

28 February 2022

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Dear Mr Feather,

RE: AER Consultation on Draft Consumer Vulnerability Strategy

The South Australian Council of Social Service (SACOSS) is the peak body for non-government health and community services in South Australia with a mission to advocate for the interests of vulnerable and disadvantaged people across the state. We thank the Australian Energy Regulator (AER) for the opportunity to provide feedback on its draft Consumer Vulnerability Strategy (the Draft Strategy), published in December 2021.

National Energy Objectives should include ‘social equity’

SACOSS welcomes the AER’s Draft Strategy, and congratulates the AER on its much-needed focus on the inequitable social and economic impacts of the current energy system on consumers. SACOSS acknowledges and broadly supports the four overarching outcomes and the five key objectives outlined on page 17 of the Draft Strategy. However, we consider a fundamental structural amendment to both National Electricity Objectives is required to underpin meaningful change, and avoid further entrenched inequities across the energy system.

Amending the National Electricity Objective¹ (NEO) and the National Energy Retail Objective² (NERO) to include ‘social equity’ as a central factor in considerations is crucial to

¹ The NEO is contained in section 7 of the [National Electricity Act 1996](#), and is:

‘to promote efficient investment in, and efficient operation and use of, electricity services for the long term interests of consumers of electricity with respect to:

- *price, quality, safety and reliability and security of supply of electricity*
- *the reliability, safety and security of the national electricity system.’*

² The NERO is contained in section 13 of the [National Energy Retail Law 2011](#), and is:

‘to promote efficient investment in, and efficient operation and use of, energy services for the long term interests of consumers of energy with respect to price, quality, safety, reliability and security of supply of energy’

ensuring the legislative framework embeds decision-making that truly protects the long-term interests of *all* consumers. As previously noted by SACOSS in our submission to the AER on its Rate of Return Omnibus Papers,³ the current Objectives comprise a narrow construction of consumers and their interests, and amending the objectives to allow for social equity considerations would necessarily result in a ‘vulnerability impact assessment’ (as envisaged by the AER⁴), across all decision-making in the NEM, ensuring the structures governing the operation of electricity services, including the relevant Rules, Codes, Guidelines and Determinations all achieve equitable outcomes for consumers of energy as an essential service.

This is particularly important given the rapidly changing energy system, and the need to ensure *all* consumers are not left behind and are able to access future benefits. Without this structural change to the Energy Objectives, SACOSS is concerned future decision-making by the Market Bodies will increase income and wealth inequality, lead to inequitable access to the benefits of renewable energy and the disproportionate allocation of network costs, which is not in the long-term interests of consumers. SACOSS considers amending the Energy Objectives to include a ‘social equity’ factor would work to achieve all four overarching outcomes for the energy market, identified in the AER’s Draft Strategy.

Beyond that broader submission, SACOSS wishes to comment on the following objectives contained in the Draft Strategy:

- Improve Identification of Vulnerability
- Strengthen Protections for Consumers Facing Payment Difficulty

Improve identification of vulnerability

Early, proactive, retailer-led identification of consumer vulnerability is essential to providing supports early in the debt cycle, thereby avoiding entrenched consumer energy debt and disconnection.

SACOSS has previously highlighted the flaws of the current consumer protection framework⁵ which allow retailers to provide their own definition of ‘hardship customer’, and have called for a debt trigger as an important tool in identifying all customers who may be struggling to pay their bills (including those who may fall outside the retailer’s definition of hardship).

As noted in our 2018 Report into the effectiveness of the National Energy Customer Framework (NECF),⁶ the current legislative scheme distinguishes between a ‘residential

³ SACOSS, [Submission to the AER on its Draft Rate of Return Omnibus Papers](#), 1 September 2021

⁴ AER, [Consumer Vulnerability Strategy – Draft for Consultation](#), December 2021

⁵ SACOSS, [Submission on AER’s standardised statements for use in customer hardship policies](#), 7 December 2018, SACOSS, [Submission to the AEMC on the National Energy Retail Rules Amendment \(Strengthening protections for customers in hardship\) Rule 2018](#), 28 June 2018, SACOSS, [Submission to the AEMC Draft Rule Determination: National Energy Retail Amendment \(Strengthening Protections for Customers in Hardship\) Rule 2018](#), 18 October 2018; SACOSS [Submission to the AER on its Hardship Guideline Issues Paper](#), 19 January 2019

⁶ SACOSS, [Report on the effectiveness of supports for customers experiencing payment difficulties: strengthening protections for customers under the NECF](#), June 2018

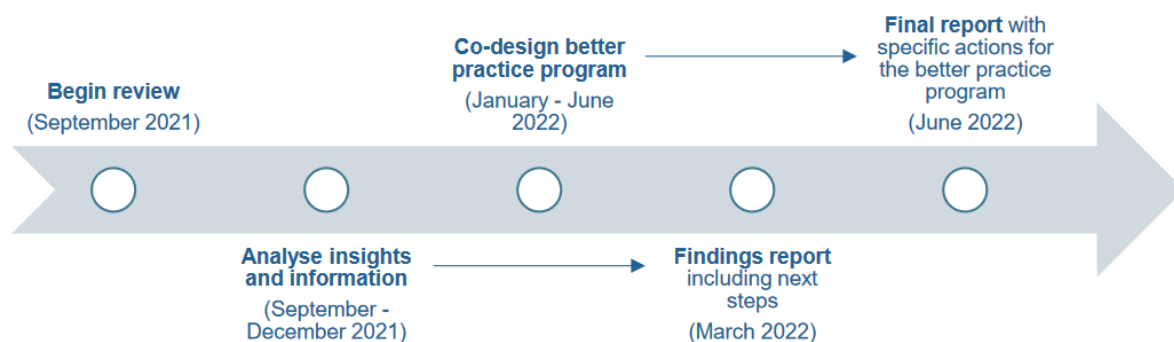
customer experiencing payment difficulties’, and a ‘residential customer experiencing payment difficulties due to hardship’ (a hardship customer),⁷ creating significant barriers to early identification and support.

In contrast, the Victorian Payment Difficulty Framework⁸ (PDF) differs from the Retail Law and Rules in that there is no distinction between a ‘customer facing payment difficulties’ and a ‘hardship customer’. If a customer is in arrears, then they attract the minimum assistance contained in the ‘tailored assistance’ Division.

We believe it is potentially unhelpful to list factors which may lead to a customer being identified as experiencing vulnerabilities. Factors which lead to consumer vulnerability are many and varied, and to define those factors is to risk limiting them. To align with the Victorian PDF, SACOSS supports a review of the current framework (the NECF) to include an objective debt trigger for early identification. In the absence of that alignment, SACOSS considers retailers should be required under the current frameworks to contact all customers and offer supports (payment plans, information about concessions) as soon as the retailer becomes aware the customer is experiencing energy debt (see attached suggested Identification Flow Chart which identifies current supports for customers under the NECF).

Strengthen Protections for customers experiencing payment difficulty

SACOSS strongly supports the implementation of an ‘entitlement framework’, debt trigger and stronger disconnection safeguards, as contained in the Victorian PDF. The Review of the implementation of the Vic PDF⁹ commenced in September last year (we understand it was delayed as a result of the moratorium on disconnections during COVID-19), and the timeline for the Review suggests the Final Report will be published by June 2022.



We strongly support the AER working closely with the Essential Services Commission of Victoria to identify costs / benefits, better practice and further consult on the development

⁷ The distinction between customers experiencing payment difficulties and hardship customers under the Retail Law, is further confused by the application of certain Retail Rules (notably Rule 33 and Rule 111) to residential customers who have ‘informed the retailer in writing or by telephone that the customer is experiencing payment difficulties,’ in other words, customers who have ‘self-identified’ as experiencing payment difficulties.

⁸ ESC Vic, Part Three of the [Energy Retail Code](#) Version 21, 1 July 2021

⁹ ESC Vic, [Our Approach: Payment Difficulty Framework Review](#), September 2021

of a comprehensive payment difficulty framework for inclusion in the NECF. Central to the AER's framework, should be the following key objectives of the PDF:

1. To help residential customers avoid getting into debt with their retailer.
2. To make it easier for residential customers to pay for their ongoing energy use, repay their debt when they have missed a bill and lower their energy costs.
3. To ensure residential customers are only disconnected for non-payment of a bill as a measure of last resort.

SACOSS considers the existing protections from disconnections under the NECF are inadequate. The current compliance and enforcement focus of the AER may assist with embedding changes in retailer behaviour in relation to debt collection and disconnection for non-payment practices, but SACOSS considers additional safeguards which place the onus on the retailer to prove it has gone through the steps of offering supports *prior to* embarking on disconnection (as is the case in the Vic PDF), are central to achieving the goal ensuring customers are only disconnected as a measure of last resort.

Relatedly, SACOSS strongly supports improved engagement between energy businesses and consumers at risk of disconnections, through 'knock before you disconnect' programs. We are very supportive of SA Power Network's current trial, and look forward to reviewing the results in several months. As noted in the Draft Strategy, a previous trial of SA Power Network's pre-visit service resulted in more than 50% of disconnection for non-payment service orders being cancelled.

Fostering engagement through face to face contact to assist customers to avoid disconnection will be even more crucial with the proliferation of smart meters and remote disconnection in South Australia. Remote disconnection and reconnection will remove SA Power Networks from any involvement in the disconnection process. SACOSS supports the AER exploring options that require SA Power Networks' site visits to form part of the disconnection process (irrespective of meter type), and prevent households from being remotely disconnected for non-payment.

The acceleration of the smart meter roll out in SA also raises issues around protecting customers from mandatory time of use tariffs, where those customers are unable to access smart appliances or change usage patterns.¹⁰ We consider there is considerable risk of negative bill shock for customers experiencing vulnerability and SACOSS supports Recommendation 14 in the *Retail Electricity Pricing Inquiry Report* that:¹¹

Retailers should not be obligated to reflect the cost-reflective network tariff structure in their customers' retail tariffs, but should be free to innovate in the packaging of the network tariff as part of their retail offer.

Given the potential for negative bill shock outcomes from any transition to cost-reflective network tariffs should retailers pass these network tariffs through to

¹⁰ SACOSS, [Submission to the Department for Energy and Mining on the acceleration of the smart meter roll out in SA](#), 22 February 2022

¹¹ ACCC, [Retail Electricity Pricing Inquiry Report](#), June 2018, p.xix

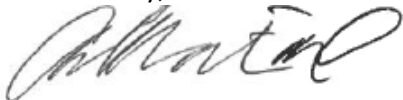
customers, **governments should legislate to ensure transitional assistance is provided for residential and small business customers. This assistance should focus on maximising the benefits, and reducing the transitional risks, of the move to cost-reflective pricing structures. This includes:**

- **a compulsory ‘data sampling period’ for consumers following installation of a smart meter**
- **a requirement for retailers to provide a retail offer using a flat rate structure**
- **additional targeted assistance for vulnerable consumers.**

As previously submitted to the AER,¹² SACOSS also strongly supports prepayment and embedded network customers having access to a fair and efficient DMO, reflecting the fundamental right of all customers to be able to access energy on fair and just terms.

If you have any questions in relation to this submission, please contact Georgina Morris at georgina@sacoss.org.au or 8305 4214.

Yours sincerely,



Dr Catherine Earl

Director of Policy and Advocacy
South Australian Council of Social Service

¹² SACOSS, [Submission to the AER on Default Market Offer Prices: Options Paper on the methodology to be adopted for the 2022-23 Determination \(and subsequent years\)](#), 23 November 2021

