identifiers should be determined by individual retailers, with the action statement focusing on the need for retailers to include them. Early identifiers set by the AER have the risk of becoming identifiers for hardship, a person who has concessions or has applied for a relief grant is not necessarily experiencing payment difficulties due to hardship.
- Frequency of communications/referrals needs to be addressed (i.e. 'we will provide this information once every 12 months if we identify potential signs of payment difficulties due to hardship').

Customers may view early action communication (including email, mail and phone contact) as marketing. It is important that the AER consider whether customers can opt out from receiving this type of information. However, an opt-out option specific to a service notice required under our hardship policy would require separate management of customer details to the do-not-call list and would add costs and time to implement to any hardship system. Given this, we strongly encourage the AER to consider our frequency comments above.

The appendix provides further detail on these elements. Should you have any questions or comments, please contact Kathryn Burela on 0498 001 328 or kburela@agl.com.au.

Yours sincerely

[Signed]

Elizabeth Molyneux

General Manager Energy Market Regulation



Blue highlight is a guide to specific elements of the proposed standard statements that AGL provides comment on.

Section	AER proposed standard statements	AGL comment
General obligations	<p>This policy applies to all residential customers experiencing difficulties paying their energy bills due to hardship.</p> <p>This policy:</p> <ol style="list-style-type: none"> 1. Explains how we can help you manage your energy costs 2. Helps us take your circumstances and needs into account when determining how we can assist you, and 3. Explains your rights and responsibilities as a customer in our hardship program. <p>If you have a financial counsellor, you can ask them to contact us on your behalf.</p>	<p>Supported</p> <p><i>Note</i> - many retailers have different policies for other jurisdictions due to specific State requirements (WA, Vic). Recommend that <i>this policy applies to all residential customers <residing in NECF jurisdictions></i> should be provided for to ensure retailers can clarify application for their customers in different jurisdictions.</p>
Minimum Requirements of the National Energy Retail Law		
Processes to identify residential customers experiencing payment difficulties due to hardship, including identification by the retailer and self-identification by a residential customer	<p>We will tell you about our hardship program and how it might help you if:</p> <ul style="list-style-type: none"> • you tell us you are having difficulties paying your bill • you are referred to our hardship program by a financial counsellor or other community worker • we think you may be experiencing financial hardship <p>We will recommend that you speak to a staff member about entry into our hardship program if:</p> <ul style="list-style-type: none"> • your payment patterns show late payments and requests for payment extensions • we have issued disconnection warning notices on your account • you have applied for or used relief grant or other emergency assistance to pay your bills, • you mention personal circumstances (e.g. death, illness, family violence, unemployment) that suggest hardship support may be needed 	<p>Frequency of communication – It is unclear how often a customer should be receiving these communications. Unless defined, a customer may trigger a recommendation every bill cycle. We recommend this be one communication/recommendation for a customer in a 12-month period to ensure customers receive relevant information but are not over-communicated too as this communication would be in addition to existing communications including regular billing, reminder notice, DWN, end of benefit, price change events etc.</p> <p>Identifiers (wording) – we recommend the AER use the regulatory definition of “disconnection warning notice” in line with the National Energy Retail Rules within the Guidelines.</p> <p>Identifiers (you have applied for or used relief grant or other emergency assistance) AGL recommends that this be amended to “you have used a relief grant or other emergency assistance”. The use of the term ‘applied for’ creates operational and system implications for AGL for a number of reasons:</p> <ol style="list-style-type: none"> 1. Visibility of application – For both SA and NSW, customers will go through financial counsellors or community groups such as the Salvation Army to apply for



Section	AER proposed standard statements	AGL comment
		<p>government assistance. Retailers do not have visibility over the application process in these cases. Retailers receive a file for customers who are determined to be eligible for the assistance including the credit amount to be applied to their account. This means that other customers who may have applied but been found ineligible would not be known to retailers.</p> <ol style="list-style-type: none"> 2. <u>Eligibility</u> – Customers who request government assistance in QLD will go through the eligibility criteria with the retailer call agent at the time of the call, which also involves assessing the customer for the hardship program. If the customer is not eligible, the application is not processed. 3. <u>Records</u> – there is currently no requirement for retailers to track or record customer request for assessment where they are ineligible. There is also currently no mechanism to determine which customers are applying for assistance in SA and NSW. This would require new systems and processes to be built both by the retailer as well as between the organisations managing those applications. It is AGL’s position that this goes beyond the minimum requirements of the National Energy Retail Law minimum requirements. 4. <u>Transitional arrangements</u> – the use of relief grants should only be back-dated for 12 months when transitioning to the new AER hardship requirements to avoid unnecessary system build or contact with long-term customers who may have applied for relief grants years before. <p>The AER has recently approved AGL’s revised hardship policy and noted during the Australian Energy Market Commission review that if retailers have compliant approved policies that there would be little to no operational impacts for retailers. By extending the identifier to applications, the AER would be requiring significant system changes on retailers which would be both costly, and impact implementation timeframes.</p> <p>Identifiers (nature) – we note that the first three indicators (payment patterns, DWN and relief grants) will allow retailers to build systems to trigger assistance for customers. The final identifier (personal circumstances), is an important indicator but is not one that can be managed by systems and will rely on call centre staff to correctly identify the personal circumstances. Through our scripts and training our staff are trained on these points, however this is a subjective identifier that creates grey areas (particularly around illness). We</p>



Section	AER proposed standard statements	AGL comment
		<p>recommend this be amended to <i>serious illness resulting in extended hospital stay or requiring long term medical expenses</i> to assist agent call management. This is in line with AGL’s recently approved hardship policy.</p> <p>Wording <i>we will recommend that you speak to a staff member about entry...</i> AGL recommend this be technology agnostic to future proof for technological developments. We note that NAB offer online application forms for customers¹. This provides a non-confrontational experience for customers who may otherwise not wish to discuss or disclose their financial difficulties with a call centre agent. [REDACTED] [REDACTED] This phrase should be reworded to take into account the conversation types that occur between retailers and customers. The current phrase suggests the indicators set by the AER are akin to eligibility criteria. Instead we suggest the AER mirror AGL’s recently approved hardship revision phrase “customer accounts that show <following indicators> will be contacted by AGL to inform them of our hardship program and referral to other support services”. This meets the minimum requirements and provides flexibility to retailers in how to implement.</p> <p>Exclusions AGL recommend that customers who have been revoked from the hardship program due to lack of engagement/participation should be excluded from these referrals. AGL provide other support mechanisms for these customers including demonstration of willingness to pay to be re-admitted in to the program. Requiring retailers to inform customers who are aware of the program and have been removed for not meeting the program requirements should not then receive referral recommendations as it will result in a poor customer experience.</p> <p>AGL’s approved Hardship Policy notes that if a customer has previously been removed from the hardship program for non-payment/non-engagement, the customer will be asked to meet 4 payments on an agreed payment plan to show a willingness to pay/engage to re-enter the program. AGL works with the customer to set an amount taking into consideration their capacity to pay and their current usage in line with the Sustainable Payment Plans</p>

¹ <https://www.nab.com.au/personal/help-and-guidance/financial-hardship>



Section	AER proposed standard statements	AGL comment
		<p>Framework. If the customer does not agree to these conditions, they are not re-entered into the hardship program. AGL works with the customer to make arrangements that suit their circumstances and customer participation in these circumstances is dependent on a previous failure to participate/engage, and refusal to show a willingness to pay in future – i.e. to participate in the program.</p>
<p>Processes for the early response by the retailer in the case of residential customers identified as experiencing payment</p>	<p>Our staff member will talk to you about your individual circumstances and eligibility for the hardship program. [Retailer can insert its timeframes for assessing a customer's application for hardship assistance] If you are accepted onto our hardship program, we will tell you</p> <ul style="list-style-type: none"> • whether you are on the most suitable plan for your circumstances or if there is a plan that may better suit your needs • concessions and rebates you may be able to receive • how you can reduce your current and future energy use • a suitable payment amount that considers your capacity to pay • whether you can use Centrepay as a payment option. <p>We will send you information confirming the details of your agreed payment arrangement and the contact details for our hardship team. We will send you a copy of our hardship policy at no cost if you ask for it.</p>	<p><u>Wording</u> <i>Whether you can use Centrepay as a payment option</i> AGL recommend this be amended to be reflective of customer/agent conversations. If a call centre agent has confirmed the customer is not receiving Centrelink payments, then a discussion on whether Centrepay is available to the customer should not occur as it would not be applicable.</p>



Section	AER proposed standard statements	AGL comment
<p>Flexible payment options (including a payment plan and Centrepay) for the payment of energy bills by hardship customers</p>	<p>When you are in our hardship program, we will offer you flexible payment options, based on your individual circumstances. There are different payment options available to hardship customers, including:</p> <ul style="list-style-type: none"> • payment plans • the use of Centrepay. <p>[Retailer to add additional payment options].</p> <p>When agreeing a payment plan with you, we must take into account:</p> <ul style="list-style-type: none"> • your capacity to pay (how much you are able to pay) • your debt with us (how much you owe), and • how much energy we expect you will use in the next 12 months. <p>Our payment plan will include an offer to pay in advance or in arrears by instalments.</p> <p>Once the payment plan is agreed we will send you details of:</p> <ul style="list-style-type: none"> • how long it will run • how many payments you need to make, and when you need to make them, and • how we calculated your payments (in advance or in arrears). <p>It is important that you make these payments when they are due. If you make payments as agreed, we will not disconnect you for non-payment.</p> <p>If you can't meet the payments we agreed as payment plan, or if your circumstances change, please contact us immediately on [X] so we can talk about this with you. We can review your hardship program including payment plan arrangements....</p>	<p>Wording <i>We must take into account</i></p> <p>AGL are concerned with the particular wording regarding how a retailer must take into account expected energy usage for a customer when establishing a payment plan. While we recognise that this is a requirement under s50 of the NERL and s72 of the NERR, there needs to be recognition that a large portion of customers admitted to hardship programs do not have capacity to pay both debt and ongoing usage. Approximately [REDACTED]. If retailers “must” take in to account the expected energy use for 12 months when agreeing on a payment plan, then a large portion of our SCOM customers will be put on to payment arrangements that they are unable to sustain. There should be some recognition of the need to tailor payment arrangements within the actionable statements provided for in the Guidelines to avoid negative customer outcomes.</p> <p><i>Once the payment plan is agreed we will send you details of ‘how long it will run’</i></p> <p>AGL recommend this requirement be removed or amended to be dependent on the customer’s circumstances. These criteria need to continue to be flexible enough to suit our customers’ needs. If a customer is able to make payments that cover their debt and expected consumption, then the retailer will be able to determine the period of payments for the customer. [REDACTED]. However, for the remaining customers paying for amounts below consumption, there would not necessarily be an end date.</p> <p>Wording <i>please let us know immediately</i></p> <p>It is important that customers let us know as soon as possible about their circumstances, however we recommend softening the language (i.e. use of <i>immediately</i>) so retailers do not appear to be demanding that customers take action.</p>



Section	AER proposed standard statements	AGL comment
Processes to identify and notify of appropriate government concession/financial counselling services	We will tell you about government concession programs and financial counselling services. We will explain these programs to you so you understand how they can help you. If you find out you are eligible for these programs, please let us know immediately so that we can help you.	Wording <i>please let us know immediately</i> as above
An outline of a range of programs that the retailer may use to assist hardship customers	We also offer the following services to assist you whilst you are participating in the Hardship Program: [insert other services/products offered to hardship customers] . We will take into account your individual circumstances to find the programs or services that can best help you	AGL recommend this statement be optional as the minimum requirements under the NERL state that retailers “may use” other programs. We would seek flexibility in the delivery and development of these programs rather than requiring hardship policy revision as new programs or tactical campaigns are trialled or deployed.
Processes to review the appropriateness of a hardship customer's market retail contract in accordance with the purpose of the customer hardship policy	As soon as you enter our hardship program, we will discuss your energy usage and whether you are on the most suitable plan for your circumstances. If we agree you will benefit from changing to a new plan, we will explain it to you and get your consent to transfer you to the new plan at no cost.	Wording <i>As soon as you enter</i> This wording is problematic from a compliance perspective. If the customer wants to discuss energy usage or plans at another time, or requests further information to be sent via mail etc. We recommend that a test of reasonableness be applied (i.e. <i>after you enter our hardship program</i>). <i>If we agree you will benefit</i> We recommend this sentence be reconsidered. It is important that retailers discuss new plans that may benefit the customer, however our agreement on benefit is not material to a customer’s decision to take the plan or not, and to provide consent or not.
Processes or programs to assist customers with strategies to improve their energy efficiency, where such processes or programs are required by a local instrument	As soon as you enter our hardship program, we will tell you ways you can improve your energy efficiency (how much energy you use) . This may vary according to what state you live in.	Wording <i>As soon as you enter</i> As above <i>energy efficiency (how much energy you use)</i> While we understand that this is intended to clarify the term ‘energy efficiency’, it also has the dual purpose of appearing to be tailored energy efficiency advice (how much energy YOU – the individual customer – use). We recommend that this be amended to avoid this dual meaning. While agents will ask questions of the customer to provide relevant energy efficiency advice if requested by the customer, home energy audits (and energy audits conducted over the phone) are managed separately and are not practical to be conducted in this manner.



Section	AER proposed standard statements	AGL comment
Any variations specified or of a kind specified by the AER	N/A	
Any other matters required by the Rules	We will not: <ul style="list-style-type: none"> • charge our hardship customers late payment fees, or • require our hardship customers to provide a security deposit. 	AGL do not charge Over the Counter (OTC) fees to customers paying their bills. This is not required by the Rules but we recommend retailers be able to insert other matters they will not do to inform customers appropriately of their services.
Other matters		For early action, AGL is developing communications to send to customers to inform them of assistance services and the hardship program. It is unclear whether consumers are able to opt-out of receiving this type of communication as it is a service communication (as required under an approved policy) rather than a marketing communication. As such, if the AER determines that customers who request not to receive communications regarding the availability of the hardship program should be exempted, then the AER will need to provide for this in the Guidelines. However, allowing an exemption or opt-out mechanism that sits outside the Do Not Call/Anti-Spam register will create significant IT/System build times and costs.