AUSTRALIAN ENERGY COUNCIL

General Manager-Retail Markets Branch
Australian Energy Regulator
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3rd October 2016

AER review of minimum amount owing for disconnection, r.116 of the National Energy Retail Rules

The Australian Energy Council (the Energy Council) welcomes the opportunity to make a submission to the Australian Energy Regulator's (AER) review of minimum amount owing for disconnection, r.116 of the National Energy Retail Rules.

The Energy Council is the industry body representing 21 electricity and downstream natural gas businesses operating in the competitive wholesale and retail energy markets. These businesses collectively generate the overwhelming majority of electricity in Australia and sell gas and electricity to over 10 million homes and businesses.

The Energy Council supports the current minimum disconnection amount of $300 being retained as it strikes a reasonable balance between debt management and customer protection. As highlighted previously in the Energy Council submission to the consultation paper, increasing the minimum disconnection amount would risk worsening customer debt. If customers postpone engagement with their retailers until disconnection is imminent and if the threshold is high, retailers are likely to carry customer debt for longer and customer debt levels will consequently increase.

Numerous programs

Currently retailers have in place a number of support programs (both mandatory and voluntary) to assist customers experiencing financial difficulty. In all circumstances disconnection is only used as a last resort. The setting of a minimum disconnection amount is therefore only one final element of a broader group of consumer protection provisions that assist customers experiencing genuine difficulty in paying their energy bills.

Retailers send reminder notices, SMS's, and attempt to make proactive contact with all customers, including those with bills below the threshold. This engagement ensures that all customers who require assistance with their energy bills receive it.

The Energy Council submits that it is important for customers to engage with retailers. We consider that the AER's Sustainable Payment Plans framework will further contribute to enhancing interactions between retailers and customers, with the minimum disconnection threshold only impacting those customers who choose not to engage with their retailer's efforts to assist them.

Debt Risk

The Energy Council submits that an increased disconnection threshold is likely to result in higher accumulated debt for those customers who for many reasons may choose not to engage, or who do not inform their retailer of their financial difficulties, prior to a disconnection notice being issued.

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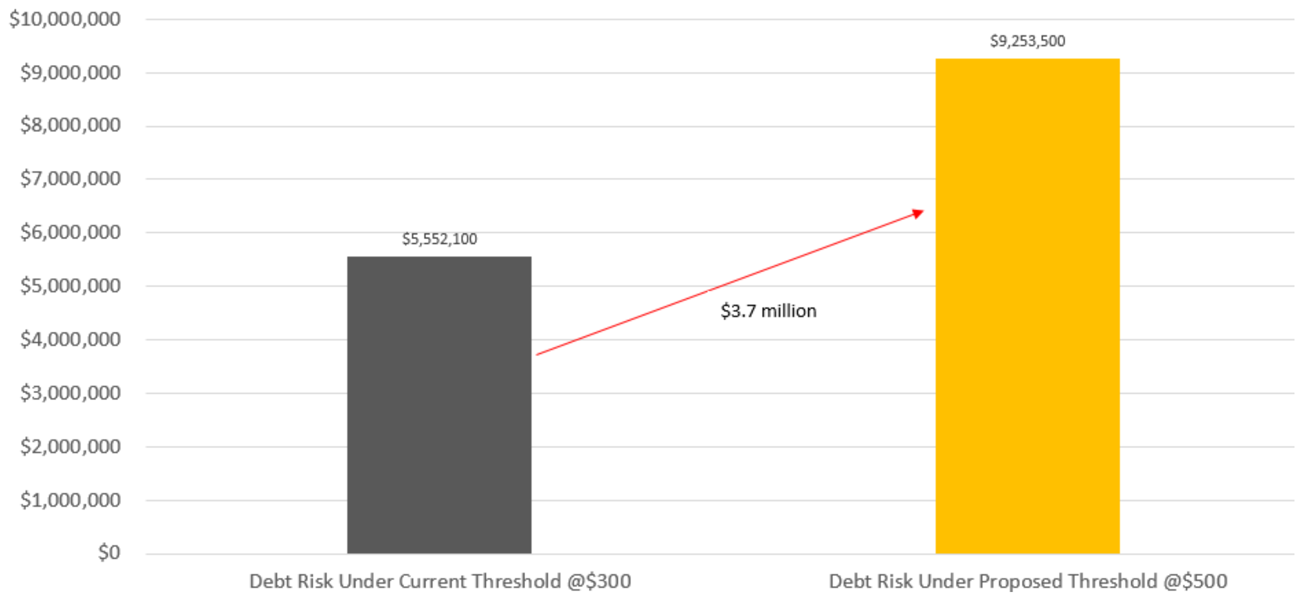
Using the AER's retail energy residential disconnection numbers for Quarter 3, 2015-16, the Energy Council analysed the debt risk by comparing the current disconnection threshold against an assumed increased threshold ($500). Figure 1 shows that that the additional debt risk carried by retailers under an increased threshold could increase by over $3.7 million. This result assumes that those disconnected fall exactly on the threshold. In reality debt will be at or above this threshold at disconnection. The analysis doesn't take into consideration increased debt due to the increased threshold extending the time until disconnection. The additional cost of debt of $3.7 million underestimates the actual increase to retailers.

Figure 1: Debt Risk under Current Threshold at $300 and $500[i]



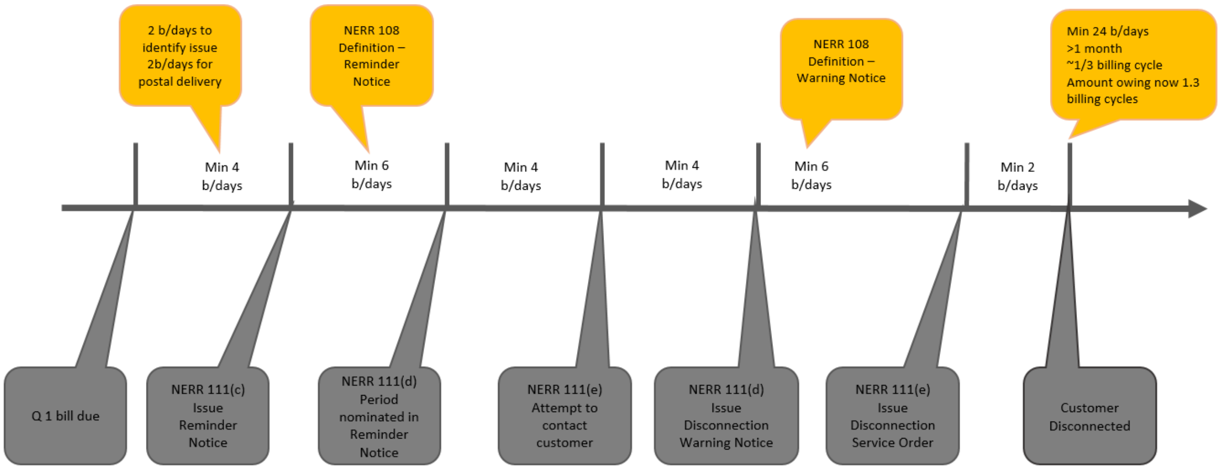
Billing cycle and disconnection

The Energy Council recognises that there are multiple factors which may be taken into account when attempting to set an equitable minimum disconnection amount. One of those is the billing frequency.

At a minimum a customer will generally have 24 business days before they are potentially disconnected for non-payment. By increasing the minimum disconnection threshold to $500 the customer is highly likely to be into their 2nd billing cycle before a standard disconnection process can begin following non-payment of the second consecutive bill. The consequence is that a customer who was experiencing payment difficulty for a $300 plus account balance will now be experiencing even greater payment difficulty with a $500 plus outstanding balance.

Figure 2 provides a strawman map of the billing cycle and disconnection based on retailers maintaining their minimum regulatory typical processes for billing and disconnection. In practice, every retailer will have additional steps that slow the regulated process further. Once a customer actively engages they exit the disconnection process.

Figure 2: National Energy Retail Rules (NERR) Typical Disconnection Process[ii]



If the threshold is increased, based upon average consumption the earliest disconnection of non-payment will not occur for over 200 days (180 days over two billing quarters plus another 24 business day's minimum collections and disconnections processes), resulting in over 6 months of unpaid debt.

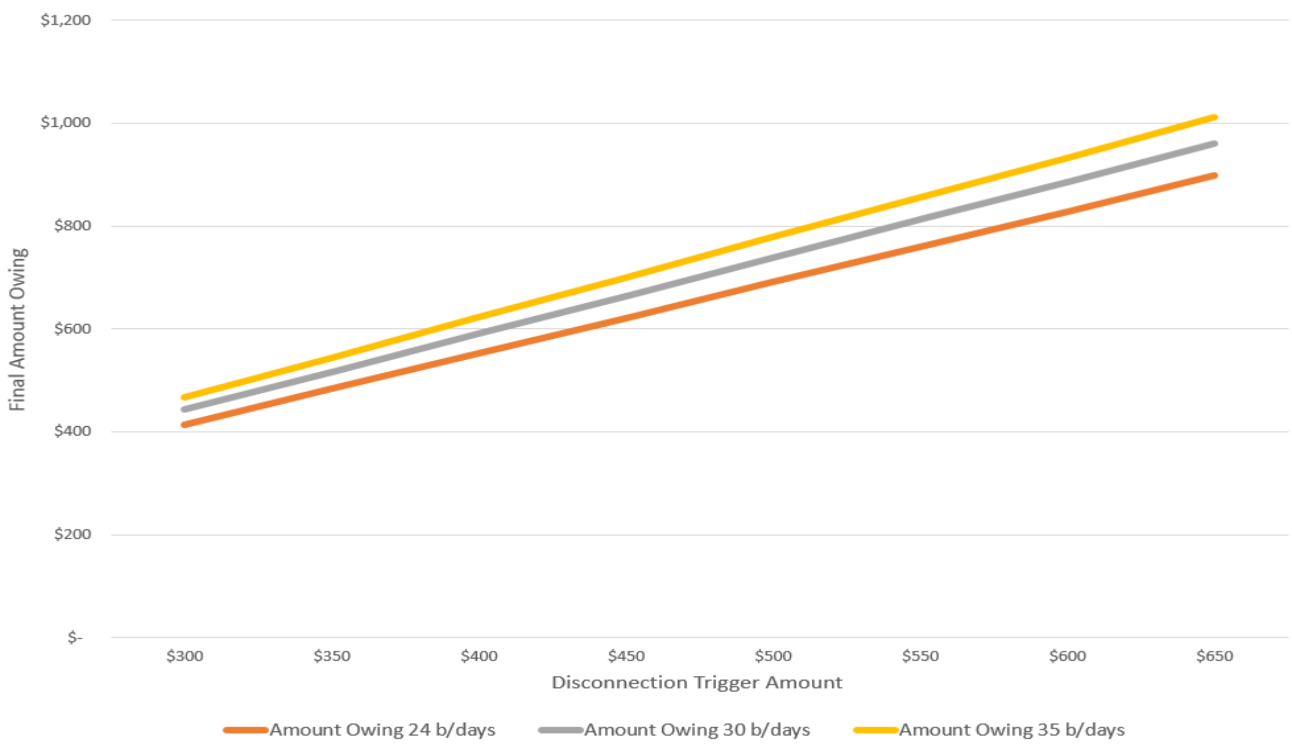
The practical effect is that increasing the minimum disconnection amount from $300 to $500 means retailers must wait for a further two billing cycles before placing a customer on a disconnection process. The consumer detriment is twofold:

1. Customers in genuine hardship will have acquired a much higher debt and therefore are likely to find it increasingly hard to keep on top of that debt; and;
2. The cost of this debt to retailers is generally recovered from other consumers.

The Energy Council supports the AER retaining the minimum disconnection amount at a level that only allows debt to be accumulated for one billing cycle before a disconnection process commences. If the amount is retained there will be an obligation on retailers and customers to engage earlier to set sustainable payment plans and offer other assistance before the debt level gets beyond the customers capacity.

Figure 3 shows that when it takes a retailer more billing cycles before the disconnection process commences the amount owing becomes higher. The Energy Council submits that the 24 business days is a minimum. The calculations are based on days after initial bill that disconnection happens and amount in quarter 1 bill.

Figure 3: Quarter 1 + 24 business days - amount now owing ($)[iii]



The Energy Council supports retaining a minimum disconnection amount of $300 as it aligns with the AER's recently developed Sustainable Payment Plan Best Practice Guide that requires proactive engagement and customised support.

Small Business Customers

The Energy Council is concerned that small business customers will be included with the requirements of residential customers as the minimum disconnection amount applies to small customers generally. When a small business customer is experiencing payment difficulties then increasing the minimum disconnection amount allows them to consume energy for an even longer period without payment. As is the case with residential customers, the practical effect is that retailers are unable to disconnect business customers until further bills have accrued, which will further exacerbate their debt.

Without disconnection, small business can incur an increasing level of debt to the point of it being an unmanageable amount. Disconnection of a small business forces many of them to confront their payment difficulties and if necessary force some to seek insolvency advice before the level of debt becomes unmanageable. Further, allowing a business customer to accrue debt conceals the relevant test of solvency, which is the ability to pay bills by the due date. The purpose of extending the threshold is not to lead to more convenient credit terms, but to assist customers avoid credit difficulties. The Energy Council suggests that small business customers should not be included in any increase of the minimum disconnection amount.

Moving Forward

The Energy Council submits that if the AER opts to conduct a further review of the minimum disconnection amount that this should be done in five years or more, with an earlier review only if developments in the market require it.

Any questions about our submission should be addressed to Panos Priftakis, Policy Adviser by email to panos.priftakis@energycouncil.com.au or by telephone on (03) 9205 3115.

Yours sincerely,

Sarah McNamara
General Manager Corporate Affairs
Australian Energy Council

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[i] AER Retail energy market performance update for Quarter 3, 2015-16 and Australian Energy Council analysis
[ii] Retail member process
[iii] Australian Energy Council analysis and retail member data