



AGL Energy Limited

T 02 9921 2999

F 02 9921 2552

agl.com.au

ABN: 74 115 061 375

Level 24, 200 George St

Sydney NSW 2000

Locked Bag 1837

St Leonards NSW 2065

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Anna Collyer
Chairperson
Australian Energy Market Commission
GPO Box 2603
SYDNEY NSW 2001

Submitted electronically via: <https://www.aemc.gov.au/contact-us/lodge-submission>

RRC0042: Protecting Customers Affected by Family Violence

AGL Energy (AGL) thanks the Australian Energy Market Commission (AEMC) for the opportunity to provide feedback on the *Protecting customers affected by family violence* Consultation Paper, dated 18 November 2021.

As one of Australia's largest providers of essential services, providing over 4.2 million electricity, gas and telco services to residential, small, and large businesses, and wholesale customers, protecting the safety of our staff and customers who experience the devastation of family violence has been AGL's long-term priority. AGL was one of the first energy retailers in Victoria and across the National Energy Customer Framework (NECF) states to implement a family and domestic violence policy both at a corporate and customer level, prior to any regulatory intervention.

We had also actively engaged with the Essential Services Commission in the formative stages of the Victorian family violence energy regulations, sharing valuable insights from our experiences with customers affected by family violence.¹ We do not believe the Victorian process and the current rule proposal delivers the best outcomes for customers impacted by domestic and family violence. AGL welcomes the opportunity to our share insights and observations from the implementation of the Victorian framework with the AEMC.

Family violence is one of the most grave and serious harms affecting our society, the consequences of which have far-reaching economic and social ripple effects throughout communities. Strong collaboration from policymakers across economic, social, housing, health, law enforcement and legal sectors is required to overcome the deeply structural and systemic issues which allow perpetrators of family violence to control and harm victim-survivors. Essential services play a critical role in complementing governments efforts to support customers experiencing family violence, especially as perpetrators can control the victim-survivor's access to energy, exploit them through the accumulation of debt and unfair debt practices or compromise the victim-survivor's plans to safely escape through unauthorised access to personal information.

¹ AGL was highlighted as an Industry Case Study in the Essential Services Commission 2018, Providing family violence support: [Exploring ways energy retailers can provide family violence assistance that is safe and effective](#), 31 October 2018, Appendix C.



As a provider of essential services, we understand our role in supporting our customers who are experiencing family violence. This is why AGL already has a [domestic and family violence policy](#) that applies across all jurisdictions we operate in, not just Victoria. This policy contains AGL's actions, processes, and policies to protect and support affected customers.

We also work collaboratively with the community sector and our peers in other industries such as banking, water, toll road operators, insurance, family violence support services and legal centres through forums such as the Domestic and Family Violence Network for Business Working Group. Through these initiatives members share knowledge and insights on detecting family violence and perpetrator tactics to exploit victims, share experiences relevant to each industry, discuss responses to the National Plan to End Violence against Women and Children, and exchange best practices for assisting family violence-affected customers. This is a strong indication that cross-industry collaboration occurs naturally across the markets because industry appreciate that there is no competitive gain in supporting victim-survivors of family violence, only improvement in how society responds to it. This reflects that industry, rather than regulations, are best positioned to offer robust, effective, and respectful support measures to affected customers.

It is our view that regulatory intervention should only be used as a last resort mechanism when industry fails to provide appropriate support. We do not believe the rule change proponent or the AEMC have made the case this is the situation. In fact, we would argue that industry is providing the support as necessary.

When energy retailers interact with customers, one of the most critical aspects is that victim-survivors of family violence are given the agency and autonomy to represent their best interests. Strict regulatory intervention may result in unintended and negative consequences that could inadvertently take this agency away. At times, the operation of strict regulations can lessen the impact of assistance offered because retailers must act within the parameters of their legal and regulatory obligations. However, we know that the experiences and circumstances of every victim-survivor of family violence can be vastly different, but each is equally sensitive and complex, therefore, it is imperative that essential service providers have the freedom to support their customers in a way that is meaningful, dignified, and safe for those who need it most.

AGL's experience is that retailers and customers (and their advocates) working together are best placed to understand what support measures the customer needs and how it should be offered, and while we strongly agree there is a need to support our customers who may be experiencing family violence, we challenge whether a strict regulatory framework is the best placed mechanism to offer this support.

AGL believes that the AEMC should put this rule proposal on hold and alternatively recommend that industry and community groups work together to develop a guide on best practice principles for supporting customers affected by family violence, where the AEMC could provide retailers with:

- A checklist or toolkit of indicators, and how to offer respectful and timely assistance in a way that is safe and appropriate for victim-survivors.
- Education on different types of family violence and cultural context, akin to the FC/FCCA's Family Violence Best Practice Principles.²
- Good/best industry practice on responding to family violence, including insights, experiences, and the consumer perspective on how different situations can be handled by the retailer.

² Family Court & Federal Circuit Court of Australia, [Family Violence Best Practice Principles](#), December 2016.



- A responsible approach to credit collections and managing joint debt liability.
- National and international case studies, including insights from family violence frameworks in other sectors and jurisdictions.
- Elements which should be included in family violence training programs for employees, such as those listed in the Australian Banking Association's Industry Guideline on Preventing and responding to family and domestic violence.³
- Referrals to approved and accredited external support services that can be provided to the customer.

AGL recommends that the AEMC and the AER then monitor the effectiveness of the guide. There is precedence in the energy sector of the establishment of voluntary industry guides as a less stringent and more flexible approach to manage sensitive social and economic issues, these include:

- The Energy Charter - *National Customer Code for Energy Brokers, Consultants & Retailers*.⁴
- National product stewardship scheme for solar.⁵
- AEC and consumer advocates – *Guidance for retailers seeking to implement best practice customer support*.⁶

While AGL's preference is that the AEMC recommend the development of a best practice Guideline, if the AEMC decide to introduce regulatory intervention then AGL believes the adoption of the Victorian framework, rather than the proponent's proposal, will result in lower implementation and ongoing compliance costs as the Victorian framework was modelled primarily on retailer practices at the time. We also provide detailed responses to the specific questions in the Consultation Paper.

If you would like to discuss any aspect of AGL's submission, please contact Valeriya Kalpakidis at vkalpakidis@agl.com.au.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Elizabeth Molyneux'.

Elizabeth Molyneux

General Manager, Policy and Market Regulation

AGL Energy

³ Australian Banking Association, [Industry Guideline – Preventing and responding to family and domestic violence](#).

⁴ [National Customer Code – Energy Brokers, Consultants and Retailers, The Energy Charter](#).

⁵ Department of Agriculture, Water and Environment, Minister's Priority List 2021-22.

⁶ Australian Energy Council, [Principles in Practice Resource – Guidance for retailers seeking to implement best practice customer support](#), June 2021.



Changes proposed to the energy rules

Energy retailers must have a family violence policy

AGL agrees that energy retailers should develop, publish, and implement a family violence policy which outlines protections and assistance available to affected customers. While AGL understands that retailers can include information in the family violence policy above the minimum requirements of clause 76B of the proponent's rule change request, it is AGL's strong preference that the Victorian framework is replicated in its entirety in NECF, rather than cherry picking a combination of elements, leading to further fragmentation between the Victorian and NECF frameworks, and an inconsistent level of information from jurisdiction-to-jurisdiction and retailer-to-retailer. In such a case, should an affected customer need to move interstate and/or change retailers across borders, any inconsistencies between policies could inadvertently create a gap in protections.

AGL prefers the Victorian approach whereby the retailer "must have a family violence policy that addresses [the retailer's obligations under] this Part"⁷.

Retailers must firstly have regard to a customer's safety

AGL supports the principle that retailers must have regard to the customer's safety, however, exactly how it can be applied in practice or how this principle translates into an enforceable regulatory obligation is unclear. The implicit purpose and function of the family violence framework is built around the protection and safety of our customers. As providers of an essential services, every customer interaction requires the retailer to put safety at the forefront of the customer experience.

AGL recommends that Clause 76D of the proponent's rule change be amended into an overarching objective of the relevant Part of the NERR to promote the protection and safety of customers who may be affected by family violence.

Rules to include family violence as a cause of payment difficulty

It is common practice for energy retailers to recognise that family violence can be a source of payment difficulty, whether or not the customer is in arrears at the time they seek assistance. In practice, the customer will have likely accumulated debt with the retailer as it is often a co-factor to, or by-product of, the exploitative tactics used by perpetrators. Although the inclusion of Clause 76C of the proponent's rule change request may appear duplicative of the AER's Customer Hardship Policy Guideline, retailers' family violence policies already specify that affected customers can access short and long-term financial support measures⁸, therefore, it is unlikely that including clause will necessitate substantial changes.

Retailers to consider who caused energy debt, and the impacts of debt collection before disconnecting

AGL supports the proponent's inclusion of Clause 76F which mirrors the Victorian framework equivalent. Importantly, in order for the retailer to exercise its discretion over the collection of energy debt, the customer must have disclosed that they require additional support measures for customers experiencing family violence. The relevant account indicators must be present in order for retailers to take appropriate action and

⁷ Part 7 - Assistance for customers affected by family violence, Essential Services Commission Energy Retail Code of Practice, Version 1.

⁸ For example, [AGL's Family and Domestic Violence policy](#) outlines the different payment options available to affected customers, including deferrals, and payment extensions, as well as information on how to access AGL's hardship program, Staying Connected.



therefore, it is critical to engage the energy retailer at a time that is safe and suitable for the customer to discuss the measures that the retailer can take in these situations.

A retailer can only ask for evidence of family violence for energy disconnections

While AGL prefers the Victorian regulation approach to promote consistency, the better practice is not to request evidence of family violence, but to accept the customer's experiences on face value.

Additional components that could be included in the rule

Small business customers would not be covered

AGL strongly disagrees with the proponent's recommendation that small and medium business customers be excluded from the scope of the framework. Victim-survivors of family violence should not be denied access to support measures based on their energy account class and structure. This approach does not reflect the important work and progress that industry has made to protect our most vulnerable customers and to treat victim-survivors with empathy and respect. Further, this approach contradicts the proponent's statement that "these rules [family violence protections] should apply to all energy consumers".⁹

We do not consider it a just outcome when a retailer declines to assist and protect a customer experiencing family violence on the basis of their account categorisation. It is the duty of providers of essential services to treat customers affected by family violence with respect and to be inclusive. Further, a customer-retailer interaction where an agent is forced to decline to assist the customer because of how their account has been set up, would be deeply distressing to both the affected customer, and staff of the energy retailer. The proponent's recommendation to exclude small and medium business customers does not factor in circumstances where:

- The account class may be outdated or incorrectly categorised.
- The affected customer resides in a premises that is a mixed-use property, such as a milk bar.
- The affected customer resides in an office dwelling.
- The affected customer may be temporarily taking shelter at the premises of their small business where they have needed to flee their usual place of residence.
- An affected customer's small business may be their only source of income and/or only avenue of social or communal support and normality.
- Information relating to small and medium businesses is often publicly available (such as the ABN, contact name and details), can be used by the perpetrator to exploit and bypass ordinary account measures and gain access to the victim-survivor's sensitive information.

AGL strongly recommends that the AEMC include small and medium business customers to be covered by the scope of the family violence framework. Again, this would align with the requirements within Victoria, of which all national energy retailers currently comply with.

Specialist family violence training for retailers' staff

AGL believes that education about family violence is the strongest tool to overcoming it. Training not only serves an educational purpose, but it also raises social awareness, creates the right discourse amongst peers and staff and empowers individuals to self-evaluate and self-reflect on their circumstances. All staff

⁹ Red/Lumo, Rule change request – Family Violence Protections for Energy Customers, 23 September 2021



should be trained in the basics of family violence and AGL recommends that the NECF provisions mirror those in Victoria.

Minimising repeated disclosure of family violence experiences

The omission of this clause from the rule change request is a significant flaw in the proposed rule as, operationally, it translates into having an indicator, flag, registration, or any other feature or means of identifying the customer's account as receiving support measures under the retailer's family violence policy.

For AGL, this feature is central to operation of its family violence framework, and, for example, our telephony and IT system will automatically route subsequent incoming contact from the affected customer directly to a dedicated, specially trained team that supports victim-survivors of family violence and can identify signs of perpetrators attempting to interfere with the customer's energy account.

AGL recommends that the AEMC adopt the Victorian approach.

Implementation costs, impact mitigation and timing

While AGL provides a detailed support mechanism across NECF states, we recommend an implementation period of at least six months from the time that the AEMC publishes the final decision. This will allow retailers time to build and map their compliance programs to the new arrangements and allow for appropriate time to roll out a training and education program on the new obligations.