

22 June 2018

Ms Sarah McDowell
Director, Energy
Essential Services Commission
Level 37, 2 Lonsdale Street
Melbourne, VIC 3000

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

Dear Ms McDowell,

Simply Energy welcomes the opportunity to provide feedback in relation to the revised Compliance Performance Reporting Guidelines (CPRG), updated to reflect the changes made under the Payment Difficulties Framework (the Framework). Simply Energy understands the need to provide meaningful information in order for the Essential Services Commission (ESC) to be able to assess the efficacy of the Framework in supporting customers, and the overall effect the changes have made to retailer behaviours.

Performance Indicator Reporting

Simply Energy agrees that the change to the timings of the reported detail to quarterly is consistent and reduces complexity. However, Simply Energy is concerned by the scope of some of the changes and the ability of retailers to provide the information requested efficiently in practice.

Simply Energy has not yet completed implementing system and process changes to support the regulatory changes ushered in by the Payment Difficulties Framework. This makes it difficult to assess how viable it would be to obtain all of the information required from the system. For example, the draft CPRG appears to assume automation of many steps that it is unlikely would be fully automated in practice.

The Framework is designed to flexibly respond to consumer needs, and due to this requirement it is not possible to rely on a system designed to make arbitrary decisions that could be 'tagged' to allow reporting. Instead, it is likely that reliance will be placed on records of human customer service agent actions when determining the category of assistance or situation type into which a customer falls.

Within the definition of proposed amendments, there is a requirement to separate customers who are commencing tailored assistance into those who can repay their arrears and ongoing usage costs, and those who cannot. From a systems perspective, this could effectively result in having to build two distinct options which do the same thing and are selectable by the user, for tailored assistance, as well as (potentially) for standard assistance, to ensure that retailers are able to offer the customer the required payment flexibility.

This draft CPRG requirement is partly justified as providing insight into the timeliness of retailer assistance. Simply Energy does not agree that this can be inferred from the metric. Tailored assistance is composed as a secondary step in a semi-linear progression of assistance, and the reporting cannot account for customers individual circumstances As a result it would not be

reasonable to infer that a customer who could not repay their ongoing usage and arrears was not provided with assistance at the relevant time.

Simply Energy also notes that the definition of certain Performance Reporting Indicators asks initially for the number of customers 'commencing' tailored assistance versus those 'receiving' tailored assistance. While this may appear to be a simplistic 'compare and contrast' task, depending on the subtleties of the system available this may be an extremely complex data point to extract, which does not provide any additional insight not provided already by other metrics, such as the number of customers receiving each form of assistance.

The intent of the Framework is to provide support to consumers at the level they require it, and with this in mind Simply Energy considers that the most relevant data point is the number of customers receiving tailored assistance.

The draft Performance Indicators (D020) also refer to reporting on customers who choose to enter into certain payment plan options for 'convenience'. It is not clear how retailers would be able to identify this through anything other than manual intervention and the creation of business rules, which would be inconsistent across the industry and risk undermining the accuracy and value of reporting.

Simply Energy also notes that the disconnections data does not intend to capture those customers who were disconnected due to 'unreasonable customer action'. Neither the definition nor clauses 83 (a) and (b) of the new Retail Code describe in any detail what this is. As a result retailers are left to develop business rules to define this – alongside future determinations from the ESC regarding whether or not the consumer action was considered to be unreasonable. Additionally, depending on systems parameters this may be difficult to extract, as disconnection for 'unreasonable consumer action' is not a request type that can be raised to the distribution network. (Noting that request types are the principal way of discriminating between different types of disconnection).

The proposed new indicator "Residential Customers who implemented practical assistance measures" tries to capture the offer and implementation of practical assistance by customers. However, retailers can only realistically report on the offer of such assistance. Retailers have no oversight of whether individual consumers change their behaviours based on the advice or assistance rendered. Simply Energy suggests that the definition remove the 'implementation' component from this indicator.

Similarly, the proposed new indicator regarding customers' arrears that were sold 10 days after disconnection is unclear. The current definition is likely to return a uniform 'null' from retailers. The current data around reconnections within 7 days is possibly more enlightening as to what happens after customers are disconnected, and relevant to customers who are still protected by the Energy Retail Code. We also note that consumer accounts eligible for debt sale would generally not be affected by the consumer protections offered under the Energy Retail Code and are instead protected by various regulation regarding debt collection practices.

Compliance Breach Reporting

The draft CPRG also indicates that the ESC has extended the range of data required, particularly in relation to compliance reporting requirements related to customers experiencing payment difficulties. Simply Energy understands the need to report on any instances where consumers are likely to have experienced some detriment as a result of a consumer protection not being met.

However, Simply Energy considers that the placement within the breach type 'hierarchy' needs to be considered more broadly, in order for the ESC to be able to assess the efficacy of the Framework's joint goals, being regulating the behaviours of retailers and providing positive consumer outcomes.

The proposed guideline creates an additional 7 'type 1' breach categories and an additional 4 'type 2' breach categories, which in turn brings a much larger number of clauses into scope for immediate reporting. The draft CPRG essentially makes entire, highly complex sections of the new Retail Code immediately reportable. Simply Energy considers that this is inefficient and potentially unworkable. Instead, the customer protections that when breached cause most customer detriment should be identified and only these placed in scope for immediate reporting. This is consistent with the ESC's approach to breach reporting for energy businesses in general.

For example, the clauses included as type 1 breaches contain upward of 40 clauses which become immediately reportable. Many of these would be more appropriately and effectively managed under the Wrongful Disconnection Payment (WDP) scheme, as they represent administrative errors resulting in technical issues, rather than actions that would result in actual consumer detriment. Indeed many of these clauses are currently managed in this manner.

Simply Energy notes that WDP cases where no outcome is definitively reached are referred to the ESC for deliberation in any case. Simply Energy does not consider that bringing all such issues immediately to the ESC results in a reasonable or judicious process for consumers, when there is an established scheme to deal with these types of non-compliance that is already in place.

Meaningful information is required in order to assess the effectiveness of the Framework in supporting customers, and the overall effect the changes have made to retailer behaviours. Simply Energy considers that the draft guidelines are only partially fit for this purpose, and anticipates that the ESC will need to review some of the structure and indicators to ensure that they are wholly up to this task.

If you have any questions or wish to speak to a representative of Simply Energy regarding this submission please contact Courtney Markham on [REDACTED]

Yours sincerely

[REDACTED]

James Barton
General Manager, Regulation
Simply Energy