Essential Services Commission Victoria

Inquiry into the Financial Hardship Arrangements of Energy Retailers

Submission prepared by Kildonan UnitingCare

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UnitingCare
Kildonan

Contents

About Kildonan UnitingCare

Kildonan UnitingCare has been working with vulnerable Victorians for 130 years and is part of Uniting Care, one of Australia's largest providers of community services.

Today, Kildonan supports more than 20,000 Victorians each year from metropolitan Melbourne through to northern regional Victoria, along with some statewide and national services.

Kildonan UnitingCare has a long history of directly assisting vulnerable Victorians with energy access and affordability. Kildonan has also played a key role in the development of significant energy advocacy initiatives such as financial counselling for utilities and the national Home Energy Saver Scheme.

Our current community based financial support services incorporate:

- Financial counselling – including generalist and hospital based financial counselling, as well as financial counsellors working with utility customers and a specialised service for the indigenous community with several partners
- *CareRing* – Kildonan's holistic and innovative model providing customers of Kildonan partners such as Yarra Valley Water, South East Water, Western Water and ANZ with a range of support services through one centralised, co-ordinated point
- Utility education and support programs – including home energy audits, Koorie Energy Efficiency Project[1], Geelong and Surf Coast Council Heatwaves and Sustainability Project, Lend Lease Energy Sustainability program
- Financial literacy and microfinance programs – including *Money Minded, NILS* and *StepUP*

Kildonan's Social and Financial Inclusion workforce of more than 30 employees is experienced in tailoring information to the customer's unique situation and undertaking advocacy in a range of areas related to financial hardship, including concessions, access to utilities relief grants, recommendations for payment plans etc, together with information on how to reduce utility bills. These measures assist the customer to repay arrears and maintain payments on an ongoing basis.

Through our Enterprise Partnerships and Development team, Kildonan also works across sectors of banking and finance, essential services, property development, debt collection and with government regulators to ensure Australian companies can understand and meet the needs of vulnerable customers. These training and consulting programs have been delivered nationally focusing on customer vulnerability, respectful communication and more recently benchmarking organisational approaches to customer vulnerability and hardship.

[1] KEEP is a shared leadership partnership with Aborigines Advancement League (AAL), Ngwala Willumbong Co-operative, Victorian Aboriginal Child Care Agency (VACCA) and Swinburne University of Technology.

Summary of Kildonan Submission and Recommendations

Since the journey to privatisation and full competition of the Victorian retail energy sector commenced in the 1990s, energy retailer responses to servicing customers in hardship have continued to evolve. However, in recent times Victorians have witnessed concerning disregard for vulnerable customers by some energy retailers demonstrated most recently by an increase in wrongful disconnections. As Kildonan outlines throughout this submission, it is our experience that there is still a wide gap between what the Victorian retail energy regulatory framework is trying to achieve, energy retailer practice and the best possible outcomes for vulnerable Victorian customers.

The commission's approach and the regulatory framework

Kildonan is of the view that energy retailers have been afforded too much discretion in how hardship obligations of the Energy Retail Code can be interpreted, particularly the application of concessions and grants. The intent of the move to competition was to facilitate a viable and robust retail energy framework from which consumers would also benefit. Without clear and unambiguous guidelines for retailers, both in terms of conduct and reporting requirements, it will remain difficult for the Commission to effectively monitor and sanction non-compliant retailers.

Recommendations:

1. Within the current inquiry, prioritise the principles put forward by the Commission relating to transparency, clarity and accountability among energy retailers, as well as effectiveness of options that support vulnerable customers.
2. Continue to evolve the regulatory framework to provide more clarity on retailer obligations specifically more prescriptive hardship obligations within Part 3 of the Energy Retail Code.
3. Enhance safeguards in the regulatory framework to prevent wrongful disconnections among vulnerable customers specifically by updating clause 116 of the Energy Retail Code.
4. Explore the increase in Victorian wrongful disconnections through qualitative customer case analysis.
5. Combined with sustainable payment plans, incentivise other hardship options that energy retailers can offer vulnerable customers, particularly energy home visits.

Performance and compliance

In this submission, Kildonan has outlined a range of avenues through which we see Victorian energy retailers consistently fail to comply with regulatory obligations. It is our concern that in the face of this loose compliance with obligations, it is easy for a disadvantaged customer to simply give up, leading to growing debt and avoidance behaviour. Based on our experience working with vulnerable customers, Kildonan has put forward in this submission a mix of outcome indicators that we recommend incorporating into mandatory reporting requirements.

Recommendations:

6. Introduce mandatory reporting of all hardship options retailers make available to customers, i.e. beyond solely reporting on payment plans.
7. Introduce mandatory reporting on the status of customers in retailer hardship programs, i.e. whether the customer repaid the debt and returned to standard billing.

8. Explore ongoing monitoring of the broader customer base to understand if the proportion and make up of customers in retail hardship programs reflects general economic trends i.e. access for non-concession card holders, customers from diverse cultural and linguistic backgrounds.
9. Consider the mix of outcome indicators relating to customers in hardship put forward by Kildonan for incorporation into energy retailer mandatory reporting requirements (see question six, page 15).
10. The Commission undertake more direct conversations with customers in hardship programs with access to customers supported by energy retailers.

'Better' practice

There is significant room for improvement in relation to energy retailers striving for the best practice principles that the Commission has identified through the inquiry. It is Kildonan's experience that there is a gap between the current practice of energy retailers and community expectations regarding the best way to assist vulnerable customers.

Recommendations:

11. Priority focus should be placed on improving energy retailer operations relating to three of the best practice principles identified by the Commission - early identification, availability of useful information, and sensitive and flexible approaches.
12. Increase the transparency of energy retailer hardship practice by making mandatory reporting on the types of assistance available to customers in retailer hardship programs and how hardship assistance decisions are applied.
13. Explore innovation from other industries such as an 'early identification' tool for high energy use based on the telecommunications industry SMS notification for excess data.
14. Support innovative partnerships models such as Kildonan's Care*Ring* which provides a centralised approach to addressing the multiplicity of vulnerable customer needs, taking responsibility, and tracking customer outcomes.

Benchmarking

In our national and international work reviewing numerous hardship programs across diverse industries such as financial services, utilities and telecommunications, Kildonan has identified a number of key drivers underpinning the success of high performing businesses. These drivers effectively balance commercial and consumer interests taking into account the best way to service vulnerable customers. This work has culminated in Kildonan developing a comprehensive benchmarking system that we currently use with our partners across different industries.

Recommendations:

15. The Commission meet with Kildonan to better understand Kildonan's experience developing and delivering hardship program benchmarking and lessons learnt when adapting the benchmarking framework to different industries.
16. Ensure the scope of the benchmark framework incorporates broader organisational assessment beyond solely hardship policy, procedures and practices.

Kildonan’s Detailed Response to the Inquiry

The Commission’s approach

Question 1

Are the principles of effectiveness, flexibility, consistency, efficiency and proportionality, transparency and clarity, and accountability (of all stakeholders) the most relevant principles for this inquiry? Are there other principles that should be included or used? Should some principles be given greater weight?

Kildonan supports the Commission’s approach to the inquiry and the principles outlined.

In terms of the weighting of these principles, Kildonan feels it is important to consider the current inquiry in the historical context of the Victorian energy sector.

Since the journey to privatisation commenced in the 1990s through to when full retail competition was adopted in the early 2000s, the Victorian retail energy regulatory framework relating to vulnerable customers, including those in hardship, has continued to evolve. Energy retailers have been extensively consulted and provided with opportunities to incorporate requirements into their practice, as well as demonstrate their willingness and capacity to assist vulnerable customers in financial hardship. However, despite the considerations and flexibility afforded the Victorian retail energy sector over the past 20 years, Victoria has witnessed concerning disregard for vulnerable customers by some energy retailers including the recent spikes in wrongful disconnections.[2]

> *William, an elderly man with severe and terminal illnesses required essential life support equipment at home. Energy usage was particularly high in summer and winter, but critical to helping him stabilize his condition. William was starting to struggle under the weight of the cost of his various medicines and frequent taxi trips to hospital. Despite making regular payments to his energy retailer, he was $1000 in arrears and was receiving frequent stressful calls from the credit department.*
>
> *Although William’s household was registered as requiring essential life support equipment with his retailer, he was not aware that he was entitled to receive Life Support Concession. His energy retailer had not informed him about eligibility.*
>
> *Only as a result of William’s referral to Kildonan was William made aware of the available concession which reduced the arrears on the account by $550. Additionally, William was assisted with an application for the Medical Cooling Concession to help with the high cost of keeping his body sufficiently cool through summer.*

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[2] Essential Services Commission 2010-2014, Energy retailers comparative performance report – customer service, Melbourne; Essential Services Commission 2015, Inquiry into the financial hardship arrangements of energy retailers: Our approach, Melbourne

The move to privatisation and full competition was underpinned by political and regulator commitment to Victorians that continued access to energy is an entitlement and a right, not a privilege. Kildonan believes that retailers have already been provided with ample opportunity to demonstrate their commitment to customers in hardship and it is time to enforce sanctions where there is non-compliance.

Therefore, Kildonan recommends that the Commission prioritise clarifying energy retailer obligations in relation to vulnerable customers to ensure transparency and accountability of low performing retailers in order to enforce compliance and sanctions where retailers breach clear obligations to vulnerable customers. At the same time, in acknowledging energy retailers that have made significant progress in their service offering to vulnerable customers, emphasis should also be on understanding the effectiveness of options offered to support vulnerable customers with their energy costs.

Recommendation:

1. Prioritise the principles of transparency, clarity and accountability among energy retailers, as well as effectiveness of approaches that support vulnerable customers.

Regulatory framework

Question 2

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?

The regulatory framework pertaining to Victoria's energy retail sector has continued to evolve since the journey to privatisation first began. Today through a mix of legislation, licences, codes and guidelines the framework incorporates minimum standards for energy retailers in terms of assistance required for customers in financial hardship. However, it is Kildonan's view that vulnerable customers are still missing out on basic entitlements and that the regulatory framework should continue to evolve in line with contemporary community expectations.

Clearer hardship obligations and comprehensive outcome reporting

Kildonan wishes to draw the Commission's attention to the fact that within the regulatory framework the relevant electricity and gas retail licences rely heavily on additional codes and guidelines to set standards and provide detail on expected conduct and reporting measures against which energy retailers are held accountable. As outlined in Kildonan's response to question four of the inquiry (see page 11), these important codes and guidelines are at times ambiguous on specific elements of licensing requirements relating to vulnerable customers, including those experiencing hardship. This is particularly so in relation to the Energy Retail Code and conduct required of energy retailer hardship programs offered to customers.

The current flexibility and discretion afforded energy retailers within the Code has not served vulnerable customers well as Kildonan outlines in detail in our response to question four of this submission. The available data shows that the proportion of customers disconnected for non-payment from 2010 to 2014 has grown faster than the proportion of customers receiving hardship assistance.[3] Further, retailers are not required to report on meaningful indicators, as outlined in Kildonan's response to question six (see page 15), which reduces retailer transparency and in turn dilutes retailer accountability.

Framework for preventing wrongful disconnections

In light of the rise of wrongful disconnections in Victoria outlined above, particularly those impacting vulnerable customers, Kildonan has concerns regarding the current approach to preventing wrongful disconnections within the existing regulatory framework. However shocking this data, we should also be mindful that we may not have a complete picture of the extent of those Victorians in hardship and those wrongfully disconnected. It is Kildonan's experience that we rely heavily on those able and willing to complain to highlight flaws in the system. There may be many other customers unaware of

[3] Essential Services Commission 2010-2014, Energy retailers comparative performance report – customer service. Melbourne

their eligibility for support and entitlements under the current regulatory framework and unaware of their right to appeal and complain about energy disconnections.

There is room to better understand the increase in Victorian customer energy disconnections through looking closely at customer cases. However, based on our work with vulnerable energy customers, Kildonan believes that wrongful disconnection occurs because there are insufficient safeguards in the Energy Retail Code for retailers to follow making the option to disconnect, or using threat of disconnection in conversations to ensure payments, too easy an option.

In these instances, complexities of customer financial vulnerability are often not taken into account by some retailers that do not have a solid understanding of vulnerability and hardship.

For vulnerable customers once a wrongful disconnection has been in place the damage is already done. It is also Kildonan's experience that vulnerable customers will often go without energy and are often not aware of their concession entitlements, rights to hardship support or right to lodge a complaint. A clear example is when women leave an abusive relationship, most often in a hurry, and are left with the financial consequences of household debt. Kildonan along with other organisations such as CUAC, Good Shepherd and Wyndham Legal Service have carried out research into the consequences of economic abuse experienced by women when they leave a violent relationship, particularly the impacts of energy debt:

> *Faced with escalating threats and violence from her husband directed at her and her young children, Emmaline fled the family home. Despite a police restraining order, her husband continued to pursue her and the children. As a result, Emmaline had lived in three houses over a 12 month period.*
>
> *Fleeing quickly each time had left Emmaline with a combined debt of $1,200 owed to three different electricity retailers. All outstanding amounts had been referred to collection agencies and Emmaline was receiving harassing phone calls that exacerbated her stress.*
>
> *When Emmaline secured a new property for herself and her children she was able to open a new account with one of her previous retailers. However, her previous account with the retailer had been closed off after she fled the previous home to escape her violent husband and forgot to contact the retailer. Therefore Emmaline was unable to access concessions and entitlements. The impacts of this furthered Emmaline's financial disadvantage and her ongoing ability to afford energy.*

Kildonan proposes that more emphasis in the regulatory framework should be placed on preventing wrongful disconnection as opposed to pursuing compensation post disconnection.

We should be considering what solutions make it harder to disconnect. For example, further restrictions to disconnection of vulnerable customers are needed in clause 116 of the Energy Retail Code. Before disconnection, a series of other options could be required such as an energy audit, referral to a financial counsellor or debt waiver. Alternatively, further oversight by bodies such as the Commission could be evoked before retailers are permitted to disconnect vulnerable customers.

Recommendations:

2. Continue to evolve the regulatory framework to provide more clarity on retailer obligations specifically more prescriptive hardship obligations within Part 3 of the Energy Retail Code.
3. Enhance safeguards in the regulatory framework to prevent wrongful disconnection among vulnerable customers specifically by updating clause 116 of the Energy Retail Code.
4. Explore the increase in Victorian wrongful disconnections through qualitative customer case analysis.

Question 3

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?

Beyond the payment plan

Within the Energy Retail Code, retailers must offer payment plans to hardship customers unable to pay their bills, however there is no mandatory requirement to offer other hardship options. The Commission reports that 66% of energy retailer hardship customers in 2013-14 were on payment plans and that retailers did not report on the assistance provided to the remaining 34% of hardship customers.[4]

Kildonan supports sustainable payment arrangements that are affordable and provide customers with a fighting chance to repay legitimate debts. However, there is a clear need to investigate and incentivise the role of other hardship options, beyond and/ or combined with payment plans. These options include assistance to apply for the Utility Relief Grant Scheme (URGS), application or renewal of other eligible concessions, energy audits, appliance upgrade, retrofitting and debt waivers.

The need for exploring additional hardship options has become more apparent since the revision of the Code where retailers must now consider customer arrears as well as capacity to pay when establishing a payment plan. Kildonan's Financial Counsellors have noted that since the introduction of this Code revision, customers experiencing financial hardship are finding it harder to negotiate affordable payment plans with their retailers. While it makes sense to better manage total customer debt, this practice does seem to be placing more pressure on vulnerable customers to accept payment plans that may not be sustainable or manageable over the long term.

Incentivising energy audits

Kildonan is supportive of initiatives such as the Victorian Energy Efficiency Target which connected to 1.4 million houses and businesses and has shown benefits such as reduced residential energy consumption by 14% and delivering savings of more than $300 over five years to participating households. [5] Kidonan's own data supports the Victorian Energy Efficiency Target findings. After a

[4] Essential Services Commission 2010-2014, Energy retailers comparative performance report – customer service. Melbourne
[5] Energy Efficiency Certificate Creditors Association 2014, Facts about the Victorian Energy Efficiency Scheme

Kildonan home energy visit, households on average saw a 30% drop in energy use equating to $340 customer savings over 12 months.

Despite the obvious benefits of home energy audits to customers, both vulnerable and across the board, Kildonan has however noted that there has been a decrease in the number of referrals to Kildonan from energy retailers for customer home energy visits. Our experience mirrors the broader trend in the sector that has seen fewer energy field audits being requested by energy retailers.[6] There is an opportunity to explore incentivising home energy audits so that energy retailers increase referrals of vulnerable customers and see this strategy as a viable option to offer customers in hardship.

Recommendation:

5. Combined with sustainable payment plans, incentivise other hardship options particularly energy home visits to vulnerable customers.

Question 4

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?*

While some energy retailers have implemented progressive approaches to support customers in hardship, Kildonan's experience has been that the current regulatory framework provides too much room for energy retailer interpretation of the obligations to support these customers. For these reasons, Kildonan strongly supports more prescriptive hardship guidance for retailers.

Understanding customer vulnerability and hardship

The case for more prescriptive guidance is demonstrated by some energy retailer lack of understanding of customer vulnerability and therefore the conditions under which customers should be offered hardship assistance.

This lack of understanding is evident to Kildonan when assisting vulnerable customers who have not been offered appropriate (and entitled) support by their energy retailer and have to deal with the consequences. Kildonan Energy Advisors and Financial Counsellors have noted the unrealistic understanding of hardship that some energy retailers possess, particularly in relation to the costs of living and expectations of what people should be able to go without.

[6] Essential Services Commission 2010-2014, Energy retailers comparative performance report – customer service. Melbourne

A major energy retailer was demanding balance sheets for Kildonan clients whom after paying rent were left with $100 a week to cover all other living expenses. The energy retailer felt that it was still appropriate for clients to be placed on a $110 per fortnight repayment plan even though clients would be left unable to cover other basic necessities such as food, transport and telephone. (Kildonan Financial Counsellor)

Another theme Kildonan has noted relating to understanding customer vulnerability is that some energy retailers refuse to recognise the role that Financial Counsellors play in supporting vulnerable customers who are unable to advocate on their own behalf, even when there is a third party authority in place.

Kildonan's hospital-based Financial Counsellor experienced a situation where a major retailer bypassed them and continually contacted the Kildonan client who was ill and had a child being treated for cancer. This was despite the client giving third party authority to the registered Financial Counsellor and a complaint having already been lodged with EWOV.

The experience of Kildonan is that some customer service representatives of energy retailers can make getting access to information about concessions such as the URGS very challenging. Some retailers fail to identify signs of hardship or fully inform their customers of the options available to them.

Treatment can be subjective, leaving vulnerable customers feeling confused, humiliated and demeaned at a time when they are reaching out for help. Customers can be subjected to inappropriate questions about marital status, family breakdown, credit history and credit card debt according to the prejudices of the operator responding to their enquiry. (Kildonan Energy Advisor)

Variance in code interpretation

The case for more prescriptive guidance is also demonstrated in the variance between different energy retailers' interpretation of the Energy Retail Code where it relates to obligations towards customers in hardship. An example of variance of interpretation is how different energy retailers interpret customer hardship and rights to concessions.

When a customer advises their energy retailer that they are unable to pay a bill or are experiencing financial difficulty, the Energy Retail Code outlines that the retailer must provide information about available concessions, including the URGS. Kildonan Energy Advisers regularly face varied criteria from different retailers when assisting customers to access the URGS. It has been Kildonan's consistent experience that one major and one second tier energy retailer have a standard practice of refusing vulnerable customers access to their the hardship programs if they do not have a health care card, even though this is not the only criteria for entry to a hardship program). Not having an income not being supported through the retailer's hardship program, the customer is then unable to enter into a payment plan and therefore these two energy retailers interpret that the customer is ineligible to apply for the URGS. By contrast two different energy retailers, again one a major and the other a second tier company, consistently interpret these same guidelines otherwise. Regardless of the customer's concession status, these latter retailers will place the customer account on hold and issue the URGS form when the account balance reaches close to $500.

A client of Kildonan was denied application for the URGS by a retailer's hardship department on the basis that the client did not owe more than $500 (client owed $460). Kildonan had to advocate to get the grant for the client including discussing with the retailer the possible need to refer the issue to EWOV. The referral to URGS was eventually made by the retailer, however, in the process the Kildonan worker had to speak with seven different people on behalf of the client. This was difficult enough for the Kildonan worker let alone the client.

Whilst the high volume of URGS application forms issued by retailers is increasing each year, it is the experience of Kildonan Energy Advisors that the URGS does not always reach the vulnerable customers it is designed to assist. Not all households therefore have the same access to information about the types of assistance available to help make the cost of living more affordable.

Khaled arrived in Australia seeking asylum. With assistance from a community service, he moved into a one bedroom flat however it was cold and draughty with no access to winter sun and the only permanent heating consisted of a wall-mounted electric fan heater that was inadequate for the size of the room. Khaled's support worker had provided a radiant fan heater for use in the bedroom.

Khaled's initial bill of $560 for two months was trumped by a winter bill for $790. Although he had made regular payments of $40 per fortnight, he was still $950 in arrears and receiving frequent calls from his electricity retailer.

Khaled's initial plea for assistance with the arrears was rebuffed on the basis that he did not have a concession card and so could not apply for the URGS. When contacted by a Kildonan Energy Advisor, the retailer agreed to place Khaled into their hardship program. This opened the pathway for him to apply for the URGS under the special provision for non-concession holders on low incomes. However, as the hardship representative was unfamiliar with this provision, the request for an URGS application was strongly resisted. The matter was only successfully resolved when escalated to a hardship program manager.

Recommendation:

As already outlined in Kildonan's response to question two, further enhance the prescriptive nature of regulatory codes and guidelines relating to customer hardship in order to address the variance of interpretation and lack of understanding of customer vulnerability and hardship among energy retailers.

Performance and compliance

Question 5

How could the Commission better monitor the overall effectiveness of the hardship assistance provided by energy retailers?

Monitoring hardship and vulnerability effectiveness

As it stands, within the Energy Retail Code energy retailers must offer payment plans to hardship customers unable to pay their bills in full however are not obligated to offer other hardship options. Nor are they required to report on their process for providing access to options or what other options have been provided to customers. As a result in 2013-14 retailers did not report on the assistance provided to the 34% of hardship customers that received hardship support other than a payment plan.[7]

Understanding what is being offered and subsequently taken up by customers in hardship is an important platform for any monitoring of hardship programs and a measure that should be mandatory for all energy retailers. On top of this basic requirement, the Commission could also request that energy retailers provide information on hardship customer status and what happened while the customer was on a hardship program i.e. did they repay the debt and return to standard billing or what level of debt is currently being serviced? Under the energy licensing arrangements, retailers are required to have the technical capacity to deliver on a hardship program which we argue would include capacity to monitor hardship customer status.

Another option to better monitor the overall effectiveness of the hardship assistance offered by retailers is to look at the broader customer base. For example, does the proportion and make up of customers in hardship reflect general economic and community trends of financial hardship that we would expect to find in the broader customer base. This may include an increasing number of non-concession card holders presenting in hardship as more 'working poor' are seeking assistance. An absence of non-concession card holders in a retailer hardship portfolio might raise a red flag as to whether that retailer's hardship program is meeting the needs of all vulnerable customers. Understanding the nature of non-hardship disconnections among the broader customer base could also inform the Commission as to how effective the hardship program is. What are the circumstances under which these other disconnections are occurring? Does this highlight any additional indicators of customer vulnerability that need to be addressed through the hardship program such as customers that are on a repeating disconnection – reconnection cycle.

Recommendations:

6. Introduce mandatory reporting of the other hardship options retailers make available to customers, i.e. beyond solely reporting on payment plans.

[7] Essential Services Commission 2010-2014, Energy retailers comparative performance report – customer service. Melbourne

7. Introduce mandatory reporting on the status of customers in a retailer hardship program, i.e. whether the customer repaid the debt and returned to standard billing.
8. Explore ongoing monitoring of the broader customer base to understand if the proportion and make up of customers in hardship programs reflects general economic trends i.e. access for non-concession card holders, customers from diverse cultural and linguistic backgrounds.

Question 6

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

Customer outcome indicators

Kildonan is aware there has been a deliberate approach to measuring hardship programs of Victorian energy retailers however, indicators have not been focused on the outcomes of hardship customers.

Based on our experience of outcomes that are meaningful to vulnerable customers, Kildonan recommends a mix of the following outcome indicators be incorporated into mandatory reporting of energy retailers:

Household outcomes

a. Sustainability of repayment plan e.g. return to debt versus staying on top of debt, capacity to manage payment plan over the long term, % of debt repaid
b. Annual outcomes of home energy visits e.g. % change in energy use, customer savings over 12 month period
c. The level of debt that hardship customers are servicing including circumstances under which customers on a hardship program switch to another provider e.g. level of debt with current provider when switching

Broader community outcomes

d. Deeper analysis of URGS beyond the number of customers receiving forms e.g. what happens to customers in addition to URGS if debt is above $500, what forms aren't returned as opposed to those that aren't and why
e. Deeper analysis of circumstances under which customers on a hardship program voluntarily versus forcibly left the hardship program e.g. level of payment plans being required, retailer reason for excluding customer from hardship program
f. Number of customers from identified 'at risk' communities in customer hardship programs e.g. indigenous, culturally and linguistically diverse, rural customers

In addition to the above indicators, Kildonan also encourages the Commission to undertake more direct conversations with customers in hardship programs in cooperation with energy retailers. Hearing firsthand the experience of customers in hardship can provide valuable and timely intelligence that will compliment ongoing data collection and assist in identifying emerging issues.

Recommendations:

9. A mix of the above outcome indicators relating to customers in hardship is incorporated into mandatory reporting of energy retailers.
10. The Commission undertake more direct conversations with customers in hardship programs with access to customers supported by energy retailers.

Question 7

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

Increased ESC monitoring and enforcement of compliance

It is Kildonan's view that the Commission should increase its monitoring of energy retailers and subsequent enforcement where energy retailers are in breach of regulatory obligations.

In the face of this loose compliance with obligations, it is easy for a disadvantaged customer to simply become fatigued and exhausted by the process, leading to growing debt and avoidance behaviour.

> *Katrina is a single parent with the fulltime care of two girls. Katrina's income support had been reduced substantially following her youngest daughter's 8th birthday. Being occupied with looking for work and adjusting to the new lower income, Katrina did not realize that she needed to update her concession details with her energy retailer to continue receiving the Annual Electricity Concession. Increasingly, she found herself being 'psyched out' by the ever-growing amount of arrears on her energy bill and was battling to maintain a bill-smoothing arrangement.*

Kildonan is aware of a range of avenues by which Victorian energy retailers consistently fail to comply with regulatory obligations:

- Customer service varies widely between energy retailers and can be inconsistent even when the same retailer is contacted. Some customers receive assistance to set up a regular payment plan but neither the URGS nor the company's hardship program is mentioned to the customer during this process despite regulatory obligations.

- In instances when URGS forms are directly requested by Kildonan on behalf of a customer, some staff of energy retailers reveal they are not familiar with the scheme and struggle to fulfil the request. Across Kildonan's energy program, clients frequently report that although URGS forms were requested they fail to receive them. This can occur even with repeated requests. Furthermore, it can take several weeks for an application to be generated by a retailer which can be a long time if customers have complex issues.
- Whilst larger retailers typically direct calls requesting hardship assistance to specialist teams, requests to smaller retailers can result in being directed back to credit departments who are unable to generate URGS applications and may instead press customers to accept a payment plan that is not affordable. On occasion, even larger retailers divert customers in hardship directly to credit or collections when the hardship team is at full capacity.

It is Kildonan's belief that energy retailers have been afforded too much discretion in how hardship obligations of the Energy Retail Code can be interpreted, particularly the application of concessions and grants. Without clear and unambiguous guidelines for retailers, both in terms of conduct and reporting requirements, it will remain difficult for the Commission to effectively monitor and sanction non-compliant retailers. As outlined in Kildonan's response to questions two and four (see pages 8 and 11), we are of the view that the regulatory framework could be further enhanced by providing more prescriptive guidance - less wriggle room - on hardship programs in the Energy Retail Code. Where retailers do not have the capacity to deliver what is expected of them by the Code, they may need to engage credible third party guidance such as training and policy review to ensure that their organisation is equipped to deliver a suitable service to vulnerable customers.

Further, the Commission could explore a more systems based approach for retailers applying concessions to eligible customers. For instance considering automatic application and annual renewal of energy concessions to health care card holders.

Recommendation:

As already outlined in Kildonan's response to question two and four, the Commission should increase its level of monitoring of energy retailers and subsequent enforcement of compliance with regulatory obligations and the regulatory framework could be further enhanced by providing more prescriptive guidance on hardship program obligations in the Energy Retail Code.

Better practice

Question 8

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?

Room for improvement – 'better practice' for vulnerable customers

It is Kildonan's experience that there is a gap between the current practice of energy retailers and community expectations regarding the best way to assist vulnerable customers.

There is significant room for improvement in relation to energy retailers striving for the best practice principles that the Commission has identified through the inquiry. Kildonan advocates that priority focus be placed on improving energy retailers practice relating to three of these best practice principles - early identification, availability of useful information, and sensitive and flexible approach.

In terms of early identification there seems to be a preference among some retailers to keep customers who identify that they are financially vulnerable away from hardship programs and deal with the debit issues either through resolution or credit teams.

> *One retailer indicated to Kildonan that there was no need for a customer who owed around $1,000, and had limited means to pay, to be moved into the retailer's hardship program, as the customer was willing to accept a payment arrangement that the retailer saw as affordable for the client. Kildonan had clearly identified affordability issues for the customer and believed the customer would benefit from the temporary protection that the retailer's hardship program would offer. Ultimately this request was ignored by the energy retailer.*

Availability of useful information including access to entitled concessions is another priority area of concern to Kildonan. Some customers confuse market discounts they are receiving from their retailer with an entitlement for concession. Depending on the bill layout, greater prominence may be given to discounting rather than government-guaranteed concessions. Additionally, door-to-door and telesales people sometimes factor in the obligated concession on electricity bills as though it is a discount 'granted' through the generosity of the energy retailer. A lack of bill literacy or general literacy skills may contribute to this confusion.

> *Ivan lived alone in a very basic bungalow with no fixed heating unit or gas appliances. Although the rent was cheap, the dwelling was uninsulated and draughty which contributed to high winter bills. Ivan had a long-standing payment plan of $45 per fortnight in place but this was no longer sufficient to cover his usage and so he had accumulated substantial arrears. During a home energy visit from Kildonan, it was observed that Ivan was receiving a 20% discount off the cost of electricity from his retailer. However, it was also noted that he was not receiving any concession despite having a valid Health Care card. When contacted about this matter, the retailer divulged that Ivan had not received*

any concession for the past three years. Subsequently, the concession was applied and backdated for the maximum 12 months; this means Ivan has effectively missed out on a two years of usage at the concessional rate (about $400).

Focus should also be paid to ensuring energy retailers approach to dealing with vulnerable customers is sensitive and flexible. Kildonan has experienced instances where retailers refuse to supply an interpreter if the customer does not speak English despite this being an obligation under the Energy Retail Code.

Recommendation:

11. Priority focus is placed on improving energy retailers practice relating to three of the best practice principles identified by the Commission - early identification, availability of useful information, and sensitive and flexible approach.

Question 9

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

Increasing transparency

Kildonan perceives it to be vital that retailer hardship practices be more transparent.

As outlined in Kildonan's response to questions five and six (see pages 14 and 15), retailers are currently not required to provide information on all of the types of assistance available to customers in their hardship programs beyond that of payment plans. Nor are they required to disclose how they go about selecting options to make available to customers.

This lack of transparency not only makes the role of the Commission in monitoring and enforcing sanctions for non-compliance more challenging, it also prohibits customers and customer advocates from pursuing their full entitlements. Not knowing what options and processes are available considerably reduces capacity to pursue the most appropriate support mechanism to assist customers in hardship.

Gwen and her husband were recently retired and with limited savings behind them were dependent on the Age Pension. With no reticulated gas service in their suburb, their household was restricted to all electric appliances including a large off-peak hot water unit. Health issues had restricted their ability to work in their later years, so for some time their limited income meant they had received the Off Peak Concession for the hot water unit in addition to the Annual Electricity Concession.

Once a digital meter was installed at the property, the household was moved to a flexible tariff structure with no separate metering for hot water. This resulted in higher electricity *charges of approximately $200 a year, placing further strain on already-stretched finances. The couple were not aware that the higher charges were due to a higher tariff applied to the hot water unit and the loss of the concession. In addition, their retailer had not sufficiently informed the couple of these changes. (Kildonan Energy Advisor)*

Recommendation:

12. Increase the transparency of energy retailer hardship practices by making mandatory public reporting on the types of assistance available to customers in retailer hardship programs and how hardship assistance decisions are applied.

Question 10

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

Kildonan's cross-sector experience

For twenty years, Kildonan has been consulting and training corporate, government and community organisations across Australia that are looking to improve their systems and processes for dealing with vulnerable customers.

This work has taken place with partners in banking and finance, essential services, property development, insurance, debt collection and with government regulators. Our focus has been on assisting organisations to better identify and understand financial vulnerabilities within their customer base and then use that knowledge to develop and embed appropriate practices. Results from our work have included improved customer assessment, sustainable payment arrangements and reduced customer account handling time.

Kildonan takes the view that best practice in hardship assistance is based on the premise that all of us are on the financial vulnerability continuum, with different events making us more vulnerable at certain times of our life. An obvious example of a potential tipping point into vulnerability is a long-term illness or job loss, however other examples could include having a baby or moving to a new area.

In our experience working across diverse industries and jurisdictions, organisations that normalise the notion of vulnerability being something that can happen to anybody are better at recognising early signs of hardship. These organisations are subsequently better at responding proactively, supporting the customer and reducing company costs by working with customers over a longer term so that they not only repay debt and remain a loyal customer but also repay more of the debt owed and retain their dignity. On the flip side, it is our experience that where organisations ignore a customer's personal circumstances in search of short-term repayments we have seen time and time again less money recovered and negative overall outcomes for the customer.

Reflecting on the best practice principles that the Commission has identified through the inquiry, Kildonan would like to draw attention to the recent changes in the telecommunications industry that has seen improvements in early identification of customers that may face financial struggle through excess data use. Telecommunication companies are now required to SMS customers that reach pre-determined data limits to ensure that they are aware of their usage and associated costs with over use. This 'early warning' tool could be replicated by energy retailers where customers approach high usage in a billing cycle, particularly given the widespread implementation of Advanced Metering Infrastructure.

Another example from outside the energy sector is the notion of prohibiting customers from moving debt from provider to provider which can eventuate in vulnerable customers accumulating excessive debts and a string of debt collection activity and credit default. It is our experience that once customers with significant debts transfer to another retailer, the customer struggles to pay of the amount owed. There is an opportunity to explore the notion of preventing energy customers in hardship from switching to a new retailer if they have significant debt however only on the strict proviso that the existing retailer provides a sustainable and mutually agreed long term payment plan and other appropriate options. Our preference would be exploring a process which blocks customer transfers where there is a significant debt and ensures retailers proactively work with the customer to overcome residual debt through a range of options so that the customer has a real chance to manage their energy costs.

Kildonan's extensive experience collaborating with organisations in other industries has culminated in the development of the Kildonan Care*Ring* model. This model, outlined below, provides an example of innovative partnerships to support best practice for customers in hardship through understanding multiplicity of customer needs, taking responsibility and tracking customer outcomes.

Care*Ring* takes a holistic approach to vulnerable customers with an early intervention focus to address both the immediate and obvious issues that can result in an inability to pay the bills, while also identifying and addressing interlinked factors that can contribute further to a family's decline.

Care*Ring* is jointly run by Kildonan, the government, other community service agencies and a number of corporations from the utility and finance sectors. Kildonan's role is as a service broker, bringing all the players together, helping establish the systems to make it work, providing the necessary training and ensuring vulnerable customers get all the help they need.

When customers of participating companies or agencies are identified as either having difficulty paying their bills or other family related issues, within one phone call they are connected to the most appropriate community support service/s. This may be a Kildonan service, a government service, or that of another community service agency. But to the customer, it is all one, streamlined service.

The streamlined telephone referral process, staffed by qualified independent professionals at Kildonan, ensures vulnerable customers receive a centrally coordinated and integrated response to whatever issues they may be facing. The service may begin and end with one phone call for a simple enquiry or it may extend to include home visits, financial counselling and more complex family support services.

Kildonan provides training and support for participating companies upfront, to ensure frontline staff are equipped to respond, engage and appropriately direct a wide range of vulnerable customers. Importantly, Kildonan also facilitates connections back into corporations, equipping customers with the appropriate tools to navigate their systems and receive assistance if and when it's needed.

After a six-month pilot with Yarra Valley Water, Kildonan launched Care*Ring* in December 2014. The model now includes ANZ, Western Water and South East Water, and would benefit from involvement of energy retailers.

Recommendations:

13. Explore innovation from other industries such as an 'early warning' tool for high energy use based on the telecommunications industry SMS for excess data.
14. Support innovative partnerships models such as Kildonan's Care*Ring* which provides a centralised approach to addressing the multiplicity of vulnerable customer needs, taking responsibility, and tracking customer outcomes.

Question 11

Are there any other themes of best practice that we have not covered in chapter 5? Do some themes require higher priority in the regulatory framework administered by the Commission?

Kildonan has a long history of directly assisting vulnerable Victorians with energy access and affordability and we have played a key role in the development of significant energy advocacy initiatives. Through this work and our work across sectors of banking and finance, essential services, property development, debt collection and with government regulators, Kildonan has identified that while other sectors may have impressive looking policies, compliance remains an issue across the board. The role of regulatory and oversight bodies is a crucial element in maintaining the integrity of customer hardship assistance programs.

Benchmarking

Question 12

What other matters should the Commission take into account when designing a benchmarking framework for assessing the effectiveness of retailers‘ hardship programs?

Kildonan's benchmarking experience

In our work reviewing numerous hardship programs across industries, Kildonan has identified a number of key drivers underpinning the success of high performing businesses that effectively balance commercial and consumer interests as they relate to financial hardship and vulnerability.

This work has culminated in Kildonan developing a comprehensive benchmarking system that we currently use with our partners across different industries. Kildonan benchmarks are grouped under five key areas providing organisations with measures against which change can be assessed over time.

Kildonan can share the approach and lessons learnt in terms of benchmarking used in several different sectors with the Commission which could inform the establishment of benchmarking in the energy sector.

Recommendation:

15. The Commission meet with Kildonan to better understand Kildonan's experience developing and delivering hardship program benchmarking and lessons learnt when adapting the benchmarking framework to different industries.

Question 13

Which aspects of an energy retailers‘ hardship policies, practices and procedures should be given priority in the benchmarking framework?

Effectiveness of benchmarking

Kildonan believes that while hardship policies, procedures and practices are a key element to assess but not should not be the sole focus of the benchmarking framework.

Through our experience developing and delivering benchmarking hardship programs in different industries we have come to understand the importance of considering organisational understanding and commitment to address customer vulnerability within the benchmark framework. Broadening the scope of the benchmark framework in this way provides a better platform for determining and improving the long term effectiveness of an organisations approach to assisting customers, as opposed to limiting benchmarking to just another annual performance reporting process.

Recommendation:

16. Ensure the scope of the benchmark framework incorporates broader organisational assessment beyond just hardship policy, procedures and practices.