Redfern Legal Centre

25 August 2014

Ms Jane Leung,
Policy Officer

Energy and Water Ombudsman NSW
Level 11, 133 Castlereagh Street
Sydney NSW 2000

discussionpaper@ewon.com.au

Dear Ms Leung,

Please find attached our policy submission in response to the Energy and Water Ombudsman NSW Prepaid Meters Discussion Paper.

We would welcome the opportunity to meet with you to further discuss our submission.

Yours faithfully,
REDFERN LEGAL CENTRE

Jacqui Swinburne
Acting Chief Executive Officer

73 Pitt Street Redfern NSW 2016 *ACN:* ~~31 001 442~~ 039 *ph:* (02) 9698 7277 *fax:* (02) 9310 3586 *web:* www.rlc.org.au
General enquiries: Monday to Thursday 9am – 9pm, Friday 9am – 6pm
Interviews by appointment: Monday to Thursday 6.30pm – 8pm

Redfern Legal Centre

REDFERN LEGAL CENTRE

SUBMISSION:

EWON, Prepayment Meters Discussion Paper, 25 July 2014

AUTHORS:

Katie Pearce, Practical Legal Training Student, Redfern Legal Centre

Will Dwyer, Credit & Debt Solicitor, Redfern Legal Centre

Redfern Legal Centre

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1. Introduction: Redfern Legal Centre

Redfern Legal Centre (RLC) is an independent, non-profit, community-based legal organisation with a prominent profile in the Redfern area.

RLC has a particular focus on human rights and social justice. Our specialist areas of work are domestic violence, tenancy, credit and debt, employment, discrimination and complaints about police and other governmental agencies. By working collaboratively with key partners, RLC specialist lawyers and advocates provide free advice, conduct case work, deliver community legal education and write publications and submissions. RLC works towards reforming our legal system for the benefit of the community.

2. RLC's work in energy issues

RLC has a long history of providing advice, assistance and advocacy to the local community, with a key focus on the provision of information and services to public housing tenants and strong emphasis on the prevention of homelessness.

We recognise that the protection of financial and consumer rights is an important mechanism to secure other rights and freedoms such as secure housing, effective education and social and economic participation. Our specialist credit and debt practice helps marginalised consumers with effective and practical remedies for consumer law issues.

Staying connected to essential services is an ongoing challenge for many of our clients.

RLC has assisted many clients with problems involving access to energy, particularly around costs and connections. Through our casework experience, we have seen the significant impact which disconnection from energy can have upon vulnerable people. We regularly assist people who are struggling to manage utility debts and negotiate fair outcomes with their energy retailers. The increasing lack of affordable access to utility services is a growing concern for many of our clients.

3. RLC's view in summary

RLC welcomes the opportunity to comment on the effect of the introduction of prepayment energy meters ('Prepaid Meters').

Socially disadvantaged tenants are critically affected by recent energy price rises and account for a disproportionately high rate of energy disconnection.

Socially disadvantaged tenants were identified by the National Energy Affordability Roundtable Report to the Standing Council on Energy and Resources (SCER) as the target of initiatives moving forward. RLC sees a broad contingent of consumers who are only just able to make their payments and are juggling energy bills in the context of broader financial hardship. We regularly assist consumers who cannot afford the energy they consume, even in situations where their energy use is already conservative. These consumers are in constant need of ongoing case management and assistance as well as government concessions and frequent emergency relief.

RLC has concerns about the likelihood of increased occurrences of disconnection for low-income earners in a prepayment scheme. We are concerned that a prepayment scheme will lead to a reduction in disconnection visibility.

There is a broadly held acceptance that prepaid services are more expensive. We believe this is likely to translate into the prepaid energy market unless mechanisms are put in place to avoid this. RLC stresses the importance of protection measures in the National Energy Retail Rules ('NERR') as well as the need for a broad range of recharge options if Prepaid Meters were to go ahead.

Energy should remain as a service that is universally accessible, particularly for vulnerable consumers. Any discussion surrounding the introduction of prepayment mechanisms to regulate supply must take this into consideration.

4. RLC's recommendations

Recommendation 1
Consumers must be provided with the opportunity to switch from a standard meter to a Prepaid Meter at no additional cost. Strict protections must be in place for emergency credit.

Recommendation 2
Provisions must be put in place so that the Australian Energy Regulator can collect information on self-disconnection to offer assistance and inform ongoing energy policy.

Recommendation 3
All Prepaid Meters must have a reporting system in place to identify and monitor consumers self-disconnecting.

Recommendation 4
Retailers must be compelled to provide competitive price structuring for Prepaid services and communicate these in a clear, simple and consistent manner to consumers.

Recommendation 5
The cost of rolling out Prepaid Meters and/or their removal should not be passed on to consumers who already struggle with energy affordability.

Recommendation 6
The protection mechanisms in the NERR relating to times for self-disconnection, emergency credit and response to multiple self-disconnections should be strictly adhered to.

Recommendation 7
Consideration must be given to the mechanism for accessing prepayment. A broad range of transactions should be available to avoid inaccessibility, particularly for consumers in rural and remote areas.

5. Responses to specific issues

5.1 Disconnection and disadvantage

There has been an industry wide increase in the rate of disconnections throughout preceding years. The number of residential consumers disconnected for non-payment of bills increased by 7% from 2011/12 to 2012/2013, a jump from 23,307 to 24,888.[1] Research shows that more than a quarter of disconnected households (26%) were disconnected more than once during the year.[2]

It is widely accepted that, compared to the general population of NSW, consumers who struggle with disconnection are more likely to be unemployed, sole parents, Aboriginal and/or Torres Strait Islander and renting or living in public housing. Other prevailing factors for consumers who experience disconnection include having household members with health conditions, including mental health issues. These indicators of disadvantage will affect consumers' ability to participate in a Prepaid meter scheme.[3]

It is worth investigating the analogous experiences in relation to prepaid mobile phones. Many RLC clients have prepaid mobile phones as they cannot afford the ongoing monthly costs associated with post-paid services, or do not meet the credit requirements. These consumers routinely experience frustration and difficulty in contacting their energy providers. Access through 13 and 1800 numbers is difficult as these are not free calls from mobiles. Most are simply out of credit. While the free calls will be rectified by 1 January 2015, the lack of credit is an ongoing issue.

We are concerned that those consumers who have trouble managing mobile phone 'credit' will experience the same issues with Prepaid Meters.

While inability to communicate due to not having credit in Prepaid mobile accounts is of concern, exclusion from energy services where individuals are out of credit with their Prepaid Meter could have a broader detrimental effect. Exclusion from energy supply means the most vulnerable consumers have no access to heating, hot water and lighting. While the current Post-paid system can result in accumulation of large arrears, and ultimately disconnection, debt collection action and credit default listing, a Prepaid system more worryingly could result in exclusion from energy services for long periods of time without the current accountability and monitoring of disconnection.

Recommendation 1: Consumers must be provided with the opportunity to switch from a standard meter to a Prepaid Meter at no additional cost. Strict protections must be in place for emergency credit.

5.2 Reducing disconnection visibility

Of particular concern to RLC is the reduction in visibility of disconnections resulting from Prepaid Meters. We understand that energy retailers currently monitor records of disconnection. This

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[1] Independent Pricing and Regulatory Tribunal (IPART); Customer service performance of electricity retail suppliers 1 July 2008 to 30 June 2013

[2] Urbis authors, Wallace, A & Holloway, L (2013) *Cut Off III: The Experience of Utility Disconnections*, report prepared by Urbis for the Public Interest Advocacy Centre Ltd, Sydney NSW.

[3] Ibid 10

information is properly recorded and can be used to inform ongoing energy policy.

Loss of supply due to lack of credit is a harder mechanism to account for. Disconnection rates will become more difficult for welfare services and the Australian Energy Regulator to monitor. Using Tasmania's prepaid meter experience as an example, reports from Quarter 1 2012 – 2013 reported 34 732 residential electricity customer using Prepaid Meters, 15% of the market. However only 875 of these meters, or 2.5% had the ability to detect and report self-disconnection events.[4]

The National Energy Retail Rules, Part 8, ss 129(5) and 140(1), require that prepayment meter systems are capable of identifying to the retailer instances of self-disconnection, including the duration. RLC strongly believes that monitoring and reporting of Prepaid Meter disconnection rates should remain mandatory.

Recommendation 2: Provisions must be put in place so that the Australian Energy Regulator can collect information on self-disconnection to offer assistance and inform ongoing energy policy

Recommendation 3: All Prepaid Meters must have a reporting system in place to identify consumers self-disconnecting

5.3 Increased cost of services and compromising benefits of competition

The cost of implementing Prepaid Meters is a genuine concern. We see the risk of setup and monthly service costs being rolled into the Prepaid rate, ultimately resulting in a more expensive end service. The Roundtable Report to SCER noted that a percentage-based concession applied to a customer's bill provides the most meaningful and equitable assistance. RLC recommends that a similar concession remain in place with a Prepaid Meter system, to avoid disadvantaged consumers shouldering roll out and maintenance costs.

We would expect the roll out costs of Prepaid Meters to be considerable, particularly in light of additional hardware and ongoing maintenance costs. Where energy retailers would be responsible for the roll out, energy consumers would ultimately pay for this infrastructure. We feel that any cost benefit analyses should properly consider the impact upon vulnerable consumers.

Research into a smart meter rollout suggests that consumers may experience two types of cost increases as a result of a new infrastructure: the initial costs associated with the rollout of the meters and possible bill increases due to tariff reallocations.[5] This runs the risk of low volume energy consuming households, which tend to also be low-income households, subsiding high volume households. This is an irrational approach to a system designed to help low income consumers reduce their risks of disconnection.

A report from the United Kingdom notes the less competitive nature of the Pre-Paid Meter market ('PPM') means that PPM consumers tend to pay more than those on direct debit and

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[4] AER Retail Market Performance Report Q1 2012 – 2013, accessed at http://www.aer.gov.au

[5] May Mauseth Johnston, *Customer Protections and Smart Meters - Background Paper*, St Vincent de Paul Society National Council, August (2009) accessed at AER - St Vincent de Paul - Background Paper

quarterly payment plans. It notes that while some 13% of the population utilizes PPM, only 3.2% of energy offers are available to PPM consumers. This results in less choice, less competition and less opportunity for savings.[6] While customer satisfaction is relatively high and the benefits such as increased self-control and budgeting capacity are recognised, the report notes many disadvantages. These include higher cost tariffs, higher rates of self-disconnection, issues associated with PPM settings, inconvenience caused by the top-up process, problems with payment devices, misdirected payments, unallocated payments, lack of information or engagement, challenges when switching supplier and barriers to switching payment method.

Whilst those in the United Kingdom have a choice of online, fixed, green, duel fuel and discounted tariffs, as well as receiving the direct debit discount opportunity, most energy providers only offer one tariff to prepayment consumers. A review of some of the offerings for energy tariffs in the United Kingdom reveals a difference approximated at £271 or $389 per annum between the lowest postpaid energy offerings and lowest prepaid energy offerings.[7] Additionally there was only £123 or $220 in variation between the limited prepaid offerings, with the gap between the more expensive prepaid offering and cheapest postpaid offering exceeding $600 per annum.

The best way to ensure low-income consumers retain universal access to energy is to keep energy as affordable as possible. The UK experience indicates that a Prepaid Meter system may not achieve this, primarily because monthly access fees, charges and maintenance are built in to the tariff.

Case Study 1:
Nikolas, (not his real name) an elderly pensioner from a Russian speaking background, contacted RLC asking for an explanation about his electricity bills.

Nikolas' electricity provider was Integral Energy. He was convinced to changed to Integral by a door-to-door marketer who told he would get better prices. The marketer said Nikolas would not have to pay an early termination fee on his existing contract. When he changed to Integral he received an early termination fee from his current provider.

Nikolas' correspondence appeared to link the termination payment to the change in agreement with Integral. RLC called Integral with Nikolas and was told that he would not be required to pay the fee for the change and that the fee would be waived. (Meanwhile Integral was purchased by Origin, introducing a new name into the mix.)

Shortly after, Nikolas received a courtesy text message from AGL reminding him that his account was overdue. Nikolas had no recollection of switching to AGL and had not received a bill from them. He called Integral Energy who advised him that he was no longer a client of theirs. He then asked RLC for more help.

RLC made several calls on Nikolas' behalf to Integral/Origin and AGL, seeking clarification. They were informed that the original termination fee in fact had been for the transfer to AGL. He had

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[6] Consumer Focus and Accenture, '*Smart Prepayment in Great Britain – Making prepay energy work in a smart world*' (2013) accessed at http://www.consumerfocus.org.uk/files/2013/05/Smart-Prepayment-in-Great-Britain.pdf

[7] http://www.money.co.uk/dual-fuel/pay-as-you-go-energy-tariffs.html

also, it turns out, been directed marketed at home by someone on behalf of AGL.

Nikolas did not receive a bill from AGL until three months after he had received the early termination fee notice from Integral Energy, and up to four months after he had been approached to switch to AGL at his home. During this time, Nikolas remained under the impression that his energy provider was Integral/Origin, and had continued to deal with them. As a result, he was charged a second early termination fee, this time by AGL for transferring back to Integral/Origin.

RLC contacted AGL who agreed to waive the early termination fee, extend the due date for his bill, and send him an amended bill. RLC also ensured that Origin were in fact his current provider, and ensured that Nikolas had not been double billed for any period.

Nikolas, once made aware of the transfers, noted the pressure by the marketers and the feeling he would have to agree to something to just get them out of the house.

Comment: This case study highlights the difficulties that culturally and linguistically diverse consumers experience in navigating the energy market. The difficulty of dealing with energy retailers is compounded for consumers who are from non-English speaking backgrounds. We are concerned that resolving issues with Prepaid Meters would remain problematic for CALD consumers, but note the opportunity to minimize costs incurred for disconnection and reconnection.

Recommendation 4: Retailers must be compelled to provide competitive price structuring for Prepaid services and communicate these in a clear, simple and consistent manner to consumers.

Recommendation 5: The cost of rolling out Prepaid Meters and/or their removal should not be passed on to consumers who already struggle with energy affordability.

5.4 Protection mechanisms

RLC does have a number of clients living in social housing who self disconnect their electricity and hot water - as a means of conserving energy and as a form of saving money. This tends to lead to the use of alternative unsafe practices such as using portable burners and candles.

The protections provided by the *National Energy Retail Rules (NERR)* may be beneficial for these consumers, especially the provision that self-disconnection is not allowed other than between 10am and 3pm on a weekday. This protection would be particularly important to avoid consumers going without energy for sustained periods of time. The postal survey conducted in New Zealand and mentioned in the Discussion Paper notes that 38% of those who self disconnected were without power for periods of 12 hours at a time in 2010, and this increased to periods of 24 hours for a third of people by 2011.[8] A most concerning statistic in these surveys is that some

[8] Healthy Housing, Nationwide Postal Survey of Electricity Prepayment Metering Consumers, accessed at http://www.healthyhousing.org.nz/research/current-research/household-energy-affordabililty/electricity-prepayment-meter-users-study/

households in 2011 were disconnected for over a week.[9]

The other provisions from the NERR that are imperative to protect consumers relate to emergency credit and the requirement to offer a customer a standard meter if they self disconnect with certain frequency. The suggestion that these could cause debt being easily accumulated is outweighed by the commitment to provide all consumers with a requisite level of service for basic comfort.

Recommendation 6: The protection mechanisms in the NERR relating to times for self-disconnection, emergency credit and response to multiple self-disconnections should be strictly adhered to.

RLC believes that Prepaid meters may offer greater protection to those people who are at risk of having their energy appropriated as we have seen in some cases, or for people in share houses to have better control and monitoring mechanisms.

Case Study 2:
Jordan called Redfern Legal Centre after he had moved into a Housing NSW unit. When he moved in, Jordan believed that the hot water was an electric system and there was no gas service in the apartment.

A few months later Jordan received a gas bill from AGL for the last 2 quarters. The total bill was for $134.16, and addressed to "Dear customer" at Jordan's address.

The bill claimed $45.62 from the first quarter billing period and $88.54 from the second quarter billing period. Jordan had not opened an account with AGL and this was the first letter he had received from them.

Jordan then spoke with AGL who said the matter had to be taken up with the landlord, Housing NSW. In his dealings with Housing NSW, there was no mention of gas services. Jordan did not want to pay the bills and he had never negotiated an agreement with AGL.

RLC contacted AGL on Jordan's behalf. AGL stated that the supply of gas was for the hot water system. AGL had continued to supply gas to the unit after the previous tenant left. AGL's practice was to send 'Dear Customer' bills until the gas supply was transferred to another retailer or the client contacts them to sign up for their services. Further, AGL stated that if neither of these things happens after 6 months, they disconnect the gas supply.

RLC also contacted Housing NSW to enquire about the type of hot water service used in the apartment building. Housing NSW did not reply.

Jordan experienced a range of problems in navigating the retail energy market as a public housing tenant. If the Housing NSW apartment had a central hot water service, the gas usage is calculated on the rate of the water going through the hot water system to the individual unit. If the apartment is a long way from the hot water tank, cold water will run through the pipes before it becomes hot, but the gas used will be billed to that account.

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[9] Kimberley Clare O'Sullivan, Power and Control: A multiphase mixed methods investigation of prepayment metering and fuel poverty in New Zealand. December 2012 194

Further, each bill incurs a connection fee and an account fee on top of the usage charge. Jordan indicated he did not wish to use AGL as his gas provider. RLC contacted EWON (Energy and Water Ombudsman NSW) and while Jordan could change retailer, this would not avoid the existing bill. The Gas Supply Act 1996 (NSW) makes it an offence to 'steal' gas and Jordan has received a number of letters from AGL ordering payment of the bills and threatening action.

The inception of the problem was Housing NSW failure to inform Jordan about the possibility of receiving gas bills. Many people do not know that they have a gas connection at all until months later when they get hit by a large bill. This makes budgeting for utility costs on a low income particularly difficult.

Comment: This case is indicative of a problem that RLC has recently seen affect several clients. Without proper advice from Housing NSW about their apartment's use of gas, tenants are unknowingly incurring gas bills that they are unprepared for and subsequently, find difficult to pay.

Prepaid meters could provide some mechanism to alleviate or avert this.

5.5 Access to payment methods

The discussion paper suggests three modes of payment including a smart card, payment via the Internet and payment via mobile phone. It needs to be stressed that our clients, while increasingly dependent on mobile telephones as their sole connection point, are frequently without credit. Accordingly, many have little or no access to Internet services. These methods of payment may be convenient for some segments of the community they would not obviate the need for a 'shop front' service which consumers can visit in person to top up their card.

The 'shop front' requirement in turn raises issues of accessibility, particularly in rural and remote areas. Consumers would ideally need to be within walking distance of a shop that can provide prepayment top up services to reduce the costs associated with travel. There are also risks that low-income earners will be unable to top up when these stores may be shut such as public holidays, or late at night.

Section 142 of the NERR stipulates that retailers need only to provide one option: location based pay service, telephone service or electronic payment method. Having only one top up option will severely disadvantage consumers with only intermittent access to telephone or Internet services, or who live in rural and remote areas.

Recommendation 7: Consideration must be given to access to payment and a broad range of offerings available as to avoid inaccessibility by those with limitations on communication points and travel

Conclusion

Prepaid Meters present many practical challenges. In our view, these challenges will disproportionately affect vulnerable and disadvantaged consumers who already struggle with energy affordability. While there are some tangible benefits in relation to self-management and control with Prepaid Meters, the gaps in service provision need to be addressed to avoid vulnerable consumers being excluded from accessing basic energy services. We are concerned that Prepaid Meters may reduce the ability to properly monitor access and disconnection rates.