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Ms Kathryn Grantham
Senior Project Officer, Energy Social Programs
Department of Planning, Industry and Environment
NSW Government

By email

cc: Naomi Wynn

17 June 2021

Dear Kathryn

AGL response to the revised draft Version 7.0 of the NSW Social Programs for Energy Code

We refer to your email dated 3 June 2021 setting out a new timeline for implementation of the NSW Social Programs for Energy Code (**Code**) and circulation of a revised draft of the Code following stakeholder feedback. We appreciate the opportunity to provide some further points regarding the Code, and whilst these points have been raised previously, we consider it important to highlight these issues once again for the consideration of the Department of Planning, Industry and Environment (**Department**) although we note the comment that further amendments or queries are not anticipated. We also attach a copy of the Draft Code with some proposed edits.

Debt

We refer to the requirement to apply an EAPA Scheme payment to the latest debt (or standing debt) and not historical debt on an account. Whilst this may appear appropriate and reflect that this payment is an emergency or crisis payment, it does not support best customer outcomes as it may lead to disconnection for non-payment, nor does it reflect how credits are applied by the business and the capability of our systems.

Customers do not distinguish between time periods over which debt accrues. Customers are focused on credits and payments to their accounts reducing any outstanding debt on their account. Further, if there is historical debt on an account it is logical that credit is applied to the oldest debt incurred as this reduces the likelihood of the customer being disconnected for non-payment. If the oldest debt has progressed through the credit management process (as this is based on time unpaid) then if retailers are required to apply the EAPA credit to only debt incurred within 12 months of the payment, this could potentially increase the likelihood of the customer being disconnected despite this credit to their account. Further, from a business perspective, older debt and increasing older debt leads to higher financing costs associated with the debt, thus increasing overall cost to serve for all consumers.

Community groups are responsible for the assessment of eligibility of EAPA, if the Department believes the assessment is not aligning with the eligibility criteria, then the Department needs to



work with the community sector to make sure EAPA is only applied for when there is genuine crisis. Once that assessment is made, the application of the EAPA payment on the bill is insignificant for the customer. It should not matter how retailers apply the payment as long as community groups follow the eligibility criteria, then the payment will only ever be offered to customers experiencing a crisis.

Hardship customers

As previously set out in our last submission, we do not consider that the Code should duplicate provisions relating to hardship which are extensively considered under the National Energy Customer Framework (NECF). Duplication of obligations in separate instruments can lead to confusion and in some instances contrary obligations being imposed. We also believe the duplication of regulation is inconsistent with the [NSW Government's Regulatory Policy](#), where "effective regulation is the result of sound policy development and regulatory design processes. Those processes help the decision maker to be fully informed when considering regulatory proposals that are required, reasonable and responsive". The duplication of NECF provisions in the Social Code fails on all three counts, it is not required, reasonable or responsive.

On this basis, we again propose the removal in the Code of including hardship customers under clause A6.1.1(c) as this is unnecessary and duplicates the existing obligations under the AER Hardship Guideline which requires retailers to undertake a plan assessment on entry of the customer into a hardship program. Further, in clause D1.1A.2 reference to customers who have received an EAPA Scheme payment being deemed a hardship customer may not apply in all instances as the EAPA payment may lower the customer's debt to a level that a payment plan arrangement is adequate.

Disconnection

As retailers do not have visibility over all customers seeking an EAPA Scheme payment from an EAPA provider, retailers may inadvertently disconnect a customer and accordingly, not comply with the requirement to not disconnect a customer as set out in clause D1.6.1. If a customer is experiencing financial difficulties and notifies the retailer of this, the customer will be placed on a payment plan and this action places an automatic hold on disconnection. The current obligations under the NECF framework provides protections to customers from disconnection for non-payment and duplication under the Code may lead to poor outcomes for customers.

Best offer requirements

The drafting of clause A6.1.1 in the Code is unclear and we propose the following changes as set out in the attached document to clarify when we must review a customer's contract and to ensure that customers are not confused by receiving multiple communications in short time frames, which may not be of benefit to the customer.



We also query how retailers can comply with this clause in relation to the Seniors Energy Rebate as retailers do not handle the application for this rebate, this is directly applied for by the customer, and if eligible, it is paid directly to the customer's nominated bank account, not their energy account. If it were deemed to apply, then we require further time to implement and recommend that clause A6.1.6 be expanded to include the Seniors Energy Rebate.

The attached Code contains our suggested amendments to the draft Code for the purpose of clarity and includes comments relating to the issues set out in this response.

If you have any questions in relation to AGL's response, please feel free to contact me or Con Hristodoulidis to discuss further.

Kind regards, Sarah

(sent by email)

Sarah Silbert

Regulatory Strategy Manager

Policy and Markets Regulation