



# **AER Customer Hardship Policy Guideline**

**Version 1**

March 2019

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# 1 Overview

- 1 Under the National Energy Retail Rules (Retail Rules), rule 75A(1) requires the AER to develop, maintain and publish a binding Customer Hardship Policy Guideline (Guideline).
- 2 The purpose of this Guideline is to create binding, enforceable obligations on retailers to strengthen protections for customers experiencing payment difficulties due to hardship. The Guideline clarifies customers' rights under the National Energy Retail Law (Retail Law) and the Retail Rules, the assistance they are entitled to, and a retailer's responsibilities, when experiencing payment difficulties due to hardship.
- 3 The Retail Law defines the term 'hardship customer' as 'a residential customer of a retailer who is identified as a customer experiencing financial payment difficulties due to hardship in accordance with the retailer's customer hardship policy'.
- 4 The Retail Law requires a retailer to maintain and implement an AER-approved customer hardship policy.<sup>1</sup>
- 5 The purpose of a retailer's customer hardship policy is to identify residential customers experiencing payment difficulties due to hardship and to assist those customers to better manage their energy bills on an ongoing basis.<sup>2</sup>
- 6 Under the Retail Law, a retailer's customer hardship policy must comply with this Guideline and other relevant requirements including rule 75B(1) of the Retail Rules.<sup>3</sup>
- 7 New Retail Rules 75A and 75B relating to this Guideline and customer hardship policies were made on 15 November 2018. Retailers must comply with these new rules and the Guideline from 2 April 2019.<sup>4</sup>
- 8 This Guideline addresses key areas of customer detriment and bring about important improvements to address concerning trends being reported to the AER under its retail performance monitoring regime. These include addressing:
  - a) increasingly high levels of customer energy debt noted in recent AER retail performance data<sup>5</sup>, by requiring retailers take active steps to identify customers experiencing hardship as early as possible (section 2.2 and 2.3)
  - b) a fall in the number of customers successfully exiting hardship programs, by requiring retailers to have steps in place to help customers manage debt, actively engage with customers throughout their hardship program experience; provide clear, consistent and transparent information to customers about their rights and retailers' responsibilities (Part 2, 3 and 5), and

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<sup>1</sup> Section 43(2)(c) of the Retail Law

<sup>2</sup> Section 43(1) of the Retail Law

<sup>3</sup> Rule 75B(1) of the Retail Rules

<sup>4</sup> Schedule 3, Part 11, rule 3(1) of the Retail Rules.

<sup>5</sup> AER, *Annual report on compliance and performance of the retail energy market 2017–18*, December 2018. [www.aer.gov.au/retail-markets/performance-reporting/annual-report-on-compliance-and-performance-of-the-retail-energy-market-2017-18](http://www.aer.gov.au/retail-markets/performance-reporting/annual-report-on-compliance-and-performance-of-the-retail-energy-market-2017-18), viewed December 2018.

- c) higher overall electricity disconnections, including by requiring retailers to communicate standardised statements 1 and 2 with customers, which set out retailer actions for early identification and response, and providing clear guidance and information to customers about their rights (Part 5).
- 9 Giving effect to rule 75A(2) of the Retail Rules, this Guideline sets out:
- a) the processes, timeframes and requirements to be complied with by retailers in connection with the approval or variation of their customer hardship policies by the AER,<sup>6</sup> and
  - b) the standardised statements that retailers must include in their customer hardship policies that:
    - o inform their customers of how the retailer must comply with the minimum requirements as set out in section 44 of the Retail Law, and
    - o provide guidance to customers on their rights, and retailer obligations, with respect to Part 2, Division 6 of the Retail Law.<sup>7</sup>
- 10 The AER has developed the Guideline in accordance with the retail consultation procedure.<sup>8</sup>
- 11 In addition to the specific requirements in this Guideline, the AER expects retailers to consider and adopt best practice approaches to meet customer needs when implementing this Guideline.
- 12 We note that, whilst retailers must comply with this Guideline, the Retail Law and the Retail Rules, they may also elect to use language other than the term 'hardship' when communicating with customers about hardship. Other individuals and groups who work with this Guideline, such as consumer groups and representatives, may also wish to use alternative terms. For example, some stakeholders are interested in referring to 'customers experiencing payment difficulty' and others prefer 'customers in vulnerable circumstances'. While this Guideline works with the terminology provided for in the Retail Law and Retail Rules, where appropriate it is good practice to ensure that communication with customers is guided by customer needs and preferences.
- 13 In addition to the protections for customers experiencing hardship, the Retail Law and Retail Rules also provide protections for customers experiencing payment difficulties, such as the requirement for retailers to offer payment plans. The AER has also developed its Sustainable Payment Plans Framework<sup>9</sup> which aims to improve the quality of conversations between energy retailers and customers who are experiencing payment difficulties, providing guiding good practice principles and actions to assist retailers set up payment plans that are affordable and sustainable.

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<sup>6</sup> Rule 75A(2)(a) of the National Energy Retail Rules

<sup>7</sup> Rule 75A(2)(b) of the National Energy Retail Rules

<sup>8</sup> Rule 173 of the National Energy Retail Rules

<sup>9</sup> AER, *AER Sustainable Payment Plans Framework*, AER, July 2016, [www.aer.gov.au/retail-markets/retail-guidelines-reviews/aer-sustainable-payment-plans-framework](http://www.aer.gov.au/retail-markets/retail-guidelines-reviews/aer-sustainable-payment-plans-framework), viewed December 2018.

- 14 Section 47 of the Retail Law requires that a retailer must give effect to the general principle that disconnection of premises of a hardship customer due to inability to pay energy bills should be a last resort option.
- 15 Section 45(3) of the Retail Law provides that, in approving a customer hardship policy, the AER must have regard to the following principles:
  - a) the supply of energy is an essential service
  - b) retailers should assist hardship customers by means of programs and strategies to avoid disconnection solely due to an inability to pay energy bills
  - c) disconnection of premises of a hardship customer due to inability to pay bills should be a last resort option
  - d) residential customers should have equitable access to hardship policies and those policies should be transparent and applied consistently.

## **1.1 AER enforcement of the National Energy Retail Rules and National Energy Retail Law**

- 16 The Retail Law gives the AER power to monitor, investigate, enforce and report.<sup>10</sup> In general, the AER's functions and powers include:
  - a) monitoring and reporting on compliance with obligations under the Retail Law and Retail Rules
  - b) investigating and making enquiries regarding breaches or possible breaches of the Retail Law and Retail Rules
  - c) taking appropriate enforcement action, including:
    - issuing infringement notices
    - accepting voluntary or court enforceable undertakings
    - instituting proceedings in relation to breaches of obligations under national energy laws
    - where appropriate, revoking retailer authorisations.
- 17 The AER's enforcement response to breaches of the Retail Law or Retail Rules can generally be categorised as either administrative resolution (such as voluntary undertakings, revisions to internal processes or improved compliance training) or statutory enforcement action.
- 18 Statutory enforcement action can include issuing infringement notices, accepting enforceable undertakings and commencing court proceedings. The AER also has the power, in limited circumstances, to revoke a retailer's authorisation.<sup>11</sup>

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<sup>10</sup> Section 204(1) of the Retail Law

<sup>11</sup> Section 107 of the Retail Law

- 19 Businesses that operate under the Retail Law also have obligations under the Australian Consumer Law, which applies to their relationships with energy customers. The Australian Consumer Law and the Retail Law and Retail Rules operate together to provide a framework for businesses to operate within.

## 1.2 Definitions and interpretation

- 20 In this Guideline, words and phrases have the meaning given to them in the Glossary, or if not defined in the Glossary, the Retail Law or Retail Rules.

## 1.3 Application of this Guideline

- 21 This Guideline applies to all retailers developing a customer hardship policy or variation under section 43 of the Retail Law to submit to the AER for approval.<sup>12</sup>
- 22 Under section 43(2) of the Retail Law, a retailer must, within three months of being granted a retailer authorisation, develop a customer hardship policy and submit it to the AER for approval.
- 23 A retailer with an existing customer hardship policy is required to develop a new customer hardship policy and submit it to the AER for approval within two months of the AER publishing version 1 of this Guideline.
- 24 Retailers are required to comply with this Guideline from 2 April 2019.<sup>13</sup>
- 25 Retailers operating multiple brands should ensure their customer hardship policy is consistent across all their brands.
- 26 Rules 75B(1) and 75B(2) are civil penalty provisions.<sup>14</sup> The requirement for a retailer to maintain and implement its customer hardship policy is also subject to civil penalties.<sup>15</sup>

## 1.4 Processes for revision and version history

- 27 The AER may amend this Guideline in accordance with the retail consultation procedure.<sup>16</sup>
- 28 This Guideline may be cited as the 'AER Hardship Policy Guideline'.

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<sup>12</sup> For the purposes of this Guideline, 'retailer' has the meaning of 'retailer' as defined in section 2 of the Retail Law—that is, a person who is the holder of a retailer authorisation.

<sup>13</sup> Schedule 3, Part 11, rule 3(1) of the Retail Rules

<sup>14</sup> Schedule 1, National Energy Retail Regulations.

<sup>15</sup> Sections 43(2)(c) and 43(3)(b)(iv) of the National Energy Retail Law and Schedule 1 of the National Energy Retail Regulations, made on 21 February 2019.

<sup>16</sup> Rule 75A(3) of the Retail Rules

## 2 Retailer hardship policy responsibilities: identification, training and information

29 This Part of the Guideline sets out the requirements to be included in a customer hardship policy with regards to identifying customers experiencing payment difficulties due to hardship and assisting those customers to better manage their bills on an ongoing basis.

### 2.1 Retailers' overarching responsibilities

30 A retailer's customer hardship policy must specify that a retailer will:

- a) in dealing with a customer who is experiencing payment difficulties due to hardship, take into account all of the circumstances of the customer of which they are aware and, having regard to those circumstances, act fairly and reasonably, and
- b) in a timely manner when it is relevant to do so, including on being contacted by a customer, give a customer clear information about the assistance available to the customer under the retailer's customer hardship policy, and
- c) as soon as practicable, provide a customer who is entitled to receive assistance under the retailer's customer hardship policy with that assistance.

### 2.2 Steps used to identify customers experiencing payment difficulty due to hardship

31 A retailer's customer hardship policy must:

- a) set out the steps a retailer will use to identify early the customers experiencing payment difficulties due to hardship, and the steps the retailer will take to assist a customer for the duration of the time that the customer is a hardship customer, and
- b) state that the retailer has systems in place to enable the retailer to meet its obligations with respect to customer hardship in:
  - i. the Retail Law, and
  - ii. the Retail Rules, and
  - iii. this Guideline, and
  - iv. the retailer's customer hardship policy, and
- c) set out the retailer's procedures for handling hardship customer complaints and disputes, including informing a hardship customer of their right to contact their relevant energy ombudsman if they are not satisfied with the handling of their complaint by the retailer. Retailers should provide energy ombudsman contact details relevant to the customer's state or territory.

**Note:** for clarity, this clause does not require a retailer to set out in its customer hardship policy a description of its IT or similar back-of-house systems. It is designed to ensure that a customer has transparency over and a good understanding of how the customer interacts with the retailer about hardship issues, and that the retailer has put appropriate measures in place.

32 The AER encourages retailers to apply in their customer hardship policies measures that will identify customers experiencing payment difficulties due to hardship, and assist those customers to better manage their energy bills on an ongoing basis. However, the AER notes that such measures must be consistent with this Guideline, the Retail Law and the Retail Rules.<sup>17</sup>

## 2.3 Training

33 A retailer's customer hardship policy must:

- a) confirm that the retailer's staff have undergone training to understand hardship issues to:
  - (i) answer customer queries about the retailer's customer hardship policy and its hardship program, and
  - (ii) identify customers experiencing payment difficulties due to hardship, and
  - (iii) assist customers experiencing payment difficulties due to hardship, and
- b) confirm that the retailer regularly reviews and updates the training referred to in this clause.

34 For the avoidance of doubt, a reference to 'a retailer's staff' in this Guideline is a reference to a person who has the authority or capacity to act on behalf of the retailer in relation to the matters addressed in clauses 33(a)(i), (ii) and (iii). This includes the retailer's employees, independent contractors, sub-contractors, and agents representing the retailer in business, including call centre and marketing personnel.

## 2.4 Information about a retailer's hardship program

35 A retailer's customer hardship policy must include a brief description of its process for assessing the eligibility of a customer for its hardship program. A retailer may use visual tools such as graphics, tables or flow charts to illustrate the steps involved to assist customers to readily understand this.

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<sup>17</sup> The AER acknowledges that retailers operating in jurisdictions that do not apply the Retail Law can, or are required to, implement different types of measures to assist customers experiencing payment difficulty due to hardship. One such measure is the use of a 'debt trigger' for identifying whether a customer may require assistance. For example, under the Victorian Essential Services Commission's *Payment Difficulty Framework*, a retailer is required to provide to a customer who has missed payment of a bill and owes in excess of \$55, timely, clear and unambiguous advice on the assistance to which the customer is entitled. More information is at Essential Services Commission (ESC) Victoria, *Payment Difficulty Framework*, ESC Victoria, October 2017, [www.esc.vic.gov.au/sites/default/files/documents/payment-difficulty-framework-final-decision-20171009.pdf](http://www.esc.vic.gov.au/sites/default/files/documents/payment-difficulty-framework-final-decision-20171009.pdf), viewed December 2018.

In the 12 months following the publication and implementation of this Guideline, the AER will seek to understand the impact of the various measures introduced under the national and Victorian frameworks on customers experiencing payment difficulties and hardship. The AER has invited the Victorian Essential Services Commission to do this as a joint project. The aim of this work will be to identify the measures most effective at assisting customers and potential changes to the regulatory frameworks for consideration.

- 36 A retailer's hardship policy must state that when a customer is deemed ineligible for its hardship program, it will provide a reason for the ineligibility to the customer.

**Note:** *In satisfying this clause, a retailer does not have to provide, within its hardship policy, a list of its criteria for working out a customer's eligibility for its hardship program. However, a retailer should provide a clear and reasonable explanation of eligibility.*

- 37 A retailer's hardship policy must not include unreasonable conditions that exclude a customer experiencing payment difficulties due to hardship from entry or re-entry to a retailer's hardship program. Specifically, a retailer's hardship policy must not include unreasonable conditions:
- a) to entry to the retailer's hardship program that are reliant on a customer meeting an obligation set by the retailer or a third party, in addition to experiencing payment difficulties due to hardship, and
  - b) to re-entry to the retailer's hardship program that are reliant on a customer meeting an obligation set by the retailer or a third party, in addition to experiencing payment difficulties due to hardship.
- 38 For the purposes of clause 37, an unreasonable condition may include, but is not limited to, the following examples:
- a) that the customer must attend financial counselling
  - b) that the customer must be represented by a third party such as a financial counsellor
  - c) that the customer must submit to an energy audit
  - d) that the customer must make a one off payment or make a certain number of instalments towards their debt
  - e) that the customer accepts a payment extension or extensions before being placed on a hardship program, or
  - f) that the customer must pay their bills on time.

**Note:** *see also, the Standardised Statements.*

- 39 A retailer's customer hardship policy must state the steps the retailer will take to support customers to successfully complete the retailer's hardship program.
- 40 A retailer may offer a range of additional programs, initiatives and services to assist customers while they are participating in hardship programs. While a retailer may opt to outline these in their hardship policy, they should only operate to the extent they are consistent with this Guideline and are not a substitute for the retailer meeting its responsibilities under this Guideline.

## 2.5 Accessibility of customer information

- 41 A retailer must include in its customer hardship policy, the telephone number and other contact details to access retailer staff specifically trained to handle enquires about the retailer's customer hardship policy and its hardship program.

42 A retailer must include in its hardship policy how it will effectively communicate about its hardship policy with customers with diverse communications and other needs, including (but not limited to):

- a) customers with low English literacy, including customers from culturally and linguistically diverse backgrounds
- b) customers without internet access
- c) customers with disability, and
- d) customers in remote areas.

43 A retailer must include in its customer hardship policy that, where a customer has elected a representative to act on their behalf, the retailer will engage with the customer's representative as they would the customer and consistent with the customer's consent and instruction to the retailer. Alongside this, the retailer should include information about how a customer can provide this consent and instructions.

***Note:** the objective of clause 43 is to ensure that customers who wish to have another person act on their behalf can readily do so. For example, customers may have particular needs in this regard if they are experiencing mental health issues, or have an intellectual or other disability.*

## 2.6 Payment plans and options

44 A retailer should consider including in its customer hardship policy:

- a) where applicable, that it has adopted the AER's Sustainable Payment Plans Framework as a good practice framework for assessing customers' capacity to pay,<sup>18</sup> and
- b) in offering flexible payment options to hardship customers, it will consider whether debt waivers or payment matching are appropriate.

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<sup>18</sup> The AER's Sustainable Payment Plans Framework is intended to improve the quality of conversations retailers have with their customers about payment plans, while still allowing flexibility and encouraging retailers to offer extra assistance to customers. Its aim is to achieve better outcomes by helping customers and retailers agree to payment plans that are affordable and sustainable. More information is at AER, *AER Sustainable Payment Plans Framework*, AER, July 2016, [www.aer.gov.au/retail-markets/retail-guidelines-reviews/aersustainable-payment-plans-framework](http://www.aer.gov.au/retail-markets/retail-guidelines-reviews/aersustainable-payment-plans-framework), viewed March 2018.

### 3 Communication of customer rights

- 45 This Part of the Guideline sets out the requirements to be included in a customer hardship policy with regard to customers having equitable access to a retailer's hardship policy.

#### 3.1 Accessibility of information provided to customers

- 46 A retailer must state in its hardship policy how it will ensure that its customer hardship policy is easily accessible on its website via an appropriately named and clearly marked URL/hyperlink from the retailer's homepage, and is in printable formats.
- 47 A retailer must state in its hardship policy how it will ensure that its customer hardship policy is easily accessible to customers experiencing payment difficulties due to hardship who are unable to access the retailer's website, for example by posting the customer a copy.<sup>19</sup>
- 48 A retailer's customer hardship policy must:
- a) use language that is clear, simple and widely understood, and
  - b) be designed for ease of readability through the use of white space, high contrast colours or other visual tools such as graphics, tables or flow charts.
- 49 Alongside its customer hardship policy, it is good practice for a retailer to provide to a customer a shorter, more accessible document outlining key information regarding its customer hardship policy that includes (but is not limited to):
- a) the purpose and aim of the customer hardship policy
  - b) how to access the retailer's hardship program and the assistance available
  - c) the retailer's responsibilities to customers experiencing hardship, and the customer's rights, and
  - d) relevant contact details, information on how the retailer will meet its privacy obligations and where customers can access the full details of the customer hardship policy.
- 50 Any statements a retailer opts to include in their hardship policy about customer obligations and responsibilities must be fair, reasonable and transparent, and consistent with this Guideline, the Retail Law and Retail Rules.
- 51 The customer hardship policy must state that a copy will be sent to the customer in accordance with the customer's preferred method of receiving written communication from the retailer.

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<sup>19</sup> It is good practice for retailers to provide to all customers (not only customers experiencing payment difficulties) information about the retailer's hardship program and the assistance and support measures available to customers. For example, by including a reference to the hardship program and contact number on a customer's bill or on other communications with customers.

- 52 If a customer has not indicated a preference for how they wish to receive written communication, the retailer must send the customer hardship policy to a customer via post.

## 3.2 Provision of information to customers

- 53 The Retail Law and Retail Rules provide the circumstances in which a retailer must provide its customer hardship policy to a customer.<sup>20</sup>
- 54 In conjunction with a retailer's standardised statements, the retailer must state in its hardship policy that, when requested by a customer, it will send a copy of its customer hardship policy to any customer who requests to be sent a copy, and that it will do so at no charge to the customer. This includes any administrative fees associated with sending the customer hardship policy to a customer in a hard copy format.

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<sup>20</sup> Rule 71(2) of the Retail Rules and section 46 of the Retail Law.

## 4 Processes and timeframes

- 56 This Part of the Guideline outlines the processes and timeframes a retailer must comply with when applying to the AER for approval of its customer hardship policy or hardship policy variation.
- 57 This Part also sets out the general approach the AER will take when considering the approval of a customer hardship policy or variation.

### 4.1 Approval of a customer hardship policy

- 58 Section 45 of the Retail Law provides the circumstances in which the AER must approve a retailer's customer hardship policy. It also sets out the principles the AER must have regard to in considering whether to approve a customer hardship policy.<sup>21</sup>
- 59 When submitting a customer hardship policy for approval, a retailer may submit supporting information that is not part of the customer hardship policy, where the retailer considers this supporting information will assist in satisfying the AER that the relevant requirements in the Retail Law and Retail Rules are met.
- 60 When submitting a customer hardship policy to the AER for approval, a retailer should not submit detailed operational and procedural documents. Rather, the retailer's customer hardship policy should detail the relevant requirements and processes the Retail Law obliges a retailer to have in place as part of its customer hardship policy.
- 61 When submitting a hardship policy to the AER for approval, a retailer must set out whether any current customers who are taking part in hardship programs are affected by the new policy. The retailer must disclose to the AER how the retailer has or will explain the changes to the affected customers.
- 62 For a retailer operating in more than one jurisdiction, the approval of its policy will be considered for all jurisdictions where the Retail Law is in effect, unless:
- a) the jurisdictional obligations vary. For example, where a local legislative instrument requires a customer hardship policy to include programs or processes to assist customers with strategies to improve their energy efficiency, or
  - b) a retailer advises that certain elements of its policy differ across jurisdictions.
- 63 In the cases referred to in clause 62, a retailer should provide further details to the AER of any jurisdictional variations in its customer hardship policy when submitting to the AER for approval.
- 64 The AER will notify a retailer in writing when its customer hardship policy has been approved. Once approved, the hardship policy must be published on the retailer's website.<sup>22</sup>

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<sup>21</sup> Section 45(3) of the Retail Law

<sup>22</sup> Section 43(4) of the Retail Law

## 4.2 Reviewing or varying customer hardship policies

- 65 Where the AER is not satisfied that a retailer's customer hardship policy satisfies the requirements in section 45(1) of the Retail Law, the AER may:
- a) indicate to the retailer in what respects it considers the customer hardship policy (or variation), as submitted, to be deficient and request the retailer to submit another customer hardship policy (or variation), or
  - b) approve the customer hardship policy (or variation) with alterations agreed to by the retailer so that the AER is satisfied that the customer hardship policy will contain the minimum requirements and will (or is likely to) contribute to the achievement of the purpose of a customer hardship policy.
- 66 Section 43(3) of the Retail Law also states that if the AER forms the view that a retailer's customer hardship policy requires review, the AER may direct the retailer to review the policy and make variations in accordance with any requirements set out by the AER. The retailer must then vary the policy in accordance with the AER's requirements and submit it to the AER for approval.<sup>23</sup>
- 67 In the instances referred to in clauses 65 and 66, the AER will contact the retailer to:
- a) advise that a review or amendment of its customer hardship policy is required
  - b) explain the reasons for the review and in what respects the AER considers the customer hardship policy to be deficient
  - c) advise of the timeframes within which the retailer must complete the review and resubmit an amended customer hardship policy to the AER for approval
  - d) where applicable, advise of any directions, requirements or variations that the AER has specified must be incorporated into the amended customer hardship policy (as provided for under sections 45(2) and 43(3) of the Retail Law)
  - e) where applicable, advise that the AER will approve the customer hardship policy with alterations where the retailer agrees to the alterations (as provided for under section 45(2)(b) of the Retail Law) so that the AER is satisfied that the relevant requirements are met, and
  - f) explain whether the retailer is required to resubmit their entire customer hardship policy or just the amendment(s) or section(s) that have been varied.

## 4.3 AER approval of variations

- 68 A retailer may vary its customer hardship policy independently of the circumstances described in clauses 65 and 66. In the event that a retailer chooses to vary, or amend, all or part of its customer hardship policy, the retailer will be required to resubmit its

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<sup>23</sup> Section 43(3)(b) of the Retail Law

policy to the AER for approval.<sup>24</sup> The Retail Law specifies that varying a customer hardship policy extends to replacing a policy with another customer hardship policy.<sup>25</sup>

- 69 When submitting a variation to the AER for approval, retailers should follow the process outlined in clauses 59 to 64. A retailer should also clearly indicate the sections of the customer hardship policy that have been varied or amended from the previously approved policy and set out the reasons for the proposed change(s).
- 70 Variations are not to be implemented until the retailer has received approval from the AER. The AER will contact the retailer should further information or clarification be required.
- 71 The AER will notify the retailer in writing when the variation has been approved. Once approved, the variation must be published on the retailer's website.<sup>26</sup>
- 72 Where the AER is not satisfied that a retailer's proposed variation or amended customer hardship policy contains the minimum requirements or that it will achieve the purpose prescribed in the Retail Law,<sup>27</sup> the AER may:<sup>28</sup>
- a) indicate to the retailer in what respects it considers the customer hardship policy (or variation), as submitted, to be deficient and request the retailer to submit another customer hardship policy (or variation), or
  - b) approve the customer hardship policy (or variation) with alterations agreed to by the retailer so that the AER is satisfied that the customer hardship policy will contain the minimum requirements and will (or is likely to) contribute to the achievement of the purpose of a customer hardship policy.
- 73 The AER considers that not all changes to a retailer's customer hardship policy will constitute a variation for the purposes of section 43(4) of the Retail Law. The AER considers that its approval for a variation to a customer hardship policy may not be necessary where a proposed variation does not affect the treatment of customers. Examples of changes that will not require AER approval include:
- (a) changes to a retailer's contact details, or
  - (b) updates to information contained in the customer hardship policy to reflect changes to jurisdictional energy concessions and/or energy efficiency schemes.
- 74 Retailers should check with the AER whether a proposed change to their customer hardship policy may require AER approval. Queries should be directed to the contact details provided at section 4.5 of this Guideline.

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<sup>24</sup> Section 43(4) of the Retail Law

<sup>25</sup> Section 43(5) of the Retail Law

<sup>26</sup> Section 43(4) of the Retail Law

<sup>27</sup> Section 45(1) of the Retail Law

<sup>28</sup> Section 45(2) of the Retail Law

## 4.4 Timeframes for the submission and approval of a customer hardship policy or variation

- 75 Section 43(2) of the Retail Law and rule 75B(2) of the Retail Rules set out the timeframes a retailer must comply with in submitting a customer hardship policy (or variation) to the AER for approval.
- 76 Rule 75B(3) of the Retail Rules sets out the timeframes for when the AER must approve a retailer's customer hardship policy once submitted to the AER, if the submitted customer hardship policy complies with rule 75B(1) of the Retail Rules.

## 4.5 Contact details

- 77 Customer hardship policies and any variations should be sent to the AER for approval either electronically to [AERInquiry@aer.gov.au](mailto:AERInquiry@aer.gov.au), or by mail addressed to:

General Manager  
Consumer and Markets Branch  
Australian Energy Regulator  
GPO Box 520  
Melbourne VIC 3001

- 78 If sent electronically, the subject of the email should state "Customer Hardship Policy Approval".
- 79 Any queries regarding the approval of a customer hardship policy or the AER's process for approving a customer hardship policy should be directed to [AERInquiry@aer.gov.au](mailto:AERInquiry@aer.gov.au).

## 5 Standardised statements

- 80 This Part of the Guideline specifies the statements a retailer must include in its customer hardship policy.<sup>29</sup> Table 1 of clause 89 below sets out the wording of statements retailers must use. For clarity, to comply with this Guideline, retailers must ensure the exact wording of the Standardised Statements, as outlined below, is included in their hardship policies.
- 81 Standardised statements are to inform customers of how the retailer must comply with the minimum requirements as set out in section 44 of the Retail Law, and provide guidance to customers on their rights, and retailer obligations, with respect to Part 2, Division 6 of the Retail Law.<sup>30</sup>
- 82 In addition, retailers are encouraged to include protections for customers experiencing payment difficulties due to hardship in addition to the minimum requirements in section 44 of the Retail Law, where this will assist customers.

### 5.1 Inclusion of standardised statements in a customer hardship policy

- 83 Subject to clause 84 of this Guideline, a retailer must include in its customer hardship policy the exact wording of the statements under the headings 'Standardised statement - Introduction' and 'Standardised statements 1-9' in Table 1 of clause 89 of this Guideline, below.
- 84 A retailer must populate the sections denoted in square brackets within the statements with the retailer-specific information stated in italics within the brackets.
- 85 The 'Standardised Statement – Introduction' must precede the standardised statements in a retailer's customer hardship policy.
- 86 Subject to clause 85, a retailer has discretion as to how the standardised statements are ordered within its customer hardship policy however each statement must be included.
- 87 A retailer may include additional information before or after the 'Standardised Statement – Introduction' or any of the standardised statements to:
- a) include information to meet the purpose of a customer hardship policy as set out in section 43(1) of the Retail Law
  - b) include additional information to meet the minimum requirements set out in section 44 of the Retail Law, and
  - c) comply with rule 75B(1)(a)-(c) of the Retail Rules.
- 88 If a retailer includes the additional information referred to in clause 87 in its customer hardship policy, this additional information must not change the substantive effect of the 'Standardised Statement – Introduction' or standardised statements.

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<sup>29</sup> Rule 75B(1)(b) of the Retail Rules

<sup>30</sup> Rule 75A(2)(b) of the Retail Rules

## 5.2 Wording of statements

89 **Table 1: Standardised statements for inclusion in a retailer’s customer hardship policy**

<b>Standardised statement – Introduction</b>		
<p><b>Introduction</b></p> <p>This policy applies to all residential customers living in [<i>retailer to add states/territories</i>] who find it hard to pay their energy bills due to hardship.</p> <p>You might experience hardship because of factors like:</p> <ul style="list-style-type: none"> <li>• death in the family</li> <li>• household illness</li> <li>• family violence</li> <li>• unemployment</li> <li>• reduced income.</li> </ul> <p>This policy explains:</p> <ul style="list-style-type: none"> <li>• what we will do to help you manage your energy bills</li> <li>• how we consider your circumstances and needs</li> <li>• your rights as a customer in our hardship program.</li> </ul> <p>You can ask a support person to contact us, such as:</p> <ul style="list-style-type: none"> <li>• a financial counsellor</li> <li>• someone who helps you manage your energy bills.</li> </ul> <p>We need your permission to talk to your support person.<sup>31</sup></p>		
#	<b>Retail Law minimum requirement</b>	<b>Standardised statements 1-9</b>
1 & 2	Processes to identify residential customers experiencing payment difficulties due to hardship, including identification by the retailer and	<p><b>What we will do to help you</b></p> <p>We will tell you about our hardship program if:</p> <ul style="list-style-type: none"> <li>• you tell us you are having trouble paying your bill</li> <li>• you are referred to our program by a financial counsellor or other community worker</li> </ul>

<sup>31</sup> The ‘Standardised statement – Introduction’ should be read in conjunction with clause 38 of this Guideline.

<p>self-identification by a residential customer.</p> <p>Processes for the early response by the retailer in the case of residential customers identified as experiencing payment difficulties due to hardship.</p>	<ul style="list-style-type: none"> <li>• we are concerned that you may be experiencing financial hardship.</li> </ul> <p>We will recommend you speak to a staff member to help you join our hardship program if you have:</p> <ul style="list-style-type: none"> <li>• a history of late payments</li> <li>• broken payment plans</li> <li>• requested payment extensions</li> <li>• received a disconnection warning notice</li> <li>• been disconnected for non-payment.</li> </ul> <p>We can also support you to join our hardship program if you tell us:</p> <ul style="list-style-type: none"> <li>• you are eligible for a relief grant or other emergency assistance</li> <li>• you have personal circumstances where hardship support may help. For example, death in the family or job loss.</li> </ul> <p>You may have trouble paying your bills for different reasons. Please contact us so we can discuss your individual situation.</p> <p>Our staff are specially trained to help you with hardship. Staff will:</p> <ul style="list-style-type: none"> <li>• ask you a few questions about your circumstances</li> <li>• work out if you can join the hardship program.</li> </ul> <p>We will assess your application for hardship assistance by <i>[retailer insert deadline]</i>.<sup>32</sup></p> <p>We will let you know if you are accepted into our hardship program within <i>[retailer to insert x business days]</i> from receipt of the application.</p> <p>If you are accepted into our hardship program, we will:</p> <ul style="list-style-type: none"> <li>• tell you if you are on the right energy plan or if there is a better plan for you</li> <li>• tell you about government concessions, relief</li> </ul>
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<sup>32</sup> For the purposes of clause 84, square brackets indicate where a retailer needs to populate its own content in its customer hardship policy when applying these standardised statements.

		<p>schemes or energy rebates you may be able to receive</p> <ul style="list-style-type: none"> <li>• give you ideas about how to reduce your energy use</li> <li>• talk to you about a payment amount that suits your circumstances.</li> </ul> <p>We can send you a free copy of our hardship policy.</p>
3	Flexible payment options (including a payment plan and Centrepay) for the payment of energy bills by hardship customers	<p><b>Payment Options</b></p> <p><b>What we will do</b></p> <p>There are different payment options available to hardship customers, including:</p> <ul style="list-style-type: none"> <li>• payment plans</li> <li>• Centrepay.</li> </ul> <p><i>[Retailer to add additional payment options].</i></p> <p>When you are in our hardship program, we will offer you flexible payment options to suit your individual situation.</p> <p>To make your payment plan, we will consider:</p> <ul style="list-style-type: none"> <li>• how much you can pay</li> <li>• how much you owe</li> <li>• how much energy we expect you will use in the next 12 months.</li> </ul> <p>This will help us figure out a payment plan that is right for you.</p> <p>We will offer a payment plan to suit your situation. This will include payments to cover:</p> <ul style="list-style-type: none"> <li>• what you owe</li> <li>• an amount to cover your energy use.</li> </ul> <p>Once we agree to a payment plan, we will send you information including:</p> <ul style="list-style-type: none"> <li>• who you can contact for more help</li> </ul>

		<ul style="list-style-type: none"> <li>• how long the payment plan will go for</li> <li>• the amount you will pay each time</li> <li>• how many payments you need to make</li> <li>• when you need to make your payments (this is also called the frequency of the payments)</li> <li>• how we worked out your payments.</li> </ul> <p>You can choose to use Centrepay, if you are eligible.</p> <p>Centrepay is a free service you can use to help pay your bills. Centrepay can automatically take an amount of money from your Centrelink payments to go toward energy bills and expenses.</p> <p>We will see if another energy plan may be better for you. If you agree, we can transfer you to a better energy plan for free.</p> <p>Depending on the rules in our hardship policy, we may be able to remove some debt, fees or charges you owe.</p> <p>If you miss a payment, we will contact you to see if you need help. We will contact you by <i>[retailer must explain contact process when a hardship customer misses a payment plan instalment.]</i></p> <p><b>What you must do</b></p> <p>Tell us if your situation changes and you can no longer make the payments in your plan. We can then review your payment arrangements.</p> <p>Tell us if your contact details change.</p> <p>We may stop helping you if you:</p> <ul style="list-style-type: none"> <li>• stop making payments under your plan</li> <li>• do not tell us when your contact details change.</li> </ul> <p>If you have had two payment plans cancelled in the last 12 months because you did not follow your plan:</p> <ul style="list-style-type: none"> <li>• we do not have to offer you another plan</li> <li>• we might disconnect your energy.</li> </ul>
4	Processes to identify appropriate government	<p><b>Other supports to help you pay your energy bill</b></p>

	concession programs and appropriate financial counselling services and to notify hardship customers of those programs and services	<p>Depending on the state or territory you live in, there are other supports to help you pay your energy bills.</p> <p><b>What we will do</b></p> <p>We will tell you about other ways you can get help to pay your energy bill, such as:</p> <ul style="list-style-type: none"> <li>• government relief schemes</li> <li>• energy rebates</li> <li>• concession programs</li> <li>• financial counselling services.</li> </ul> <p><b>What we need you to do</b></p> <p>If you find out you are eligible for these programs, let us know as soon as possible so we can help you.</p>
5	An outline of a range of programs that the retailer may use to assist hardship customers	<p><b>Our programs and services</b></p> <p>As a hardship customer, you can access a range of programs and services to help you: <i>[retailer to insert other services/products available to hardship customers]</i>.</p> <p><b>What we will do:</b></p> <p>We will consider your individual situation to find the right programs (e.g. concession programs) or services that meet your needs.</p>
6	Processes to review the appropriateness of a hardship customer's market retail contract in accordance with the purpose of the customer hardship policy	<p><b>We want to check you have the right energy plan</b></p> <p><b>What we will do</b></p> <p>When you join our hardship program, we will talk to you about your energy use and whether you are on the right plan.</p> <p>If we think there is a better energy plan for you, we will:</p> <ul style="list-style-type: none"> <li>• explain why the plan is better</li> <li>• ask if you'd like to transfer to the new plan for free.</li> </ul> <p>We will only talk to you about energy plans we can offer.</p>
7	Processes or programs to assist customers with strategies to improve their energy efficiency,	<p><b>We can help you save energy</b></p> <p>Using less energy can save you money.</p>

	where such processes or programs are required by a local instrument	<p><b>What we will do</b></p> <p>When you join our hardship program, we can give you tips to use less energy. This can be different depending on the state or territory you live in.</p>
8	Any variations specified or of a kind specified by the AER	[ <i>Not applicable</i> ]
9	Any other matters required by the Rules.	<p><b>We will work with you</b></p> <p>If you have joined our hardship program, we will not:</p> <ul style="list-style-type: none"> <li>• charge late payment fees</li> <li>• require a security deposit</li> <li>• make changes to your plan without your agreement. For example, we will not put you on a shortened collection cycle unless you agree first.</li> </ul>

## 6 Glossary

**Standardised Statement – Introduction** means the wording referred to in Part 5 of this Guideline under the heading ‘Standardised Statement – Introduction.’

**Hardship program** means a program outlined in a customer hardship policy (as referred to in section 44(e) of the National Energy Retail Law).

**National energy laws** means the National Electricity Law, National Gas Law, National Energy Retail Law and the respective Rules and Regulations.

**Standardised statements** means the wording referred to in Part 5 of this Guideline under the heading ‘Standardised statements 1-9’.