



Essential Services Commission
Level 37, 2 Lonsdale Street
MELBOURNE VIC 3000

By email: paymentdifficulties@esc.vic.gov.au

16 June 2017

Dear Sir/Madam,

Kildonan UnitingCare (Kildonan) welcomes the opportunity to provide a submission to the Essential Services Commission (the Commission) on the proposed changes to the Victorian Energy Retail Code that will incorporate the elements and principles of the New Draft Decision under the Payment Difficulty Framework (the Framework) for energy customers.

1. About Kildonan

Kildonan is an innovative organisation within the Uniting Church that is rapidly gaining a reputation for delivering some of the most relevant community services in Victoria.

Our 135-year history demonstrates a proven track record of pre-empting social trends and responding with programs and services that help people improve their circumstances. Kildonan's services support the growth of thriving and inclusive communities. We do this by creating and delivering integrated solutions with a holistic, personalised approach.

Kildonan's key service streams include:

- Child, Youth and Family Services (people experiencing personal or family issues including violence)
- Social and Financial Inclusion (people with financial issues or struggling to pay their bills)
- New Arrival Support Services (people settling in the community from migrant, refugee backgrounds and seeking asylum)
- Enterprise Partnerships and Development (social enterprises including training and consulting for organisations working with vulnerable customers)

For close to 20 years now, Kildonan has worked collaboratively with businesses across the banking, finance, superannuation and credit management sector as well as electricity, gas and water retailers. During this time we have repeatedly observed that businesses who effectively embed respectful attitudes, language and approaches to customers experiencing financial difficulties are consistently rewarded with greater commitment and returns from those customers.

From 1st July 2017, Kildonan will become part of Uniting, a new community service organization of the Uniting Church in Victoria and Tasmania. Building from the legacy of its 22 founding agencies (including Kildonan) across the UnitingCare network, Uniting (Victoria and Tasmania) Ltd will employ over 3,500 staff and 3,500 volunteers. Uniting will operate across metropolitan, regional and remote parts of Victoria and Tasmania, offering a broad range of services and advocacy to support thousands of vulnerable people annually.

2. Overview of our Submission and Recap on Earlier Recommendations

As outlined in previous submissions to the Commission at different stages of the Framework review, Kildonan has emphasised the need for early intervention. Identification of payment difficulties earlier in the process allows for intervention measures that inform consumers about their energy usage, minimise the accumulation of debt and makes the establishment of regular, sustainable payments achievable. It builds confidence in the relationship between vulnerable consumer and retailer, and works effectively even when consumers are financially stretched and having to make decisions about where to allocate money across competing needs.

Following the release of the First Draft Decision in October 2016, Kildonan conducted a focus group with energy consumers who had or were experiencing payment difficulties to gauge their responses to the proposed framework. As one participant noted at the time:

“(Disconnection is) fair if someone’s blatantly refusing to pay. Most people want to pay their bills but don’t have the means to.”

Participants agreed that disconnection should only be used as a last resort if retailers were unable to contact customers despite repeated attempts through multiple channels. They also indicated that the process should include a flexible suite of options for payment and usage reduction measures and advice prior to proceeding with disconnection.

In previous submissions Kildonan made the following recommendations:

- Earlier **customer conversations** with retailers, including requirements for retailers to work through capacity to pay with their customers (not automatic payment plans);
- Tailored debt and usage reduction measures for any customer (not just those who fail to meet payment plans);
- Facilitated pathways from and into other services for customers with more complex needs;
- Pathways to assistance for other issues that may be contributing to the customer’s inability to pay their bills;
- Tougher disconnection requirements for the retailer; and
- Opportunities and rewards for retailer innovation in assisting vulnerable customers.

We welcome the direction the Commission has taken with the New Draft Decision of the Framework in its attempt to build early intervention measures into retailers’ practices.

We also commend the Commission's stated aim that the Framework should result in "disconnection being pursued as a measure of last resort."

We believe that the latest draft Framework in its proposed form addresses some of these needs and strikes a reasonable balance between responding to the needs of vulnerable consumers and providing sufficient direction for retailers to provide that assistance. The Framework provides a degree of certainty in terms of expectations for both consumers and retailers alike and allows room for progressive retailers to continue to provide assistance that exceeds the minimum standards.

For the Framework to be successful in establishing new standards across the industry, to reduce the current levels of variability in customer treatment, and in its desired intent to position disconnection procedures squarely as a measure of last resort, it is vital that consumer outcomes and the processes that lead to them are subject to scrutiny.

To this end, Kildonan considers several proposed inclusions and amendments to the Energy Retail Code (the Code) to be critical, namely:

Clause 79.3 (b): *'their retailer knows, or reasonably believes, that they cannot pay that full cost.'*

Clause 82: *'In providing assistance to a residential customer..., a retailer must take into account all of the circumstances of the customer that are known, or should reasonably have been known, by the retailer.'*

Clause 111A (d): *'the retailer has records that are sufficient to evidence the matters mentioned in paragraphs (a), (b) and (c).'*

The successful operation of the Framework will depend heavily on clarification of key areas and rigorous enforcement of proper practice through the mechanisms of both the Energy and Water Ombudsman (EWOV) and the Commission.

In relation to **Clause 79.3 (b)** Kildonan anticipates that the Commission will provide appropriate guidance to retailers as part of the Framework to assist frontline staff in recognising potential indicators of financial difficulty. As flagged by the Commission in the Framework revised draft paper, this needs to include specific reference to family violence.

Such guidance would ideally highlight both direct disclosure of family violence as well as indicators that point to issues of economic abuse in its breadth. We anticipate that these guidelines will also provide appropriate parameters to establish whether sufficient effort was made to provide appropriate assistance to such a customer in financial difficulty.

Clause 82 is a significant addition to the Code to recognise the extenuating circumstances that restrict a customer's ability to manage energy costs or engage confidently and on level terms with their retailer.

Clause 111A is a critical inclusion to the legislation that is welcomed by Kildonan in its work across financial counselling and energy advocacy. In particular, we welcome the onus being put on retailers to identify financial difficulties earlier through closer scrutiny of payment histories and listening attentively for signs of financial distress. In our experience, this approach is critical to avoid potentially crippling levels of arrears.

3. Tailored Assistance - Customer Entitlements

The operation of Tailored Assistance (TA) will be critical to the success or otherwise of the Framework in reducing overall energy consumer debt and the number of disconnections across the state.

Kildonan notes that there is scope for significant variance in the interpretation of the Framework in its current format. Consistent with our view that early intervention is critical to avoid escalating energy debt, we would prefer to see initiatives such as tariff review (perhaps better termed review of current energy contract) and energy advice being offered to customers in the early stage of TA.

The Framework appears to establish two discrete tiers to assistance under TA, based on the capacity of the customer to make payments consistent with their current usage levels. In practice, Kildonan expects that TA will operate in a more fluid state. In assisting a customer who has disclosed financial difficulty, or been identified by the retailer as experiencing payment difficulty, the retailer is then obliged to assist the customer to calculate a regular instalment amount that they need to pay to cover their current energy use. In doing so, the retailer is then able to initiate a conversation around paying off arrears which prompts further discussion of energy usage in the home, a review of the current energy contract, and eligibility for concessions and grants.

To be effective in meeting the needs of customers experiencing payment difficulty, Kildonan expects retailers will need to adopt a flexible and even discretionary approach to TA. While this may complicate processes for retailers, it is a pragmatic view that takes into account that a household's energy usage may fluctuate significantly as might their capacity to pay over a period of time.

We anticipate that the Commission through Guidance Notes and, over time, EWOV, will provide further direction to reinforce an optimal approach retailers can adopt in enacting TA. Kildonan supports actions that include checking eligibility for concessions and grants, a review of the energy contract that the customer is under to ensure it is affordable and fit for purpose, plus appropriate advice on energy efficiency tailored to the customer's specific needs.

Additionally, Kildonan suggests amending **Clause 79 (1) (d)** to include reference to concessions as well as the Utility Relief Grant to specifically recognise the importance of the concession scheme in making energy affordable for households on low incomes. Whilst this might seem like an unnecessary distinction, we believe it is appropriate and important. Through the financial counselling and energy visit programs that we provide for vulnerable consumers we frequently find that eligible concession holders are missing out on their full entitlements to assistance.

The effectiveness of TA will also critically hinge on the quality of conversations between customers and retailers, as well as options provided to customers. Kildonan is an experienced provider of energy audits (visits) which are a requirement in the current energy retail code. Kildonan encourages ESC to engage retailers in further dialogue around best practice options that may be offered to customers under TA.

It is a clear intent of the Commission in designing the Framework to build active communication lines between a customer facing payment difficulty and their energy retailer in order to obtain and retain assistance. The challenge for energy retailers is to ensure frontline staff across customer service, hardship and collections are adequately equipped and trained to meet this objective. A single negative experience for a vulnerable customer will often define their attitude and approach to a retailer in the future as well as their expectations of a fair hearing. Vulnerabilities such as unemployment, financial difficulty and family violence expose frailties that can be exacerbated if handled badly or insensitively at the customer service level. This then impacts a customer's confidence in the future to seek remedies and assistance.

The Commission has seen fit to remove reference in the Code to any assessment of a customer's capacity to pay. As the Commission would be aware, this puts the Framework in Victoria at odds with the intention of the Sustainable Payments Framework (SPF) that operates in other jurisdictions of the National Energy Market (NEM). Although the SPF is voluntary, the majority of retailers are signatories to it.

Kildonan is of the view that retailers may well pursue a capacity to pay type assessment as a de facto interpretation of the direction "to take the customer's circumstances into account when offering and providing assistance" under the Framework. We consider it appropriate that retailers enquire about a customer's financial circumstances in order to determine the most appropriate assistance under TA stage. Given the historic variability in consumer outcomes that was noted earlier in the Hardship Inquiry, we encourage the Commission to be vigilant in examining how such interactions with vulnerable customers are conducted.

4. Approach to Partial Payments

Kildonan would like to draw attention to the need for the Commission to provide guidance to retailers and advocates alike as to how partial payments will be viewed.

This is particularly relevant at the Default Assistance stage where the risk of a financially-stretched customer not meeting their obligations and suffering the consequences of disconnection are heightened. **Clause 111A (b) (iii)** makes it clear that energy retailers can proceed with the de-energisation process if a customer does not meet their obligations under Default Assistance.

The question requiring clarification is whether a partial payment made under a Default Assistance arrangement is adequate to prevent the retailer issuing a Disconnection Warning Notice. Similarly, clarification is required where a customer has made several payments under a Default Assistance arrangement but is a day late on subsequent payment. Presumably retailers will exercise due discretion in such instances, but may benefit from more specific guidance.

We expect that the Commission will address these situations through the provision of guidance notes.

5. Better Practice Reporting

In order to foster a commitment to leading practice amongst energy retailers in responding to customers with financial difficulties, it is vital that there is more scrutiny on those practices.

One of the key findings from the Commission's Hardship Inquiry was the variability of how a customer experiencing payment difficulties was treated by their retailer. As the Commission identified, this variability extended to customers being randomly or selectively denied access to retailers' hardship programs. Further, it has become common practice for retailers to offer standard assistance measures such as payment plans and concession checks whilst withholding other options (grants, appliance replacements, energy audits) that could be beneficial to consumers.

In our experience, this unpredictable variability in responses and approaches to dealing with payment difficulties also extended to advocates working alongside vulnerable customers.

As this version of the Framework is less prescribed and provides retailers with scope to innovate and build on their assistance measures, it is vital that the Commission has adequate analysis to ensure the Framework is meeting the needs of vulnerable consumers. Kildonan encourages the Commission to include focus groups with vulnerable consumers and consumer advocates (including financial counsellors and energy advisors) as part of this analysis to ensure a comprehensive perspective is attained and evaluated.

Kildonan welcomes the Commission's commitment to publishing annually both their observations of retailers' adherence to the new Framework and their endeavours to trial innovative approaches to assist customers to minimise the accrual of energy debt and promote informed energy usage.

We consider the proposal to include this information in the annual Victorian Energy Market Report as a sensible approach to providing this information to the sector.

6. Implementation Process

Kildonan does not express a preference for either of the options outlined by the Commission for implementation of the Framework. We would encourage the Commission to ensure all retailers are encouraged to comply with the rollout to provide consistency for consumers and advocates working on their behalf.

If in the opinion of the Commission the implementation by a retailer of a particular tranche or components of the Framework will result in harmful consequences to vulnerable consumers and as such an extension is granted, this must be clearly communicated in multiple formats by both the retailer and the Commission to customers and advocates.

In regards to transition arrangements for consumers with legacy debt that predates the Framework, we would recommend that all retailers consider the development of specialists within their hardship or customer care areas to handle these customers on a case by case basis.

We envisage such specialist staff to have highly developed awareness of the impacts of hardship and vulnerability on consumer behaviour and respectful conversation skills to be able to sensitively approach customers with significant debts and to develop strategies to carefully migrate them to the new Framework.

We would expect that the Commission will play some role in ensuring that retailers give due consideration to the customer's particular circumstances, bearing in mind that for some customers the migration process may take far longer than the business considers to be fair and reasonable opportunity to reduce arrears.

For further clarification of any statements within please contact Marcia Harkins, Executive Manager, Enterprise Partnerships and Development

Yours sincerely,



Stella Avramopoulos

CEO, Kildonan UnitingCare