



12 October 2015

By email: energyhardshipreview@esc.vic.gov.au

Essential Services Commission
Level 37, 2 Lonsdale Street
Melbourne Victoria 3000

Dear Commissioners

Submission to the Energy Hardship Inquiry Draft Report

Consumer Action Law Centre (**Consumer Action**) welcomes the opportunity to provide input into the Essential Services Commission's (the **Commission**) Inquiry into the financial hardship arrangements of energy retailers, and the paper '*Supporting customers, avoiding labels*', released by the Commission (the **Draft Report**).

This submission provides commentary from the perspective of a consumer organisation that advocates on behalf of vulnerable and disadvantaged consumers who experience payment difficulty with energy bills. Our telephone financial counselling service and our consumer legal assistance service regularly assist people who experience difficulty with energy debt and disconnection and this directly informs our policy work. We understand that the causes of these difficulties are often complex, but in many instances may be ameliorated by improved customer service practices by energy retailers and a robust and effectively enforced regulatory framework.

In this submission, we provide comments on the Commission's approach and proposed framework, as well as suggest a revised framework that we have developed in collaboration with consumer advocates across Victoria.

1. Overview

It is evident from the Draft Report that the Commission has gone to lengths to diagnose the problems facing energy consumers who are experiencing financial difficulty. We commend the Commission for its explanation of the current industry practices and outcomes for consumers.

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Consumer Action agrees with the Commission that financial difficulty can be temporary, fluctuating and persistent.¹ It is this varying customer experience that necessitates a flexible response by energy retailers to meet different consumer needs. The list of factors² the Commission has identified as contributing to a consumer’s ability to pay energy bills in full accords with our experience in supporting consumers experiencing financial difficulty. To that list, we recommend adding a customer’s “personal circumstances”. In our recent report, *Heat or Eat*,³ the research identifies that one issue can be a driver of difficulty paying for energy bills; however it is commonly a combination of factors that increases the likelihood of disconnection.

In our assessment, however, the Commission’s proposed framework focuses on improving outcomes for those with temporary or fluctuating financial difficulties, rather than those with more entrenched hardship. In our view, the framework that the Commission is proposing, does not adequately accommodate the needs of the most vulnerable consumers, particularly those who are experiencing a range of complex issues or those with ongoing and severe payment difficulties, where payment cannot meet consumption.

2. Objectives of regulatory framework

The Commission has identified the purpose of the regulatory framework for customers facing payment difficult to be to:

assist customers to avoid long-term energy debt, and repay debt that does accrue, while wherever possible maintain access to energy as an essential service⁴.

This is further articulated in the objectives of each stage of assistance⁵, as follows:

Stage of assistance	Objective
A: Early Action Option	To avoid energy debt by rescheduling energy payments
B: Payment Plan One	To repay short term or one-off debt
C: Payment Plan Two	To repay energy debt and manage energy consumption.
D: Active Assistance Plan	To reduce the cost of energy consumption to enable debt to be repaid.
E: Reconnection Plan	To reduce energy consumption to an affordable level.

We submit this focus on avoidance and repayment of debt diminishes a focus on facilitating continuity of supply to domestic customers experiencing financial hardship. While we accept that the framework

¹ Essential Services Commission (Sept 2015), *Supporting Customers, Avoiding Labels: Energy Hardship Inquiry Draft Report* Pg 31.

² Essential Services Commission (Sept 2015), *Supporting Customers, Avoiding Labels: Energy Hardship Inquiry Draft Report* Pg 9.

³ Consumer Action Law Centre, *Heat or Eat*, August 2015 Pg 9

⁴ Ibid Pg. 18

⁵ Ibid Pg. 102

does allow for disconnection due to non-payment of debt, we believe that this should be a last resort option and only used where the consumer has not engaged with its energy retailer. Where a consumer does engage with its retailer, then the objective of the regulatory framework should be to ensure that consumer maintains supply.

The *Electricity Industry Act 2000* (Vic) and the *Gas Industry Act 2001* (Vic) identifies the following as the objects of the existing regime for hardship policies:

- a. to recognise that financial hardship may be suffered by domestic customers; and
- b. to promote best practice in electricity service delivery to facilitate continuity of supply to domestic customers experiencing financial hardship.⁶

We encourage the Commission, in its Final Report, to clarify the objective of the regulatory regime to be primarily about *facilitating continuity of supply*. While avoidance and repayment of debt are important, they should not be prioritised over maintaining supply. Such a focus risks an outcome whereby customers who are unable to afford an essential service will be cut off from supply.

In relation to the Commission’s objectives for each stage of assistance as outlined above, we have proposed an alternative for each stage of assistance.

A: Early Action Option	To provide all customers, on receipt of their bill, the opportunity to contact their retailer (via phone or website) to set up, without prejudice, a payment plan that suits the individual; and to provide an avenue for early intervention with more tailored support.
B: Active assistance	To develop a relationship between the retailer and customer, with the goals of helping the customer to pay off debt, of ensuring ongoing consumption is affordable; and to provide an opportunity for retailers to innovate in supporting customers in hardship.
C: Intensive Assistance	To maintain connection for the most vulnerable Victorians and work toward sustainable energy usage.
D: Payment Plan One	To help customers with whom agreement could not be reached to maintain engagement with retailers and begin paying off their debt.
E: Payment Plan Two	To help customers with whom agreement could not be reached to maintain engagement with retailers and continue paying off their debt.
F: Improved Disconnection Process	To ensure disconnection is truly a last resort, and that the disconnection process offers a further opportunity for engagement.

These revised objectives seek an outcome for consumers that maintains supply while also addressing customer consumption and debt issues. We are of the view that this provides a more robust basis for an effective framework.

Recommendation 1:
That the Commission clarify the objective of the regulatory regime to be primarily about *facilitating continuity of supply*.

⁶ Section 42, *Electricity Industry Act 2000* (Vic) and section 48F, *Gas Industry Act 2001* (Vic).

Recommendation 2:

That the Commission revise the objectives of each stage of assistance to promote an outcome for consumers that maintains supply while also addressing customer consumption and debt issues.

3. The Commission's proposed framework and some suggested revisions

In collaboration with other consumer organisations, Consumer Action has developed a suggested revision to the framework proposed by the Commission. The revision seeks to ensure that consumers are provided the type of assistance that they need to overcome payment difficulties, with the objective of keeping engaged consumers on supply. A summary of the process is provided in the diagram on the following page.

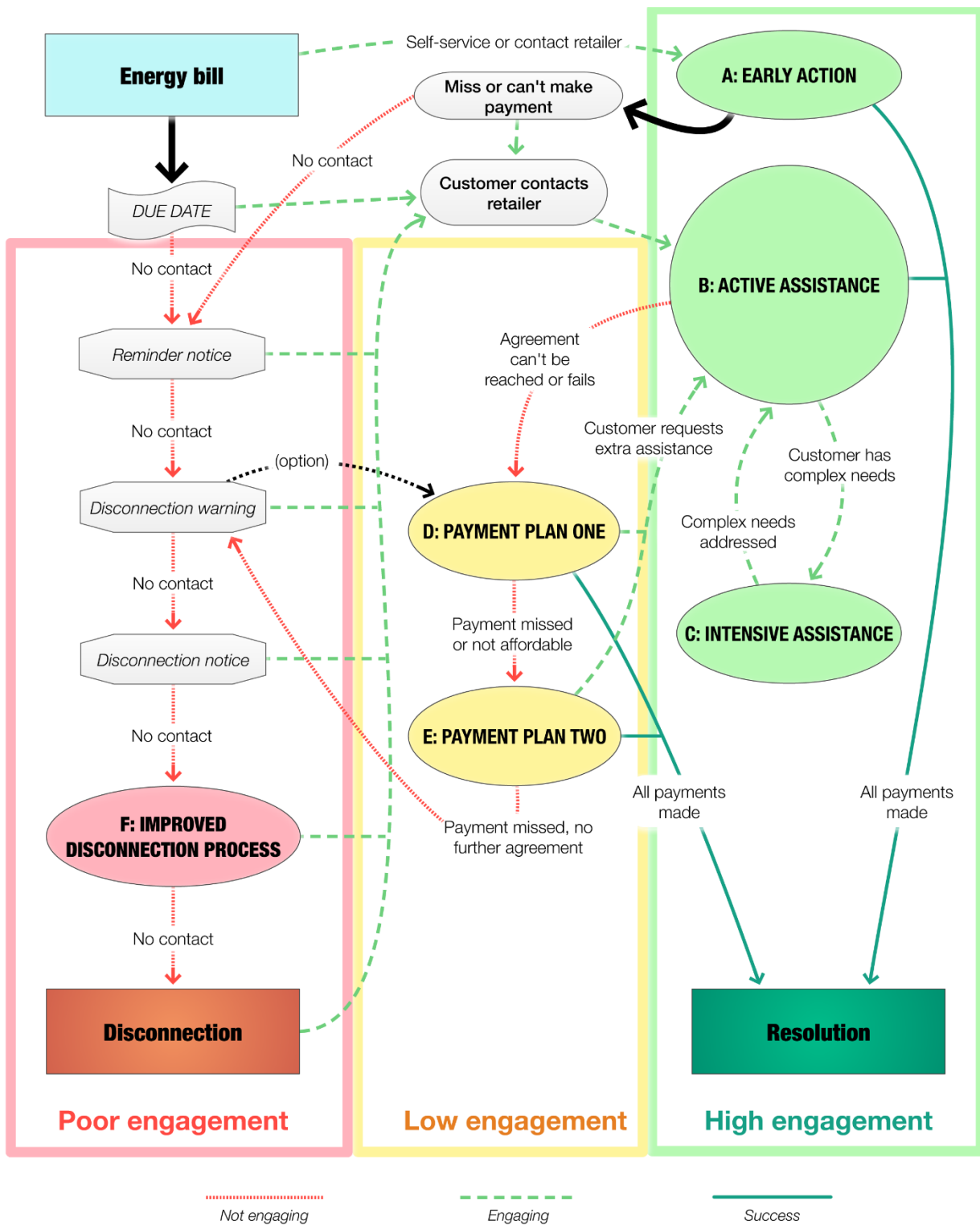
The revised framework is designed to provide opportunities for consumers to remain *empowered*, *engaged* and *connected* throughout the payment cycle and for energy retailers to continue to innovate and proactively develop enhanced processes to assist consumers in financial difficulty.

While retaining much of the intent of the Commission's framework, we have proposed changes to the order and importance of aspects of consumer engagement and retailer response. The framework builds on the Commission's by retaining a focus on the flexible treatment of customers dependent on their needs, and retailer autonomy to drive best practice.

We consider that the most significant point of impact to divert consumers from a likely outcome of debt and disconnection is to focus the retailers to engage and assist their customers at the earliest possible opportunity. When a consumer has not been able to meet their payment obligations in the first instance, then assistance around consumption, education and structured financial support need to be provided. The concern we have with the Commission's framework is that this assistance is provided when that consumer is facing disconnection, or has been disconnected.

The biggest cohort of consumers, those experiencing temporary and short term financial difficulty, can likely be assisted through early and voluntary action. These consumers may also benefit from the prescribed Payment Plans One and Two, where they experience low engagement with their retailer. For more vulnerable consumers, low income and high consumption (incurred often due to poor quality housing, poor mental health or lack of understanding regarding their energy use) will mean that they will not be able to meet the cost of consumption. Without tailored assistance, their circumstances are unlikely to change.

As such, we have suggested that Active Assistance be the first point of contact following the voluntary engagement mechanisms under Early Action Option. We consider that comprehensive and effective assistance for consumers experiencing longer term or more permanent financial difficulty should be provided earlier in the framework. We also consider that consumers with severe vulnerability, such as victims of natural disasters, family violence, asylum seekers, or those with major health issues, need intensive assistance tailored to their circumstances at the earliest point in time.



Payment Plans One and Two are welcome additional mechanisms for when the options provided under Active Assistance fail. This could be due to poor retailer processes or low engagement from the customer. These prescribed payment plans (without any assessment of capacity to pay) may alleviate the burden of debt repayments. However, they are unlikely to adequately assist consumers whose hardship is more entrenched. Our experience in supporting consumers is that a payment plan can be a useful option for consumers with stable lives, but for someone who is in insecure housing

or employment it can be worse than doing nothing. We do note that the Commission's framework requires Active Assistance to be provided should the prescribed payment plans fail, but our point is that it would be more helpful if this assistance was provided earlier in the framework to make it less likely for debt to accrue.

Recognising that many of those that haven't engaged through the above processes will be extremely vulnerable (i.e. experiencing poor mental health, family violence etc), we recommend an improved disconnection process, designed to produce engagement before the drastic step of disconnection. Key to this is a face-to-face contact between a consumer and retailer/distribution business before disconnection. Alternatively, as we recommended in our report, *Heat or Eat*,⁷ that the decision to disconnect be taken out of the hands of retailers, and made instead by an independent arbiter who can provide the necessary oversight for such a significant action.

While we agree with the intent of the Commission's proposed Reconnection process, to encourage small/pre payments and to assist consumers with consumption, we disagree with the method proposed, specifically supply capacity control and prepayment, and the timing of such interventions. As we have stated elsewhere, our primary concern with supply capacity control and prepayment meters are that they increase the risk of self-disconnection (discussed further below). Further, our proposal for tailored and intensive assistance for customers with the most severe hardship removes the need for these mechanisms—we believe that debt caused by high consumption should be addressed earlier in the process. In our view, the proposed role of a third party will be more effective where they provide more targeted assistance to consumers experiencing payment difficulty at the earliest opportunity, prioritising the assistance provided to them based on the consumer's needs.

Our revised framework includes an additional step called Intensive Assistance. This is designed to provide an opportunity for those consumers in extremely vulnerable situations to receive the tailored support they need, recognising that a reliable energy supply is often required to support those consumers overcoming or managing those vulnerabilities.

We do not consider this revised framework to represent a linear flow. In our view, any consumer identified as facing extenuating circumstances that engages with their retailer should be provided the opportunity to access increased assistance.

A more detailed summary of the proposed changes is provided in **Appendix One**.

4. Sustainable payment plans

The Commission's proposal to not require retailers to assess or consider a consumer's capacity to pay is understandable, given it has proven ineffective in its current guise. This is also evidenced by the experience of our financial counsellors, clients⁸ and EWOV.⁹ We are concerned, however, that by focusing on debt, the framework risks further disadvantaging consumers who cannot pay their bills due to limited income, and cannot further constrain energy consumption because of factors outside their control like housing fabric. As noted above, our concern is that Payment Plans One and Two in

⁷ Consumer Action Law Centre, *Heat or Eat*, August 2015 Pg 48

⁸ Consumer Action Law Centre, *Problems with Payment – How energy retailers can assist consumers having trouble paying bills*, July 2014

⁹ Energy and Water Ombudsman, Victoria, *A Closer Look at Affordability - An Ombudsman's perspective on energy and water hardship in Victoria*, March 2015, Pg 29

the proposed framework will not operate to benefit this subset of consumers experiencing hardship. The risk is that these payment plans will set such vulnerable customers up for failure from the start. Spreading debt alone will unlikely help these customers get back on track.

To be clear, we consider that the introduction of prescriptive payment plans does provide a level of assurance, and may benefit many for whom financial hardship is short-lived or temporary. However, we consider that maintenance of supply for the most vulnerable will only be achieved if retailers also offer flexible approaches to customers experiencing financial difficulty.

For this reason, we believe that retailers do need to ‘consider’ a customer’s capacity to pay by having a conversation with them about how much they can afford to pay, based upon their income and expenses. It is well understood that payment arrangements that do not consider capacity to pay are more likely to place the consumer in a further vulnerable position, with the likelihood of failing that payment arrangement.¹⁰ We consider this is likely to be a key contributor to the increased number of disconnections in recent years. In the revised framework that we are proposing, we have included a requirement for retailers to consider capacity to pay in the Active Assistance stage.

The Commission’s proposal to remove the obligation on retailers to assess capacity to pay appears to be based on a view that retailer customer service staff are not, and cannot be expected to be, financial counsellors. The Commission has also made the point that, unlike banks and lenders, energy retailers are not in the businesses of making credit assessments.

While that may be so, our experience is that in practice there is in fact little difference between the capacity of customer service staff, including those that assist with financial hardship, inside a bank and an energy retailer. We submit that the differences exist in the cultures of the organisations and their commitment to working with their customers to ensure ongoing sustainable payments. Indeed, it is our experience that the culture of major banks’ in this regard has improved significantly in recent years following engagement with the consumer sector.¹¹

A number of energy retailers have similarly taken steps to improve their response to financial hardship. We acknowledge AGL’s commitment to specialised training of its customer service employees to manage vulnerable. Further, there are tools that businesses can use to identify and provide appropriate support to customers in hardship, without needing to investigate a customer’s income and expenditure in detail. Simple questions can help understand a customer’s financial situation, for example:

- Are you in receipt of Centrelink?
- Do you live in public housing?
- Do you rent?
- Are there pressing health or financial issues?
- Has your living situation changed?
- Is someone assisting you?

¹⁰ Ibid

¹¹ Financial Counselling Australia, *Rank the Banks 2015*, available at: <http://www.financialcounselingaustralia.org.au/Corporate/News/Rank-the-Banks-Survey-Shows-Improvements-Across-th>.

In *Heat or Eat*, we recommend that the maximum amount of fortnightly income that a retailer can request from a consumer in receipt of government allowances for gas, electricity and water be capped.¹² Such an approach might similarly obviate a need for a detailed assessment of financial position. It would recognise the income limitations facing many consumers, allowing retailers to get on with the task of assisting those consumers manage consumption by a range of other means in Active or Intensive Assistance programs.

We acknowledge the difficulties involved for a regulator enforcing a requirement to assess a customer's capacity to pay. The individualised nature of the inquiry can inhibit a systemic response where there is non-compliance. We submit, however, that the use of "trigger questions" and potentially a cap on repayment amounts will make enforcement clearer and simpler. Being prescribed, monitoring of Payment Plans One and Two should also be much simpler.

Recommendation 3:

That the Commission considers introducing an alternative approach to capacity to pay, for example trigger questions or a cap on repayments, for the most vulnerable customers.

5. Reducing consumption—risk of automated disconnection

The Commission's proposed Reconnection Plan is intended to focus on reducing "consumption to an affordable level"¹³ through the use of registered partners and tools including supply capacity control. The key problem with this is that this assistance is only provided at a point in the process where consumers have been disconnected. This is exacerbated by the assistance focusing on products that risk automated disconnection should the consumer not comply with the terms of the product. We understand that the Commission has acknowledged the first problem and that the stage will now be called a Connection Plan, which will be positioned prior to disconnection.

We support this change—it acknowledges that more robust assistance must be provided prior to, rather than following, disconnection. Our revised framework proposes that intensive action focusing on reducing consumption should be provided at the 'Intensive Assistance' phase. We also oppose the use of automated disconnection tools without a lot more clarity about appropriate consumer protections. Our concerns are more fully outlined below.

5.1 Supply Capacity Control

Supply capacity control can be delivered easily through smart meters and is designed to deliberately interrupt the flow of energy into a connection/home. We support this as a tool for distribution businesses in their role as network load managers, preferring supply limitations to wide spread blackouts for entire communities. We have previously tentatively supported supply capacity control as an opt in tool for those consumers who are able to understand the complexity of the product and their energy use, however this support was on the condition that clear protections and principles for use are developed and following extensive testing. There are currently no guidelines that relate to

¹² Consumer Action Law Centre, *Heat or Eat*, August 2015 Pg 47

¹³ Essential Services Commission, Supporting Customers, Avoiding labels, Energy Hardship Inquiry Draft Report, August 2015, Pg 102

the use of supply capacity control as an opt-in product. Until these conditions were met, this would remain an unsafe product for even the most tech savvy consumer.

We have not previously supported the use of supply capacity control for the most vulnerable consumers. The Commission is promoting the use of supply capacity control as a means of limiting the flow of energy into the homes while maintaining access to supply, as an alternative to disconnection. Depending on how this product works, supply capacity control risks subjecting potentially vulnerable consumers to frequent disruptions (disconnections) in energy supply. If this is how consumers experience supply capacity control, it sets a precedent that undermines the principle of universal access to energy.¹⁴

Research undertaken by ACOSS¹⁵ and the University of Sydney¹⁶ reveals that many people on low incomes are already rationing their energy consumption. For those consumers who do have particularly high consumption, we consider that there are other more effective measures to assist consumers experiencing hardship than restricting access to an essential service.

The Commission has proposed that supply capacity control would be subject to protections against coercive use. The primary protection appears to involve a third party ensuring a vulnerable consumer truly understands the product and consents to its use. In our view, any third party providing intensive support to reduce energy consumption is more likely to facilitate engagement and informed consent if products like supply capacity control were off the table. The third party could then work in a more constructive manner, helping their client understand their energy use through energy audits or education or through providing advocacy services to landlords or public housing bodies in relation to housing or appliance quality and efficiency.

The Draft Report is not clear about the operation of supply capacity control. However, the product has been explored in technical forums through the National Smarter Metering Program as well as the Advanced Metering Infrastructure processes, where it is documented that supply interruption would occur if a consumer uses energy above the set limit, triggering a “mini” disconnection (i.e. for a period of half an hour or an hour).¹⁷ Depending upon the supply limit set and the ability for a consumer to comprehend this, there is a risk that these “mini” disconnections could occur frequently.

The experience of disconnection on a regular basis, as a result of using too many appliances at a time or not being aware that one particular appliance has a high voltage, may exacerbate a consumer’s vulnerabilities, particularly where related to mental health. While entire consequences are unknown, recent findings in our *Heat or Eat* report highlights the impact of a single disconnection on the wellbeing of participants, with research participants experiencing “feelings of shame, humiliation, fear and anxiety”¹⁸, with existing mental health issues exacerbated. One participant

¹⁴ May Mauseth Johnston, St Vincent de Paul Society, Customer protections and SMI background Paper (August 2009), pg 28.

¹⁵ Energy Efficiency and People on Low Incomes, p.2, available at http://acoss.org.au/images/uploads/ACOSS_ENERGY_EFFICIENCY_PAPER_FINAL.pdf

¹⁶ Chester, L (2013) University of Sydney, *The impacts and consequences for low-income Australian households of rising energy prices* p6
http://www.householdenergyuse.com/resources/Impacts_Consequences_Low_Income_Households_Rising_Energy-Bills_Oct2013.pdf

¹⁷ National Smart Metering Program, Business Work Stream, Supply Capacity Control , January 2011

¹⁸ Consumer Action Law Centre, *Heat or Eat*, August 2015.

stated she was “almost suicidal by the time she started to see a financial counsellor”¹⁹ following disconnection.

Key concerns that we have previously presented to the Commission, and other processes where supply capacity control have been canvassed, remain relevant. These include:

- the difficulty in having to realistically "identify the minimum kilowatt (kW) level required to run basic household appliances within the home"²⁰ that does not impact upon reasonable expectations for thermal comfort and aspects of lifestyle choice that enables and promotes community/social participation, on the basis that each household's usage varies based upon a number of factors, such as:
 - the number of occupants;
 - the housing stock;
 - geographic location;
 - seasonal variation;
 - the type and energy efficiency level of appliances; and
 - the use of medical equipment on premises.
- the difficulty isolating appliances from supply capacity control. This is problematic when it could prevent customers from running basic appliances such as fridges, freezers, heaters, cooking appliances and lights.
- safety, based upon the unpredictable reconnections times and the way appliances are handled when supply is down. For example, appliances remaining on when supply is tripped, such as an electric stove, if these are being used at the time the power is tripped, and the occupant using the stove leaves the property, should the stove turn back on when power supply is resumed, anything left on the stove top would be operating unsupervised, at risk of igniting to hazardous effect. In other examples, the risk could equally be of electrocution.
- the risk of property damage, as occurs as a result of voltage variation.
- the complexity. Supply capacity control is a technical concept, there is considerable risk that a consumer may not fully grasp the implications of these products nor the contractual obligations that would apply.

Any future consideration of supply capacity control should also be done in consultation with Energy Safe Victoria to ensure that safety and appliance welfare implications are appropriately and responsibly reviewed. Energy Safe Victoria played a similarly important role when remote connection and disconnection were being considered in 2012.²¹

The Commission also states that supply capacity control is a low cost option compared to direct load control. It is unclear to us the basis for this statement, and we note that much 'sunk' investment has already been made to facilitate direct load control as a useful product. This includes through the minimum performance standards work of the E3 committee²², which has resulted in standards for

¹⁹ Ibid.

²⁰ Ministerial Council of Energy Standing Committee of Officials, Smart meter customer protection and safety review – Draft policy paper one (August 2009), pg 25.

²¹ Energy Safe Victoria, Safety of Advanced Metering Infrastructure, Report, 31 July 2012 <http://www.esv.vic.gov.au/Portals/0/About%20ESV/Files/whats%20new/FINAL%20ESV%20smart%20meter%20safety%20report%2031%207%2012.pdf>

²² <http://www.energyrating.gov.au/about>

appliances to be 'direct load control' ready via the development of smart appliance standards AS/NZS 4755.²³

Recommendation 4:

That the Commission withdraw its proposal for the inclusion of Supply Capacity Control within the regulatory framework for vulnerable consumers.

Recommendation 5:

That the Commission develop principles for use of Supply Capacity Control, initiate a process of rigorous testing, and review safety implications, prior to any future proposal for its use in Victoria.

5.2 Pre-payment

The Commission's proposed framework includes the concept of prepayment as a product that all consumers should be able to access. It has been proposed as a means for assisting consumers to reduce consumption, however it is unclear how this will work in practice. We do support prepayment as a method that most consumers will benefit from e.g. bill smoothing; however the Commission's proposal is unclear. For example, it is not clear whether the proposal is that unless a consumer pre-pays, they will be disconnected.

In comparing an energy pre-pay product with that in telecommunications,²⁴ the Commission misunderstands the difference in 'essentiality' of energy versus telecommunications. Under prepayment telecommunication products, services aren't entirely cut when payment is not made. For example, calls can still be received and, importantly, emergency calls can be made. However, in the context of energy, the likely outcome is complete disconnection for an essential supply of energy, more directly impacting on an individual's ability to participate fully in society.

While the Draft Report contains little detail about what exactly is being proposed, the risk of a prepayment system is that it facilitates automated disconnection and associated detriment. This is the experience of pre-payment meters in other jurisdictions.²⁵

Pre-payment meters have been prohibited in Victorian legislation since 2004, designed to prevent a situation where customers quietly self-disconnect when their credit runs out. A key aspect of the concern is that such customers are effectively excluded from the billing and collection cycles, and all the associated protection against disconnections embodied in the regulations. Pre-payment may also inadvertently limit access to state government funded concessions and other assistance schemes, such as the utility relief grant.

²³ Australian/New Zealand Standard, AS/NZS 4755, Demand response capabilities and supporting technologies for electrical products

²⁴ Essential Services Commission, Supporting Customers, Avoiding labels, Energy Hardship Inquiry Draft Report, August 2015, Pg 73

²⁵ Stratford-upon-Avon and District Citizens Advice Bureau, Left Out in the Cold: Why Prepayment Meter Users Need a Better Deal, Legal Advice Warwickshire Social Policy Group and Consumer Empowerment Partnership, 2013, pp. 13–14

Depending on how the Commission implements its pre-payment proposal, the proposed framework may result in a similar outcome. Since the introduction of smart meters, prepayment doesn't need to be linked to a meter type. Due to the nature of their technical capability, smart meters may operate effectively like pre-payment meters, automating disconnection as part of a pre-payment option.

When trying to address the debt problem, pre-payment meters do appear to be a good solution 'on paper', however they do not solve the energy problem—customers instead solve their energy affordability problem by under-consuming, which can have significant consequences for those already pre-disposed to under consumption of energy. Research by the Consumer Utilities Advocacy Centre (CUAC) highlighted many health, wellbeing, and safety impacts in Aboriginal households due to under-consumption of energy. For example:

- people with diabetes and asthma are more sensitive to extreme temperatures and are thus more reliant on effective cooling and heating
- some mental illnesses are exacerbated by hot temperatures
- some chronic health conditions require treatment with energy-intensive machinery or refrigerated medications (e.g. insulin)
- lack of sufficient energy for cooking and washing leads to poor nutrition and hygiene
- use of fire, propane, kerosene, or candles as alternative sources of heating, cooking and lighting leads to safety risks from fire or carbon monoxide poisoning
- stress, anxiety and depression can also result from having no energy.⁷

Both direct (e.g. 'real-time' data provided by in-home energy displays or periodic SMSs or emails showing daily or weekly expenditure) or indirect (e.g. informational billing) feedback give the same or better consumption feedback as pre-payment meters to help consumers achieve household energy reductions, without the ongoing threat of disconnection. In-home displays can be hooked up to most meter types and home energy usage can also be understood via an in-home energy audit.

Fundamentally, it is our view that no consumer should be disconnected or have supply restricted solely because they are unable to afford to pay for electricity, particularly when all efforts to minimise use have been made. Instead, the focus should be on the broader social policy framework to ensure income adequacy and appropriate housing.

Recommendation 6:

That any prepayment system included in the regulatory framework not require pre-payment as a condition of supply.

6. Improved disconnection process

Our recent report, *Heat or Eat*, highlights the impact of disconnection for families and households. The interviews with those that have been disconnected demonstrates that it produces significant distress, not just for the account holder but entire households. The research also finds that energy retailers, in the push to engage consumers and have debts repaid are able to disconnect households, with little to no accountability for the impact on the consumer's well-being. We consider this to be an alarming and perverse outcome of the regulatory framework.

As noted in our initial submission and in the findings of CUAC's research,²⁶ we submit that an improved disconnection process requires a face-to-face contact between a consumer and retailer/distribution before disconnection. Such a contact enables an opportunity for engagement where that has not happened, and consideration could be given to whether disconnection is appropriate given the circumstances (i.e. the household has people who are ill, or young, or elderly).

In our report *Heat or Eat*, we also recommended that the decision to disconnect should be taken out of the hands of retailers and made instead by an independent arbiter who can provide the necessary oversight for such a significant action.²⁷ The impact of disconnection on the lives of the most vulnerable Victorians has led us to conclude there is a very strong case for removing the right of retailers to use disconnection as a debt collection tactic. The true cost of disconnection goes beyond a decision to cut off supply of an essential service. It is a conscious act of denying access to a safe and fair standard of living and fails to acknowledge the multiple pressures on the poorest members of society. Disconnection has a significant and negative impact on the lives of those with mental illness, on the vast numbers of women experiencing domestic violence, and on Victorians struggling to decide whether they should heat their homes, or feed their kids.³¹

Our recommendations will complement the amendments made in the *Energy Legislation Amendment (Consumer Protection) Act 2015* (Vic) to increase the wrongful disconnection payment to \$500 and the new power for the Commission to impose a \$5,000 penalty for each breach of the Energy Retail Code that has led to a wrongful disconnection. It is hoped that these measures provide new incentives to retailers to reduce the disconnection rate.

Our research also found that the reconnection pathway for consumers who have been disconnected is unclear. Consumers were in some instance, unclear as to their reconnection rights or who to contact, such as EWOV, a financial counsellor or additional support service. According to the Draft Report,²⁸ reconnections in the Commission's proposal are to be made through 'EWOV or another registered third party.' It is unclear if consumers or financial counsellors/other support services acting on their behalf are able to facilitate their own reconnection and we ask the Commission to clarify this in the final report. However it is also important that consumers understand what the various pathways to reconnection are. An obligation must be placed on energy retailers to communicate this information to consumers prior to, and at the time of, disconnection to facilitate a smoother and quicker reconnection. We welcome inclusion of this in the technical working group discussions.

Recommendation 7:

That the Final Report include an improved disconnection process, such as the disconnection decision being made by an independent arbiter, a requirement to assess a customer's circumstances face-to-face prior to disconnection, and a requirement to provide information that relates to a reconnection pathway at the time of disconnection.

²⁶ Interim, April 2015, CUAC Regulatory Review, A Critical Review of Key Consumer Protections in Victoria Volume 1, May 2015, Pg 16-17 and CUAC Regulatory Review, A Comparative Analysis of Key Consumer Protections in Victoria, Volume 2, May 2015 Pg 15-28

²⁷ Consumer Action Law Centre (Aug 2015), *Heat or Heat: Households should not be forced to decide whether they Heat or Eat*, p47.

²⁸ Essential Services Commission, Supporting Customers, Avoiding labels, Energy Hardship Inquiry Draft Report, August 2015, Pg 10

7. Debt collection strategies

We have recently seen an increase by some energy retailers reverting to court processes and even bankruptcy to recover debt.²⁹ This is particularly problematic given the level of complexity that legal proceedings introduce for consumers, and the fact that this removes the matter from EWOV's jurisdiction. We support the ban on transfers when a debt is held with a retailer, however assurances need to be made that the debt hasn't occurred through poor retail processes, which may limit the opportunities for a customer to overcome that debt while with that retailer.

We have intervened on behalf of a number of clients' in recent months and a number of retailers involved have worked with us to withdraw proceedings and waive debt, particularly in cases where the client is clearly vulnerable. We also understand that one of the retailers with the highest court-based debt collection activity is undertaking an internal review into their approach. While these are positive advancements, it remains of considerable concern to us that this option is available to retailers, and that processes are not in place to limit the impact upon consumers. As raised in our previous submission we highlighted the difficulties facing consumers when having to engage in these processes. The legal system relies on written requests or responses which poses problems for those consumers with issues of illiteracy, mental capacity or other legitimate barriers to engagement. As a result, many vulnerable consumers are unable to effectively advocate for themselves, nor are they granted due process, with courts finding against them without any test of whether the clients have a defence.

Evidence of the increased bankruptcy activity is provided via publicly available Federal Court lists. These identify that since the 1st of January 2010, there have been approximately 61 cases where energy companies have been the key creditor in bankruptcy cases, and approximately 40 of these have occurred in the last 12 months. The most prominent energy retailer acting as creditor is AGL, via mercantile agencies such as Geoffrey Mendelson Lawyers or MCC Legal. With an increased focus on collections by some retailers, we urge the Commission to consider the opportunity to include a provision in the Energy Retail Code to protect the most vulnerable consumers from these outcomes.

One option would be to expand the jurisdiction of EWOV to allow it to consider a matter even where a court complaint has been issued, but before any defence has been lodged.³⁰ Once judgment has been obtained, energy retailers could be obliged to issue a summons for oral examination before engaging in court judgment debt recovery action or issuing bankruptcy proceedings.³¹

²⁹ 'Victorian family threatened with bankruptcy over power bill, one of dozens pursued by retailers', Herald Sun, 15 July 2015, <http://www.heraldsun.com.au/news/victoria/victorian-family-threatened-with-bankruptcy-over-power-bill-one-of-dozens-pursued-by-retailers/story-fnpp4dl6-1227437302598>

³⁰ Both the Financial Ombudsman Service and the Credit Ombudsman Service have jurisdiction that allow them to consider complaints post-statement of claim, but before any other step in the proceedings have been lodged. This is an important reform that has improved the accessibility of EDR.

³¹ Oral examination would ensure retailers can find out the financial circumstances of their customers where previously unknown, and the court has an opportunity to let the client know the consequences of non-payment. In addition, if the client fails to attend court, a warrant can be issued so that they are brought before the court. Clients then have an opportunity to demonstrate that their home, for example, is at risk. They may be able to access legal help, seek an order for repayment by instalments or raise the money from the sale of an asset or take out a loan. This process costs a few hundred dollars at most. The risk facing many consumers who undergo these processes, and in fact those that we have assisted, has been the risk of losing assets such as their home. This can be prevented with improved obligations on retailers and improved legal processes, outside of this regulatory process.

Recommendation 8:

That the Commission recommend the expansion of EWOV's jurisdiction to allow it to consider matters post-statement of claim, and require retailers to use court processes to engage with debtors before any step to enforce a judgment debt.

8. Retailer best practice

A focus on best practice is an effective means of delivering improved outcomes for consumers. We are aware of some considerable improvements to the way that energy retailers are interacting with their customers who present with financial difficulty or other vulnerabilities. For example, Energy Australia has recently made changes to its program that provide customers with a range of flexible responses to financial difficulty, including debt waivers, payment matches and appliance swaps. AGL has developed a new customer strategy focused on training provided to frontline staff to identify vulnerable customers. We are supportive of these initiatives and where still in early phases of delivery, are keen to understand their benefits.

We are concerned that the Commission does not support standards for contact centre training, stating that training standards may result in “major consequences....for retailers in the form of process design and staff training”.³² We do not fully understand the major consequences referred to. In our view, ongoing training is a necessary aspect of retailer operations, driven by the attrition rate of contact centres, changes to retailer products or process or the result of external requirements. The benefit of such training may in fact outweigh any consequence for retailers, if the objective is to engage with consumers, minimise debt and retain connection.

It is essential that the framework does not dis-incentivise or otherwise ignore best practice. We are concerned that the Commission has not drawn more heavily from those models that are delivering what is considered to be best practice, such as that of Yarra Valley Water. On this basis, we consider a monitoring regime may assist, for example, for the Commission to report annually on what comprises best practice.

Recommendation 9:

The Commission introduces annual reporting that focuses on the best practice initiatives being undertaken by energy retailers across Victoria.

9. Broader social safety net

The issue of affordability remains significant in the context of energy, and impacts directly upon many Victorian's ability to stay connected. The Draft Report is largely silent on the issue, and does not delve into any real discussion on the increasing number of consumers who, regardless of how little energy they consume, cannot afford to pay their bills. We understand that it is not the Commission's role to “solve poverty”, but we consider that it would be helpful if the Commission made recommendations to government about the adequacy of the social safety net.

³² Essential Services Commission, Supporting Customers, Avoiding labels, Energy Hardship Inquiry Draft Report, August 2015, Pg 88

The *Energy Legislation Amendment (Consumer Protection) Act 2015* (Vic) revises the objectives of the Commission to include the following

"to promote protections for customers, including in relation to assisting customers who are facing payment difficulties."

We encourage the Commission to use this new objective to take a more active stance in the broader social policy debate around consumers who are facing payment difficulties. The Commission has an opportunity to work with government agencies, such as the Victorian Department of Health and Human Services or Treasury, on the issue of affordability and how it impacts upon the ability for Victorians to remain connected to energy. This could include not only the concessions framework but the potential for enhanced energy efficiency programs to become part of the broader regulatory framework.

Recommendation 10:

That the Commission recommend to the Victorian Government a broader social policy response that addresses the issue of affordability that is impacting upon the ability for Victorians to remain connected to energy.

Conclusion

Consumer Action recognises and supports the Commission's approach to address the failings of the current financial hardship regulatory framework. The Draft Report includes some significant and insightful reforms which we support. Additional prescription, clarity and certainty are all key factors that will benefit the operation of the regulatory framework.

Rules are an important part of any regulatory framework, but incentives are also important, perhaps more so. In finalising the inquiry, we urge the Commission to consider the incentives it can provide to retailers so that all consumers, particularly the most vulnerable, can be supported. In our view, this should include an incentive for consumers and retailers to work together to flexibly and respectfully.

We look forward to working with the Commission closely on the finalisation of the regulatory framework.

Should you have any queries, please contact Janine Rayner, Senior Policy Officer, on 03 9670 5088 or at janine@consumeraction.org.au.

Yours sincerely

CONSUMER ACTION LAW CENTRE



Gerard Brody
Chief Executive Officer



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Appendix One: Detail of framework components

A: Early Action Option

Objective: To provide all customers, on receipt of their bill, the opportunity to contact their retailer (via phone or website) to set up, without prejudice, a payment plan that suits the individual; and to provide an avenue for early intervention with more tailored support.

Retailer obligation	Consumer benefit of obligation	Compliance measure/KPI
To provide an option of automatic access to early and self-initiated payment plans: allow self-service payment extension (up to two weeks) or payment rescheduled over a period of up to two billing cycles. Any offer of deferred payment needs to be accompanied by a conversation / warning about financial implications.	Retailers must explain the implications of deferred payment, to ensure that those consumers, on fixed or low incomes, understand that deferred payment is unlikely to benefit them.	No. of customers who miss payment No. of customers who contact retailer No. of customers who initiate payment plan No. of consumers who present with financial or other concerns. No. of deferred payment arrangements entered into. Success of deferred payment arrangements (No. of consumers who re-enter billing cycle)
Part payments at the next available opportunity, eg pay cycle could be introduced as alternative arrangement to deferred payments, to ensure ongoing engagement with the consumer, and that payment patterns are maintained	Ongoing payment means that consumers remain engaged with retailers, rather than losing visibility with the retailer and incentive to remain engaged.	No. of consumers on part payment arrangements.
The retailer must (regardless of type of interaction with customer) ask the customer if the payment plan arrangement will be affordable and achievable and offer the option of more active assistance (B: <i>Active Assistance Plan</i> with the option of C: <i>Intensive Assistance</i> if appropriate).	Payment plans will not assist those consumers with more complex issues or a mismatch between income and cost of usage. Immediate referral to more targeted assistance ensures issues of affordability or consumption can be assessed and addressed <i>prior</i> to debt being incurred.	No. of consumers provided access to B: <i>Active Assistance</i> or C: <i>Intensive Assistance</i>
Options to be communicated via direct discussions between a customer and their retailer, or through an interactive interface on the website	Clear provision of consumer options means increases the likelihood of consumer engagement at the earliest opportunity.	No. of consumers who access interactive interface on website.

Where possible questions³³ should be asked by the retailer that would indicate if more tailored assistance is necessary. An indication of complex issues³⁴, requires strong consideration of immediate referral to B: *Active Assistance Program* or to C: *Intensive Assistance*; if no referral is made the rationale must be documented.

B: Active assistance

Objective: To be the primary response to payment difficulty and the hub of support and assistance. To develop a relationship between the retailer and customer, with the goal of ensuring ongoing consumption is affordable; and to provide an opportunity for retailers to innovate in supporting customers in hardship. Customers cannot be disconnected while in Active Assistance.

Retailer obligation	Consumer benefit of obligation	Compliance measure/KPI
That the retailer is obliged to negotiate with the customer for a suitable payment arrangement that meets their needs, whether temporary, fluctuating or persistent, long term or severe. This could include: <ul style="list-style-type: none"> a bespoke payment plan a short instalment plan; or, more intensive assistance. 	Optimises the opportunity for consumer engagement where the consumer remains empowered and the retailer is able to use its discretion to achieve ongoing affordable consumption for that customer.	Type of assistance provided to consumers following first missed payment.
Retailers must consider the customer's reported capacity to pay when negotiating payment plans, noting that if the cost of usage is more than 4% ³⁵ of income, the customer is very vulnerable to hardship.	The codified payment plans (<i>D: Payment Plan One</i> and <i>E: Payment Plan Two</i>) are a useful guide but it needs to be tailored based on the amount of debt and the customer's disposable income.	What percentage of income does the combined fortnightly amount for usage plus debt repayment represent? If more than 10% what additional assistance was provided?
Retailers should consider whether offering a fully variable tariff, based on the best available, offer will assist.	Early opportunities to place consumers on more optimal tariffs given their circumstances will contribute to a reduced likelihood of debt.	How many customers were offered a fully variable tariff, based on the best available offer?

³³ Example questions: Are you in receipt of Centrelink? Do you live in public housing? Do you rent? Are there pressing health or financial issues? Has your living situation changed? Is someone assisting you?

³⁴ Such as:

1. a drop in income due to an illness or injury
2. unemployment
3. relationship breakdown or bereavement
4. financial literacy challenges
5. cultural or linguistic difficulties
6. living on government pension or welfare
7. natural disaster
8. mental illness
9. family violence
10. a history of late or missed payments

³⁵ This threshold was identified in Deloitte Australia, *Advanced metering infrastructure customer impacts study: Final report – Volume 2 (Appendices)*, Department of Primary Industries, Melbourne, 2011.

Retailers must give pay on time discounts for payment instalments made on time.	Pay on time discounts incentivise consumers and provide retailers a further opportunity to engage consumers.	How many customers paying by instalment received pay on time discounts?
Customers cannot transfer while they have debt	Consumers are more likely to benefit from the relationship they have developed with their retailer when they have accumulated a debt, provided that the retailer is providing all possible opportunities to reduce that debt.	How many customers have attempted to switch retailers while having a debt with the retailer?
Where possible, questions ³⁶ should be asked by the retailer that would indicate if more tailored assistance is necessary. An indication of complex issues ³⁷ , requires strong consideration of immediate referral to <i>C: Intensive Assistance</i> .**If no referral is made the rationale must be documented.	Retailers can gain a more realistic understanding of why a customer may be presenting with payment difficulties, and allocate them to the most appropriate support available.	How many customers present with factors that may impact on their ability to pay their bill.
Retailers to be mindful of the factors contributing to inability to pay, including consumption, and initiate any support measures to assist consumers with this where possible.	Retailers can gain a more realistic understanding of why a customer may be presenting with payment difficulties, and allocate them to the most appropriate support available.	How many customers present with factors that may impact on their ability to pay their bill
General information and assistance should be provided including:		

³⁶ Example questions: Are you in receipt of Centrelink? Do you live in public housing? Do you rent? Are there any pressing financial issues? Is someone assisting them?

³⁷

11. a drop in income due to an illness or injury
12. unemployment
13. relationship breakdown or bereavement
14. financial literacy challenges
15. cultural or linguistic difficulties
16. living on government pension or welfare
17. natural disaster
18. mental illness
19. family violence
20. a history of late or missed payments

<ul style="list-style-type: none"> • Referrals to support agencies such as financial counsellors, support services for other issues if identified (e.g. family violence, counselling, etc.) 	<p>The referral to support agencies provides customers with the necessary assistance to address other issues they are facing, that may be impacting on their ability to pay their bills.</p>	<p>How many customers were referred to support services? What support services did these include?</p>
<ul style="list-style-type: none"> • Advice and assistance with managing energy usage, including the availability of energy audits and energy literacy training (by phone and in-house) 	<p>An increased understanding of energy use within the home empowers consumers to address their energy consumption, reducing it where possible.</p>	<p>How many customers were provided with energy audits over the phone? How many customers were provided with energy audits in home? How many customers received energy literacy training over the phone? How many customers received energy literacy training in home)?</p>
<ul style="list-style-type: none"> • Access to smart meter data on energy consumption, and options for real-time feedback (such as IHDs ie energy orbs) 	<p>Where energy literacy training and information is also provided, real-time feedback on energy consumption can help people make more informed decisions about their energy use.</p>	<p>How many customers access smart meter data? How many customers are provided with an IHD or energy orb? How many customers given access to usage data and real-time feedback also received energy audits or energy literacy training?</p>
<ul style="list-style-type: none"> • Utility Relief Grants (URGs) 	<p>URGs provide consumers with a valuable opportunity to substantially reduce their debt and enable them to focus on the remaining amount owing, through other mechanisms. Retailers are obliged to make these available to customers.</p>	<p>How many customers accessed URGs?</p>

<ul style="list-style-type: none"> • Concessions 	<p>Concessions increase recipients' ability to pay for energy bills and should be provided to all eligible Victorians. Retailers are obliged to provide these to customers.</p>	<p>How many customers are accessing concessions?</p> <p>How many eligible customers who weren't accessing concessions had concessions applied when engaging in Active Assistance programs?</p>
<ul style="list-style-type: none"> • Other referral pathways 	<p>Additional assistance provided to customers may vary, all options should be explored.</p>	<p>What other referrals were made for customers?</p>

**Intensive assistance to be provided to the most vulnerable cohorts of consumers, to enable them to retain connection to the grid. Consumers may be those experiencing complex circumstances such as; victims of natural disasters, family violence, asylum seekers, poor quality housing, and major health issues, etc. Support in this program must be tailored on an individualised basis, with the goal of moving them back into B: *Active Assistance Program* when possible.

C: Intensive Assistance

Objective: To maintain connection for the most vulnerable Victorians and work toward sustainable energy usage.

The 'pointy end' of customer assistance with the goal of making consumption is affordable, and maintaining connection to supply. Applicable where bespoke repayment arrangements made under B: *Active Assistance* have not succeeded, or issues impacting the customer's ability to pay are overwhelming. Debt repayment should be postponed until payment for ongoing usage is sustainable.

The package of assistance should include those existing aspects of 'better' practice, by those retailers who have invested in hardship practices in recent years.

C: *Intensive Assistance Plan*, must include:

Retailer obligation	Consumer benefit of obligation	Compliance measure/KPI
Fully variable tariffs, based upon the <i>best available offer</i> .	Early opportunities to place consumers on more optimal tariffs given their circumstances will contribute to a reduced likelihood of debt.	How many customers are offered a fully variable tariff, based on the best available offer?
Pay on time discounts for payment instalments made on time, and staged incentives to maintain on-time payments and prompt communication of payment difficulties. Debt waivers must be considered	Pay on time discounts incentivise consumers and provide retailers a further opportunity to engage consumers.	How many customers receive pay on time discounts and incentive payments? How many debts are waived, and how much.
Assistance needs to be more intensive, flexible and responsive	Programs need to be able to adapt as that customer's needs change. A retailer's intensive assistance plan needs to ensure that all opportunities have	What additional measures have been delivered to assist vulnerable customers?

	been provided to the consumer with the overall objective of keeping them on supply.	
<p>Additional efforts to reduce consumption must be delivered in this program where they have not first been provided under <i>B:Active Assistance Program</i>:</p> <ul style="list-style-type: none"> ○ Education and energy efficiency audits and appliance replacement. ○ Energy literacy education programs tailored to meet the needs of the household. ○ Energy audit provided in the customer's home. ○ Where energy usage of a major appliance is excessive, appliance replacement must be considered by the retailer. ○ Appliance management options such as direct load control need to be explored with the consumer. ○ Real-time energy information feedback, such as an orb or an in home display, must be provided to consumers. 	Customers requiring a more targeted level when they are facing the difficulties that have led them to C: Intensive Assistance.	
Where consumption is affected by housing quality, then advice must be provided to the customer along with advice on how to remedy and referral to any appropriate assistance programs. If the customer is a tenant, the issues should be raised (with the customer's consent), with their landlord or social housing provider.	The consumer has done all in their power to manage consumption and pay their energy bills. External factors such as housing quality are outside of the customer's control and should be raised with relevant parties, with the retailer advocating on their behalf.	
Referral to support agencies and legal services to be actively facilitated in severe cases of vulnerability.	Essential support is made available to these vulnerable consumers	
Intergovernmental response – triggers in place to initiate a social policy response for those consumers who need assistance outside of energy regulations.	Social policy response to broader affordability concerns.	

D: Payment Plan One

Objective: To help customers with whom agreement could not be reached to maintain engagement with retailers and begin paying off their debt.

Where *B: Active Assistance* has not commenced or succeeded due to agreement not being reached, retailers are required to offer the prescribed Payment Plan One where the unpaid bill is repaid in periodic payments (e.g. fortnightly, aligned to the customer's pay days) over two billing periods. **Customers cannot be disconnected until two codified payment plans have been offered to the customer and not completed.**

Retailer obligation	Consumer benefit of obligation	Compliance measure/KPI
The retailer is obliged to automatically place consumers onto a prescriptive payment plan (such as <i>Payment Plan One</i>) as provided in the Commission's framework.	Facilitation of consumer debt repayment commences.	How many customers are placed on PP1?
Periodic payments beginning at the next available opportunity, eg pay cycle should be used in preference to deferred payments, to ensure ongoing engagement with the consumer, and that payment patterns are maintained	Ongoing payment means that consumers remain engaged with retailers, rather than losing visibility with the retailer and incentive to remain engaged.	How many customers are making part payments?
Any offer of deferred payment needs to be accompanied by a conversation / warning about financial implications.	Customers, especially those, on fixed or low incomes, need to understand that deferred payment is unlikely to benefit them.	How many customers are on deferred payment arrangements?
Retailers must ask customers if meeting the regular payments is achievable and offer Payment Plan Two instead if appropriate. There's no point putting a customer on Payment Plan One if it is likely they will fail to make payments.	Failure to consider the customer's reported ability to pay increases the likelihood the customer will fail the payment arrangements determined by the retailer.	What measures are used to consider the customer's reported ability to pay?
Retailers should consider whether offering a fully variable tariff based on the best available offer will assist.	Early opportunities to place consumers on more optimal tariffs given their circumstances will contribute to a reduced likelihood of debt.	How many customers are offered a fully variable tariff, based on the best available offer?
Retailers must give pay on time discounts for payment instalments made on time.	Pay on time discounts incentivise consumers and provide retailers a further opportunity to engage consumers.	How many customers receive pay on time discounts?

Customers cannot transfer when they have a debt.	Consumers are more likely to benefit from the relationship they have developed with their retailer when they have accumulated a debt, provided that the retailer is providing all possible opportunities to reduce that debt.	How many customers have attempted to switch retailers while having a debt with the retailer?
Advice and assistance with managing energy usage should be given, including the availability of energy audits and energy literacy training (by phone and in-house) and an offer of giving real-time feedback on energy use via a device such as an IHD or energy orb.	An increased understanding of energy use within the home empowers consumers to address their energy consumption, reducing it where possible.	How many customers were provided with energy audits over the phone? How many customers were provided with energy audits in home? How many customers received energy literacy training over the phone? How many customers received energy literacy training in home?

Where possible questions³⁸ should be asked by the retailer that would indicate if more tailored assistance is necessary, and *B: Active Assistance* should be offered. An indication of complex issues³⁹, requires immediate referral to *C: Intensive Assistance*.

Failure to meet the obligations of *Payment Plan Two*, would result in immediate referral to *B: Active Assistance*. If the customer will not engage, the retailer should put the customer on *Payment Plan Two*.

E: Payment Plan Two

Objective: To help customers with whom agreement could not be reached to maintain engagement with retailers and continue paying off their debt.

Where *D: Payment Plan One* has not succeeded or is not appropriate, retailers must offer the prescribed Payment Plan Two where the unpaid bill is repaid in periodic payments (e.g. fortnightly, aligned to the customer's pay days) over five billing periods. **Customers cannot be disconnected until two codified payment plans have been offered to the customer and not completed.** If Payment Plan One has not been attempted due to capacity to pay, a second payment Plan two should be offered if the first one fails, with smaller periodic payments over a longer period.

Retailer obligation	Consumer benefit of obligation	Compliance measure/KPI
The retailer is obliged to automatically place consumers onto a prescriptive payment plan	Facilitation of consumer debt	How many customers are on PP2?

³⁸ ibid

³⁹ ibid

(such as <i>Payment Plan Two</i>) as provided in the Commission's framework.	repayment commences.	
Periodic payments beginning at the next available opportunity, eg pay cycle should be used in preference to deferred payments, to ensure ongoing engagement with the consumer, and that payment patterns are maintained	Ongoing payment means that consumers remain engaged with retailers, rather than losing visibility with the retailer and incentive to remain engaged.	How many customers are making part payments?
Any offer of deferred payment needs to be accompanied by a conversation / warning about financial implications.	Customers, especially those, on fixed or low incomes, need to understand that deferred payment is unlikely to benefit them.	How many customers are on deferred payment arrangements?
Retailers must ask customers if meeting the regular payments is achievable and offer <i>Active</i> or <i>Intensive Assistance</i> if more appropriate. There's no point putting a customer on Payment Plan Two if it is likely they will fail to make payments.	Failure to consider the customer's reported ability to pay increases the likelihood the customer will fail the payment arrangements determined by the retailer.	What measures are used to consider the customer's reported ability to pay?
Retailers should consider whether offering a fully variable tariff, based on the best available offer, will assist.	Early opportunities to place consumers on more optimal tariffs given their circumstances will contribute to a reduced likelihood of debt.	How many customers are offered a fully variable tariff, based on the best available offer?
Retailers must give pay on time discounts for payment instalments made on time.	Pay on time discounts incentivise consumers and provide retailers a further opportunity to engage consumers.	How many customers receive pay on time discounts?
Customers cannot transfer when they have a debt.	Consumers are more likely to benefit from the relationship they have developed with their retailer when they have accumulated a debt, provided that the retailer is providing all possible opportunities to reduce that debt.	How many customers have attempted to switch retailers while having a debt with the retailer?

<p>Advice and assistance with managing energy usage should be given, including the availability of energy audits and energy literacy training (by phone and in-house) and an offer of giving real-time feedback on energy use via a device such as an IHD or an energy orb.</p>	<p>An increased understanding of energy use within the home empowers consumers to address their energy consumption, reducing it where possible.</p>	<p>How many customers were provided with energy audits over the phone?</p> <p>How many customers were provided with energy audits in home?</p> <p>How many customers received energy literacy training over the phone?</p> <p>How many customers received energy literacy training in home?</p>
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Where possible questions⁴⁰ should be asked by the retailer that would indicate if more tailored assistance is necessary. An indication of complex issues⁴¹, requires immediate referral to *C: Intensive Assistance*. Failure to meet the obligations of *Payment Plan Two* would result in immediate referral to *C: Intensive Assistance* Plan. If the customer will not engage and this is the second failed codified payment plan, a disconnection warning may be issued.

⁴⁰ *ibid*

⁴¹ *ibid*