

1 May 2015

Essential Services Commission of Victoria  
Level 32, 2 Lonsdale St  
Melbourne VIC 3000

Dear Sir/Madam

### **Inquiry into the Financial Hardship Arrangements of Energy Retailers**

Thank you for the opportunity to respond to the Essential Services Commission's (ESC's) approach paper for the Inquiry into the Financial Hardship Arrangements of Energy Retailers.

#### **Purpose of the review**

Simply Energy understands that this review has been commissioned because of the level of disconnections occurring in Victoria.

The Approach Paper does not analyse the causes of the rise in disconnections even though clearly identifying the causes of a problem is important so that well-targeted solution can be crafted.

For instance, higher disconnections will have been observed in Victoria because of the availability of remote disconnections. Four of the five distributors are now providing remote services following the roll out of AMI meters and one of the benefits of the program has been the elimination of access issues which has made disconnection possible at premises where it previously was not possible. This alone will have increased disconnection rates over the last two years or so.

That said, Simply Energy has experienced a significant rise in the number of customers seeking access to hardship and / or have failed to pay their bill and this has driven an increase in the number of disconnections Simply Energy needs to perform.

Victorian energy prices have risen over the last two or three years driven by increased network prices (particularly the costs of the AMI program) and green energy schemes such as the carbon price, the Victorian Energy Efficiency Target and Feed in Tariffs.

The rise in network tariffs and cost of green energy schemes has been particularly onerous for our customers because the incidence of these schemes falls most heavily on lower socio-economic groups and represents a direct income transfer from lower income households to those benefitting from the schemes.

It is disappointing that the ESC is not considering energy affordability under this review. Essentially there is nothing wrong with the regulatory framework in terms of what it requires of a retailer if a customer cannot pay their bill. The requirement to offer hardship functions well in halting the process of disconnection where the customer is experiencing temporary hardship and needs short term assistance by delaying payment of their bill.

However, the regulatory framework was never designed to address the situation that Simply Energy has witnessed over the last two or three years where the rising cost of living combined with significant structural change in the broader economy has resulted in some customers being unable to afford to pay. This is a more fundamental issue that changes to retail regulation will not address and so it is disappointing that the ESC has

not sought to dissect the data so that it can isolate the problem and recommend effective solutions to that problem.

### **Effectiveness of hardship programs**

Hardship is a very effective tool in halting the process of disconnection but it is only effective where the following circumstances hold:

1. Hardship is temporary due to some temporary event in the customer's life such as short term unemployment or illness and thus hardship is providing the customer with temporary shelter from disconnection.
2. The customer is engaged and at some point in the future will be able to pay their bills in full and is willing to pay their outstanding debt.

Hardship programs are not effective if either of the following two conditions is present:

- Hardship is lengthy or permanent and the customer has an ongoing inability to meet the costs of their ongoing energy uses and recovery of outstanding debt is not possible.
- The customer does not remain engaged and is not willing or not able to pay their outstanding debt.

Regardless of how hardship is regulated, if income is insufficient to meet financial obligations, then disconnection will occur. Offering hardship merely sinks to becoming a step in the process that must be followed to arrive at disconnection and prevent substantial revenue leakage. Regulations can place more checkpoints in the process because it might be perceived by those not having to manage the problem that those steps are 'best practice' but it will not prevent disconnection. It will merely lengthen the process and make it more costly.

In short, hardship programs regardless of how 'best practice' they may appear are completely ineffective where affordability is the real problem.

### **'Best practice' programs offered by other sectors**

Over the last year, Simply Energy has heard a lot about the perceived 'best practice' hardship programs offered by other industry sectors. While we are largely underwhelmed by the programs offered by those industry sectors, the important point is that the situation the energy retail sector finds itself in cannot be compared with those other sectors.

For instance, the lower levels of vertical integration in the energy industry mean that energy retailers do not have the same degree of control over upstream costs as enjoyed by water businesses. The Victorian water retailers own the distribution network creating a greater alignment between network prices and the affordability of water. In contrast, energy retailers (and their customers) have experienced significant rises in Victorian network tariffs (particularly AMI charges) that they have no control over and for which the retail sector bears the credit risk.

### **Are energy retailers providing 'best practice'?**

Simply Energy is not sure what the ESC perceives is best practice because the report does not set out the ESC's own views on best practice. It is difficult consequently to judge whether Simply Energy is providing the 'best practice' the ESC would like to see.

We have reviewed the “Best Practice Guidelines for Energy Retailers” released by the South Australian Council of Social Services (SACOSS) in 2014. Simply Energy already performs many of the actions set out against the best practice principles highlighted in SACOSS’s report.

### **Should there be greater transparency of energy retailers’ practices?**

Given the efforts that Simply Energy already goes to to assist customers who find themselves in payment difficulties, better transparency on those efforts could address a lot of the misinformation that exists and is popularised by some sections of the community.

However, we are unsure whether it would serve any real purpose and could have unintended consequences. It would merely be another report that focusses on retailers’ processes and detracts from a more mature discussion that should be had about how long term energy affordability issues are effectively addressed.

### **Energy audits and efficient appliances**

Simply Energy is concerned that this review will end up with mandatory requirements to provide energy audits and hand out energy efficient appliances to customers who will never be able to pay for them.

While imposing these requirements appears an easy (if expensive) solution, thought needs to be given to what exactly they are attempting to achieve.

Customers who enter hardship typically consume more energy after entering the program than they were before. Hardship removes the incentive of the price signal from these customers as they no longer have to pay.

Audits and energy efficient appliances do not automatically mean that a hardship customer’s usage will decline.

### **Responses to the ESC’s questions**

In the following sections, Simply Energy replies to a subset of the questions the ESC has asked in its Approach Paper.

*Q2: Does the regulatory framework need to be improved to support customers who are unable to pay their energy bills in full and on time? If so, what improvements are needed? Are certain aspects of the framework ambiguous, unnecessary or ineffective? Are there other regulatory frameworks offering good examples that the Commission should examine?*

As highlighted previously, it is important that the ESC isolate the problem it is trying to solve. The regulatory framework is very effective in halting the process to disconnection where the customer is in temporary hardship and remains engaged and willing to pay outstanding debt. Where the regulatory framework is irrelevant is where hardship is long term or permanent and the customer’s income is insufficient to pay outstanding debts and ongoing usage. There are no changes to the regulatory framework that can be made to address affordability issues and regardless of how long the ESC makes the process that ends in disconnection, without government assistance to help these customers, then disconnection will occur.

*Q3: What incentives could be introduced to the regulatory framework to promote innovation in assisting customers who are unable to pay their bills in full and on time?*

Simply Energy would prefer to see greater focus on the role that government can play in helping long term and permanent hardship customers avoid disconnection.

*Q4: Does the regulatory framework provide sufficient flexibility and discretion for energy retailers to assist customers in financial hardship effectively? Should the Commission's Code and guidelines be more or less prescriptive in order to facilitate best practice and promote innovation by retailers? If so, what should be changed and how?*

The regulatory framework is highly prescriptive and Simply Energy often questions what the purpose of the high level of prescription is. In reality, customers have very different circumstances and one size does not suit all. In our view, the high level of prescription diverts resources away from the more important goal of assisting customers in temporary hardship and instead focuses attention on achieving compliance.

*Q6: Are there better indicators the Commission could use to assess the overall outcomes for customers in financial hardship?*

Simply Energy would be open to discussing this further with the ESC as we do not believe the current set of indicators is particularly helpful or useful to understanding the nature of the problem. We would prefer to see a greater focus on reporting of the circumstances hardship customers and the retailers that have to deal with situation find themselves in. Some example indicators could include things such as ratio of hardship debt to total debt, geographical indicators of hardship, temporary versus long term or permanent hardship numbers. These are some preliminary ideas that would require further work on whether the data is available.

*Q7: Can the Commission improve how it monitors and enforces energy retailers' compliance with the regulatory obligations? If so, how?*

As far as Simply Energy is aware, there has been no instance of wide-spread systemic non-compliance with hardship requirements identified by the ESC or the Australian Energy Regulator that would warrant further investment of resources in monitoring compliance. It would be pertinent to await the results of the regulatory audits currently being undertaken before deciding upon changes to monitoring and enforcement arrangements.

It is also important to bear in mind that a retailer can be 100% compliant with the process that leads to disconnection but compliance will not assist a long term or permanent hardship customer avoid disconnection.

*Q8: Are energy retailers currently providing best practice assistance to customers who are unable to pay their energy bills in full and on time? What evidence is available to support this view?*

The ESC has not set out what it believes best practice is and thus we cannot directly assess Simply Energy's practices. However, we have reviewed our activities against the SACOSS Best Practice Guideline and we already undertake a lot of the actions identified in that Guideline. Based on that assessment, then we believe we providing best practice, acknowledging that Simply Energy is continually assessing whether it can improve its practices and changing practices accordingly.

*Q9: Should retailers' hardship practices be more transparent? If so, how can transparency be improved?*

Simply Energy's hardship policy is already publicly available and our processes accord with that policy. We would be concerned if the ESC were proposing detailed publication of our day-to-day processes as we consider these commercially sensitive. We are also not sure how it helps customers who find themselves in long term or permanent hardship.

*Q10: What else could we learn from practices by firms operating in other jurisdictions and industries, nationally and internationally about best practice in hardship assistance?*

We do not believe that other sectors or other countries have much relevance unless there are examples of how industry and government have engaged in cooperative approaches to addressing long term or permanent hardship.

## **Conclusion**

Please contact me on (03) 8807 1132 if you would like to speak with me about this submission.

Dianne Shields  
Senior Regulatory Manager