

Essential Services Commission of South Australia  
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**RE: Review of NECF in South Australia**

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Dear Commissioners,

Thank you for the opportunity to respond to the NECF Review.

As the peak body for the community services sector in South Australia, SACOSS has a long-standing interest in the delivery of essential services. Our research shows that the cost of basic necessities like electricity impacts greatly and disproportionately on vulnerable and disadvantaged people. Our advocacy is informed by our members; organisations and individuals who witness these impacts in our community.

SACOSS is of the view consumer protections have a critical role in supporting consumers to actively participate in the energy market and this is becoming more important with the emergence of new technologies. Whilst it is evident the commencement of the NECF in South Australia has provided some benefits for consumers, as outlined in this submission, SACOSS believes that in some circumstances it is too early to draw specific conclusions and recommends further monitoring and periodic reviews of the framework and the energy market.

This submission addresses the questions ESCOSA has raised in the Review of the Operation of the National Energy Customer Framework in South Australia - Consolidated Set of Questions document.

We thank you in advance for your consideration of our comments. If you have any questions relating to the above, please contact SACOSS Senior Policy Officer, Jo De Silva on 8305 4211 or via [jo@sacoss.org.au](mailto:jo@sacoss.org.au).

Yours sincerely,

Ross Womersley  
Executive Director

## ESCOSA NECF Review Questions

Question 1: Is there any practical difference in the extent of customer protection (excluding customer service which is dealt with separately in questions 5-7 below) since the commencement of NECF from that which operated in South Australia prior to NECF (that is, prior to February 2013)? If so, what are the key differences in practice?

The hardship provisions of the NECF have provided a focal point for engagement between the community sector and energy retailers. SACOSS has been party to a number of positive initiatives but must also acknowledge that there is much more to be done. The SACOSS Better Practice Guideline for Energy Retailers, created in collaboration with retailers and the community sector, highlights early intervention and customer focused capacity to pay as two high-order priority issues that require further engagement and positive action.

Question 2: Is there any evidence that the commencement of NECF (February 2013) has *adversely affected* customer protection for South Australian energy consumers? If so, what is that evidence?

SACOSS is not of the view that the NECF has introduced any new weaknesses to consumer protection. However, the anecdotal evidence from the community sector and retailers is that a group of customers exist that not only have accrued debt but do not have the *capacity to pay* for their ongoing consumption. The NECF itself does not provide for these situations other than to codify the path to disconnection.

Question 3: Is there any evidence that the commencement of NECF has *positively affected* customer protection for South Australian energy consumers? If so, what is that evidence?

SACOSS monitors the quarterly market data published by the AER and has observed positive trends in the proportion of customers with debt that is now being 'managed' with the retailer either through a 'payment plan' or via a hardship program.

However, indicators of the number of customers with debt, the average value of these debts and, ultimately, the number of disconnections for outstanding amounts are not showing many signs of positive movement (table 1).

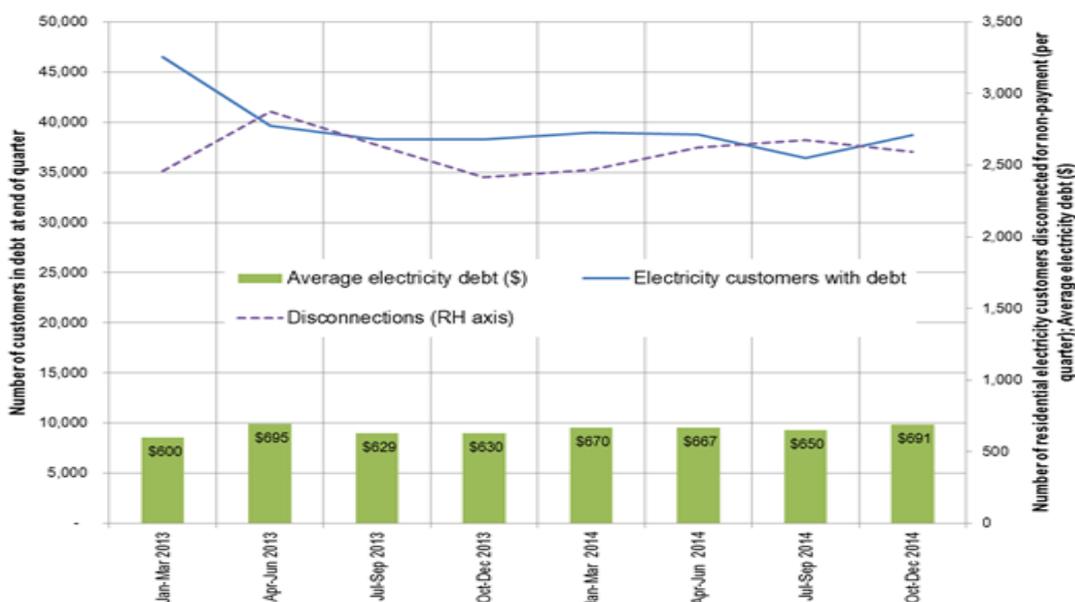


Table 1: SA Electricity customers with debt, size of average debt and number of disconnections<sup>1</sup>.

<sup>1</sup> Source: Australian Energy Regulator Retail Statistics, <http://www.aer.gov.au/Industry-information/industry-statistics/retail>

We note that the slight decrease in overall disconnections is due to a changed approach from AGL Energy that has been partly offset by increased disconnection rates by a number of other retailers.

Question 4: To the extent that an impact can be identified from the commencement of NECF (Questions 2&3), is there any evidence of groups or classes of customer being impacted differently? If so, please provide details.

One aspect of the energy market that has changed in recent times is the approach to marketing. Most retailers have moved away from door-to-door sales and a number of successful prosecutions by the ACCC have reinforced this change. However, just how much of this can be related to implementation of the NECF is unclear.

Question 5: Is there any evidence that the commencement of NECF has *adversely affected* the level of customer service received by South Australian energy consumers? If so, what is the evidence?

SACOSS is not aware of any evidence of systemic worsening of customer service levels that can be attributed to implementation of the NECF. We note the increase in complaints to retailers (offset partly by a reduction in complaints handled by EWOSA) but are unable to point to NECF as the cause.

Question 6: Is there any evidence that the commencement of NECF has *positively affected* the level of customer service received by South Australian energy consumers? If so, what is the evidence?

SACOSS is not aware of any evidence of systemic improvements of customer service levels that can be attributed to implementation of the NECF.

Question 7: To the extent that impacts can be identified from the commencement of NECF (Questions 5&6), is there any evidence of groups or classes of customer being impacted differently? If so, please provide details.

Nil.

Question 8: Is there any need for the Commission to undertake further competition analysis in addition to that already being carried out by the Australian Energy Market Commission (refer Annexure 2 of the Issues Paper for more detail), for the purposes of assessing any impact from the commencement of NECF. If so, please specify what analysis and to what end?

Powerdirect is a wholly owned subsidiary of AGL Energy<sup>2</sup>. SACOSS would like ESCOSA to confirm that Powerdirect is included in the switching and market share estimates for AGL. We note from the 2014 Ministerial Pricing Report<sup>3</sup> that Powerdirect had around 25,000 small customers at 30 June 2014 (3% of the small customer market of 843,000 at that time but 13% of the market share not held by the 'big three'). If Powerdirect is treated as a 2<sup>nd</sup> tier retailer, rather than as part of the incumbent AGL, a distorted picture of competition may result.

Question 9: Is there any evidence of a change in the level of competitiveness of energy retailers since the commencement of NECF (February 2013)? If so, what is the direction of change and how material was it? Is it possible to separate out the impact of NECF from that resulting from the coincident removal of energy retail price regulation?

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<sup>2</sup> Powerdirect, History 2007, <http://www.powerdirect.com.au/history-2007/w1/i1012867/>.

<sup>3</sup> ESCOSA 2014, South Australian Energy Retail Prices Ministerial Pricing Report 2014, p. 46, <http://www.escosa.sa.gov.au/electricity-overview/pricing-access/price-monitoring.aspx>

The South Australian energy market is dominated by vertically integrated 'gentailers' that tend to match their generation portfolio to their small customer portfolio. Based on market data (from AEMO, ESCOSA and the AER), SACOSS estimates that 98%<sup>4</sup> of retail electricity customers (households and small businesses consuming less than 160 MWh of electricity per annum) are supplied by vertically integrated (generation + retail or "gentailer") energy businesses: AGL Energy (including subsidiary retailer Powerdirect), Origin Energy, Energy Australia, GDF Suez Australia (Simply Energy), Alinta Energy and SnowyHydro (Red Energy, ex-Infratil generators and Lumo).

SACOSS has observed some decreased volatility in the wholesale market that may be attributed to declining demand. SACOSS is not aware of any evidence that could link increased competition to implementation of the NECF.

Question 10: Is there any evidence that the commencement of NECF has reduced the ability for vulnerable customers to gain access to competitive energy offers? If yes, please specify?

SACOSS is not aware of any systemic change – positive or negative - in this aspect of the market since the implementation of NECF.

SACOSS would be very interested to understand the outcomes for the approximately 20% of small customers who remained on the standing contract at the time of NECF implementation. The reasons why these customers had not taken up a market offer in the 10 years since contestability in 2003 may also continue under the NECF. We note the commentary from the AEMC about seeking to ascertain the impacts of customers being simply 'rolled over' as contracts expire and believe this warrants further investigation<sup>5</sup>.

Question 11: Is there any evidence that the South Australian specific modifications to the national framework (see Table 1, page 15 of the Issues Paper) have affected, positively or negatively, the potential efficiency gains sought through NECF? If yes, please specify? Equally, which (if any) of the South Australian specific modifications are considered important to be retained?

SACOSS has no comment on the impact on efficiency of the South Australian specific modifications. The ones of most interest to SACOSS are the ones related to late payment fees and the timeliness of reconnection after disconnection for arrears.

In relation to late payment fees, the SA modification requires that such fees must not exceed the reasonable costs of the retailer. In our view, the widespread use of 'pay on time' discounts often substitutes for the use of late payment fees. Since the undiscounted tariffs are often at a significant premium to efficient costs, it is not entirely clear that these discounting arrangements are not a late payment fee in disguise. SACOSS would be very interested in the Commission's analysis of the information provided by retailers in this regard. For example, AGL charge a late payment fee of \$12.73, Energy Australia and Origin charge \$12, Diamond charge \$15. This compares with 'pay on time' discounts of '20%' off usage charges which could be around \$100 per quarter for a typical household (Source: Energy Made Easy, 3 person household).

In our view, all of the modifications are important and it is too early in the implementation of the framework to consider removing them.

Question 12: Has the commencement of NECF in South Australia resulted in any other benefits and costs from the customer perspective.

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<sup>4</sup> It is noted that Momentum is the retail arm of Hydro Tasmania and is therefore also paired with hydro, wind and gas generation assets in Tasmania and trading rights to the Starfish Hill Windfarm. It is unclear just how effective these assets are in managing wholesale market risks in the South Australian region of the NEM so they have been left off the gentailer assessment. Including these customers would mean around 99.5% of customers are supplied from a gentailer.

<sup>5</sup> ESCOSA 2015, Review of the operation of the National Energy Customer Framework in South Australia, Issues Paper p, 21, <http://www.escosa.sa.gov.au/library/20150217-Energy-NEERLReview2015-IssuesPaper.pdf>.

The commencement of the NECF in South Australia provides consumers with mandatory retailer hardship policies that include referrals to financial counselling services<sup>6</sup> for customers experiencing financial difficulty. SACOSS is of the view these services are vital in supporting vulnerable energy consumers.

*“Financial counsellors support many thousands of households each year to manage their energy bill debts [and] play an integral role in negotiating hardship program applications [including] reasonable and sustainable payment plans for clients. Financial counsellors are also the “gatekeepers” for the state’s Energy Electricity Payment Scheme (EEPS), processing around 1000 applications each year”.*

Question 13: Do you consider that the overall operation of NECF has furthered the interests of South Australian energy consumers? If so, what is the basis for this view? If not, why not?

The implementation of the NECF has coincided with the deregulation of prices, a softening of demand and wholesale market conditions as well as a number of ACCC actions in relation to marketing that make it very difficult to distinguish the role of the NECF in the overall consumer experience.

Question 14: What additional action(s) could be taken to maximise the benefits from the introduction of NECF?

SACOSS is of the view that more attention can be paid to the use of energy disconnections as a *last resort*. Despite steady increases in the number of customers with a repayment plan in place (including as part of a hardship program), we are yet to see any significant reduction in the numbers of households disconnected (see table 2). We also see quite different performance when comparing between retailers and this suggests that scope exists for convergence around best practice.



**Table 2: Hardship plans, payment plans and disconnections for SA electricity customers<sup>8</sup>**

<sup>6</sup> National Energy Retail Law (South Australia) Act 2011, s. 6, ss. 44 (d), <http://www.legislation.sa.gov.au/LZ/C/A/NATIONAL%20ENERGY%20RETAIL%20LAW%20%28SOUTH%20AUSTRALIA%29%20ACT%202011/CURRENT/2011.6.UN.PDF>

<sup>7</sup> South Australian Financial Counsellors Association 2015, pp, 1-2, <https://www.aer.gov.au/sites/default/files/SA%20Financial%20Counsellors%20Australia%20Consortium%20-%20Submission%20on%20SAPN%27s%20regulatory%20proposal%20-%2030%20January%202015.pdf>

<sup>8</sup> Source: Australian Energy Regulator Retail Statistics, <http://www.aer.gov.au/Industry-information/industry-statistics/retail>

We note that the indicators presented in the Issues Paper generally indicate that the smaller retailers have quite different performance to the larger retailers. This is consistent with our experience but also indicates the scope for very different outcomes depending on how the framework is applied.

Victoria has had a wrongful disconnection fee in place since 2004. This scheme was principally intended to place an additional incentive on retailers to guard against disconnecting relevant customers who are willing, but who do not have the capacity, to pay their energy bills. The Essential Services Commission of Victoria undertook a review of the scheme in 2009-10 and concluded that there was no evidence to support a repeal of the scheme. Taking on board these recommendations, the wrongful disconnection payment regime has been retained as a Victoria-specific customer protection<sup>9</sup>.

Victoria also has a ban on late payment fees to small customers. SACOSS supports the wrongful disconnection fee and ban on late payment fees and believes these schemes would enhance the operation of NECF in South Australia if applied.

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<sup>9</sup> Energy and Water Ombudsman Victoria , 'If the energy disconnection was wrongful', <https://www.ewov.com.au/complaints/assistance-to-lodge-a-complaint/if-the-energy-disconnection-was-wrongful>