



**ENERGY AND WATER  
OMBUDSMAN**  
Victoria **Listen Assist Resolve**



# **EWOV Submission**

## **ENERGY RETAIL CODE OF PRACTICE REVIEW**

**31 July 2024**

## Contents

Executive summary .....	4
Summary of recommendations .....	6
The need for an overarching obligation to ensure retailer actions drive fair consumer outcomes.....	10
1. Protections for consumers experiencing vulnerability .....	13
1.1 Strengthening family violence protections .....	13
1.2 Payment difficulty framework – training requirements .....	16
1.3 Obligation to place debt on hold for six months .....	18
1.4 Accessibility of Utility Relief Grant (URGs) information.....	20
Broader changes to improve consumer awareness of and access to entitlements .....	23
1.5 Assistance and information on energy efficiency .....	26
1.6 Further actions to advance <i>Getting to fair</i> .....	27
Strengthening access to PDF entitlements when a consumer has a closed account .....	27
Improving existing protections for consumers using life support equipment when they move address..	28
Introduce specific protections for consumers impacted by natural disasters .....	29
Strengthening protections for consumers seeking reconnection after being disconnected.....	31
2. Supporting the choices of energy consumers .....	32
2.1 Supporting customers who want to disconnect from gas .....	32
2.2 Bill information requirements.....	33
2.3 Clarifying best offer obligations .....	35
2.4 Accuracy of information on Victorian Energy Compare Website .....	38
3. Pricing and contract protections .....	39
3.1 Bill frequency obligations .....	39
3.2 Clarifying unclear definitions .....	40
Standard offers.....	40
Pay-by date .....	40
Arrange a disconnection.....	41
3.3 Disclosure of additional retail charges in contract terms and conditions .....	43
3.4 Requirement to publish changes of tariffs and charges in newspapers .....	43
4. General code of practice updates and other changes.....	45
4.1 Protections for embedded network customers .....	45
4.2 Use of preferred communication method.....	46
4.3 Receipt of communications and notices .....	47

4.4 Bulk hot water formulas.....	48
4.5 Complaint handling processes .....	50
Internal dispute resolution processes .....	50
Access to external dispute resolution .....	51

## Executive summary

The Energy and Water Ombudsman (Victoria) (EWOV) welcomes the opportunity to provide input to the Essential Services Commission's (the Commission) Review of the Energy Retail Code of Practice (the Code).

EWOV provides free, independent redress to Victorian consumers by receiving and resolving energy and water complaints. We work to ensure fair and reasonable outcomes when energy and water problems arise. We use our unique data insights about consumers' experiences of the Victorian energy and water markets to improve consumer and market outcomes, through our engagement with businesses, government, regulators and the wider community.<sup>1</sup>

Over the last year EWOV, has seen a 22% increase year-on-year in the number of complaints received, with high bills the leading cause of consumer complaints. Many of these complaints highlight the energy affordability challenges facing consumers. For example, consumers are struggling to understand and pay higher-than-expected bills, they have asked for help to manage bills and not got the help they expected, or they are struggling to pay down debt they have accrued over time.

Our complaints also reflect specific impacts for consumers facing multiple intersecting challenges (described throughout this submission as vulnerabilities). For example, EWOV continues to see complaints from victim-survivors of family violence who have experienced problems with their energy and/or water providers. These issues prompted our recent report "*Empowering change: Supporting victim-survivors of family violence*".<sup>2</sup> EWOV also sees the impacts of gaps in the framework for consumers using life support or who are impacted by natural disasters.

The energy market is also in a period of significant transformation. The Australian Government has committed to reaching Net Zero emissions by 2050, while the Victorian Government has an additional ambitious target to halve emissions by 2030.<sup>3</sup> Residential electrification has been identified as a key pathway to achieving this objective, particularly in Victoria where approximately 76% Victorian households currently have a mains gas connection for their heating, cooking and or hot water.<sup>4</sup> Consumer uptake of some Consumer Energy Resources (CER) - such as solar PV – is already extensive. However, there has been slower uptake of other CER, including storage (i.e. home batteries and Electric Vehicles), and increased load flexibility through residential electrification. This illustrates the need to promote consumer confidence and trust to drive wholesale adoption of CER and reach Net Zero.

In this context, a review of the Code is timely and necessary.

The Code is a critical instrument in the Victorian consumer protection framework, setting minimum standards for retailers providing essential energy services to Victorian consumers. EWOV welcomes changes that would see fairer outcomes for consumers in payment difficulty or experiencing vulnerability, and stronger protections for consumers seeking to actively engage in the renewable energy transition by purchasing new and innovative energy products and services.

---

<sup>1</sup> See Clause 5.1 of [EWOV's Charter](#).

<sup>2</sup> EWOV, [Empowering change: Supporting victim-survivors of family violence](#), June 2024.

<sup>3</sup> Department of Energy, Environment and Climate Action, [Gas substitution roadmap update](#), July 2023.

<sup>4</sup> Energy Networks Australia, [Reliable and clean gas for Australian homes](#), July 2021, p 2.

A key priority for EWOV is a shift in focus from processes to a focus on fair consumer outcomes. EWOV considers this could be achieved by introducing an overarching obligation for retailers to act *efficiently, honestly and fairly*.

EWOV considers an overarching obligation would:

- Shift the emphasis from compliance to a stronger focus on conduct which takes better account of risks to good consumer outcomes
- Drive a culture of greater sensitivity to consumer interests
- Ensure the consumer protection framework is able to keep up with a fast-changing market in which new products, services and business models are being developed, rolled out and taken up at an accelerated pace
- Support access to energy and active engagement with the transitioning market for those consumers who can do so.

Throughout this submission, EWOV illustrates how the introduction of an obligation to act efficiently, honestly and fairly could preserve current consumer protections while also driving a stronger focus on achieving fair consumer outcomes. In our view, this obligation would encapsulate the consumer protection intent of the Code in an enforceable obligation and also frame the more specific provisions of the Code which apply to particular circumstances and risks of harm. In this way, the Code and the consumer protection framework it provides is able to bring together principles- and rules-based regulatory approaches to deal with the full range of risks and conduct in the dynamic Victorian energy market.

Recognising that the introduction of this overarching obligation would have application through the Code, our submission also outlines a range of distinct changes to improve clarity and address identified gaps to improve the operation of the Code. This includes the following key changes:

- Introducing a training requirement to ensure retail staff are sufficiently trained and capable in identifying and responding to consumers in vulnerable circumstances.
- Strengthening family violence protections, including improving the effectiveness of family violence related training and policies, and removing barriers for victim-survivors to access entitlements
- Improving consumer access to independent, free, fair and reasonable dispute resolution, by including EWOV on bills and requiring retailers to provide more detail about how to contact EWOV when they cannot resolve a complaint.
- Increasing consumer awareness of entitlements by requiring retailers to provide more frequent, proactive and tailored information to consumers.
- Exploring options for automating concessions and best offers.

Throughout this submission, EWOV highlights key issues facing consumers, drawing on:

- Quantitative data and case insights
- Systemic issues investigations when we identified serious and/or widespread concerning practices
- Broader industry and community data, and evidence from other jurisdictions.

EWOV values our continued engagement with the Commission and would be pleased to provide any additional insights to the Commission to support this critical review.

# Summary of recommendations

## ***Introduce an overarching obligation***

1. EWOV recommends the commission consider introducing an overarching obligation for providers to act *efficiently, honestly and fairly*.

## ***Strengthen family violence protections***

2. In reviewing existing family violence rules, EWOV encourages the Commisions to strengthen obligations relating to:
  - a) Training that retailers deliver to relevant staff and agents.
  - b) The quality and impact of retailers' family violence-related policies.
  - c) Retailers recognising and supporting consumers impacted by family violence.
  - d) Consumers impacted by family violence accessing relevant protections and entitlements.

## ***Introduce broad training requirements***

3. EWOV encourages the Commission to introduce a training obligation in the Code that requires that energy retail staff are sufficiently trained and capable in identifying and responding to consumers experiencing vulnerability.
4. EWOV encourages the Commission to introduce the proposed training requirement as a general retailer obligation in Part 2 of the Code.

## ***Improvements to payment difficulty supports***

5. EWOV encourages the Commission to consider introducing a proactive requirement to engage with consumers about any changes to payment arrangements, such as:
  - Changes to payment plan amounts or
  - When a payment arrangement is due to end and whether other assistance may be needed to meet the consumer's needs or circumstances.
6. EWOV encourages the Commission to consider how to improve early access to payment difficulty assistance. This could be achieved by introducing a training requirement (see section 1.2) that ensures retail staff are capable at identifying opportunities for early assistance, to prevent circumstances where consumers accrue relatively large debts that become difficult to effectively manage.
7. EWOV encourages the Commission to introduce clear guidance to retailers about more proactive means of offering assistance to consumers, by:
  - a) Prescribing that retailers must take proactive steps to contact consumers who are likely eligible for URGS and inform them about their potential eligibility
  - b) Prescribing that retailers must notify and provide practical assistance to consumers where there are concession issues (for example where there are validation issues known to the retailer). We

consider that this engagement relating to URGs should occur via consumers' preferred communication method (see section 4.2).

8. EWOV encourages the Commission to consider the need for future system improvements that would facilitate automatic application of concessions.
9. To improve consumer awareness of, and access to, their payment difficulty entitlements, EWOV encourages the Commission to expand clause 13 to require more frequent, proactive and tailored means of communicating consumer entitlements to payment difficulty assistance.
10. EWOV encourages the Commission to consider additional requirements to ensure retailers more thoroughly consider disconnection as a measure of last resort. For example, at the point before disconnection, the Commission could consider introducing an additional obligation for retailers to undertake an audit of the customers history, their previous usage, actions and contact to determine where the relationship has broken down and what opportunities may exist for a reset.

#### ***Further actions to advance "Getting to fair"***

11. EWOV encourages the Commission to make changes to the Code to provide clear and unambiguous direction that relevant PDF entitlements and broader financial hardship assistance must be provided for closed accounts.
12. EWOV encourages the Commission to improve protections for consumers on life support by replicating the relevant requirements in the *National Energy Retail Rules*.
13. EWOV encourages the Commission to consider additional provisions to better support consumers who have been impacted by natural disasters.
14. EWOV encourages the Commission to strengthen protections for consumers seeking reconnection after being disconnected. This can be achieved by removing reference to consumers 'making arrangements to the satisfaction of the retailer' and replace it with a more objective standard such as the consumer having taken reasonable steps to begin to rectify the matter that led to the disconnection, such as offering a payment plan.

#### ***Supporting the choices of energy consumers***

15. EWOV supports the need for clarified timelines, process and cost information for customers seeking to disconnect from or abolish their gas connections.
16. EWOV supports further specifying retailer obligations, such as the provision of information, so that the Code supplements and supports distributor obligations under the Gas Distribution Code of Practice.

#### ***EWOV on bills***

17. EWOV recommends including EWOV's phone number on the front page of bills. This could be achieved by aligning billing information requirements in the Code with the AER's Better Bills Guideline.

18. EWOV supports the Commission prescribing obligations that relate to bill communications about the best available offer and how to raise a complaint with EWOV, including key information in transmittal of bills - for example email body.

#### ***Best offer***

19. EWOV recommends the Commission consider options for increasing access to retailers' best offer, including the introduction of a requirement for a proactive best offer tariff review for all consumers expressing payment difficulty when contacting retailers for assistance.

#### ***Victorian Energy Compare***

20. To improve the accuracy on the Victorian Energy Compare website, EWOV supports the Commission making changes to the Code by clarifying the timeframe for the removal of out-of-date information from retailers' own websites and the Victorian Energy Compare websites.

#### ***Bill frequency obligations***

21. EWOV encourages the Commission to amend the Code to require retailers to send bills to consumers who are on market retail contracts at least once every three months.
22. EWOV encourages the Commission to amend to the Code to require retailers to include the best offer information on all bills.

#### ***Clarifying unclear definitions***

23. EWOV supports clarification and guidance on the acceptable use and interpretation of 'standard offer', 'pay-by date', and 'arrange a disconnection' when such changes provide clear, transparent, unambiguous and accessible information limiting the potential for consumer confusion and harm.
24. EWOV supports the proposed changes to require that additional retail charges are set out in a market retail contract or exempt person arrangement, to reduce the potential for consumer confusion.
25. EWOV encourages the Commission to strengthen obligations relating to tariff notification, specifically by engaging with the AEMC and consider potentially replicating relevant consumer protections developed through this process into the Code.

#### ***General code of practice updates and other changes***

26. EWOV suggests the Commission provides further clarity about how embedded network operators should implement restricted plans for energy only customers, particularly with regard to requirements not to exceed the VDO.
27. EWOV supports the Commission's proposal to extend the requirement for retailers to use a consumer's preferred method of communication to clauses related to the PDF and disconnections. This includes obligations to take reasonable steps to ascertain the consumer's preferred communication method.
28. EWOV encourages the Commission to consider other changes to improve retailer approaches to communicating with consumers experiencing payment difficulty, and vulnerable consumers broadly. This could include:



- a) introducing a training requirement that ensures retail staff are sufficiently trained and capable in identifying and communicating with consumers experiencing vulnerability (see section 1.2)
  - b) expanding clause 13 to prescribe more frequent, proactive and tailored means of communicating PDF entitlements to improve consumer awareness of entitlements to assistance (see section 1.4)
29. EWOV encourages the Commission to consider reasonable steps are taken to ensure communications and notices are received before taking action which may result in a detrimental outcome for consumers.
30. EWOV supports a comprehensive review of the way retailers and embedded network companies supply and bill bulk hot water.
31. EWOV welcomes further clarification of the application of the bulk hot water provisions and formulas. EWOV's view is that:
- a) The bulk hot water provisions and formula should apply to all 'centralised hot water' (including both serviced hot water and bulk hot water), and
  - b) Consumer protections should be clarified by confirming that any retailer or embedded network company that **supplies or bills** for centralised hot water is subject to relevant provisions of the Code, including all billing provisions.
32. EWOV considers there is an opportunity to enhance consumer protections and to support fair outcomes by strengthening the Code requirements relating to retailer's IDR procedures.
33. EWOV encourages the Commission to consider expanding clause 13(1)(c), which prescribes retailer obligations to provide the contact details for the relevant energy ombudsman on its website. This obligation could be revised to align with obligations in RG271 including that a retailer must inform consumers of their right to complain to EWOV if and when:
- a) They are not satisfied with the retailer's IDR response
  - b) The consumer's complaint is not resolved within a set timeframe, such as 30 calendar days.

## The need for an overarching obligation to ensure retailer actions drive fair consumer outcomes

EWOV considers the Code's effectiveness is potentially inhibited by the lack of an overarching principle to encapsulate and require adherence to the fundamental norms and values which it aims to serve. Many of the issues canvassed in the issues paper and in this submission could be better addressed by articulating a fundamental, overarching principle, framing how the Code should be applied in practice.

The Commission has already taken steps toward this approach with the introduction of the Payment Difficulty Framework (the PDF) in 2017. In the PDF Final Decision, the Commission noted that central to the design of the PDF is the notion that consumers' experiences of payment difficulty was too complex and varied to be addressed with highly prescriptive regulation and a shift in focus away from rules around processes towards customer outcomes would be more effective.<sup>5</sup> The Commission also introduced objectives requiring energy consumers to be given equitable access to assistance to prevent and pay for arrears, and to make disconnections a measure of last resort only.

Since the PDF was introduced, there have been some improved responses to payment difficulty and a reduction in the number of disconnections.<sup>67</sup> However, EWOV also continues to see high levels of debt, consumers not receiving their entitlements or facing barriers when they attempt to actively engage in the market, and other poor outcomes highlighted throughout this submission. This indicates the limits of relying on carefully-targeted and prescriptive rules to address today's problems and support intended outcomes. In some cases we see, poor outcomes are a result of where the rules appear not to have been followed. In other instances, rules may have been adhered to, but in such a way as to produce an outcome well short of their intent.

EWOV considers that a clear principle, put in well-understood terms which reflect wider societal values and community expectations is more likely to drive improved conduct and outcomes than the expression of more rules. We recognise a balance needs to be struck between general principle and targeted rules, and the enforceability of each. But we also know from our own experience in delivering a fairness jurisdiction in our dispute resolution and systemic issue investigation roles that these principles can be applied in practice and that it is important that the regulator, not just the ombudsman, be able to do this. Beyond the energy sector, the application of principles in other markets has proven to be effective in restraining misconduct and supporting improved consumer outcomes.<sup>8</sup>

A principle which reflects societal values is also more likely to endure and remain relevant through change and innovation than are rules which target today's products and services and the issues they may present. The Australian Energy Regulator noted that introducing principles-based regulation with a strong focus on consumer outcomes would ensure the consumer protection framework could adequately protect consumers

---

<sup>5</sup> Essential Services Commission, "[Payment Difficulty Framework – Final decision](#)", 10 October 2017, p iv.

<sup>6</sup> Essential Services Commission, "[Payment difficulty framework implementation review 2022 – Findings report](#)", 31 May 2022.

<sup>7</sup> EWOV, "[Missing the Mark](#)", December 2020.

<sup>8</sup> See Australian Law Reform Commission, *Interim Report A: Financial Services Legislation* (ALRC Report 137, November 2021) (*FSL Interim Report A*) at 70-81.

in an evolving market, supporting trust and confidence in the energy transition.<sup>9</sup> EWOV has witnessed the impact of a rapidly-changing market in which new products, services and business models are being developed, rolled out and taken up at a faster pace than we have previously seen, where actions have led to poor consumer outcomes driven by, at best, a lack of sensitivity to consumer interests, and at worst, misconduct. It is timely that the Commission consider how best to refine the Victorian consumer protection framework to ensure consumers can actively engage in a transitioning market.

EWOV considers that, absent an overarching principle which clearly expresses the fundamental consumer protection intent of the Code, the Code risks forever playing 'catch-up' with industry products and practices in a way which risks undermining the effectiveness of the Code in supporting access to essential energy products and services, and trust and confidence in the market more generally.

1. EWOV encourages the Commission to continue the shift towards a stronger focus on consumer outcomes by revising the Code to include an overarching obligation on energy providers to act *efficiently, honestly and fairly*.

This recommendation would align with other industries and jurisdictions that have such obligations already established. For example, Australian financial services licensees are subject to an obligation to do all things necessary to ensure their financial services are provided efficiently, honestly and fairly.<sup>10</sup>

This obligation requires consideration of not only contractual terms, relevant codes or statutory obligations but also the consumer's individual circumstances and the adequacy of the service provided.<sup>11</sup> The obligation is not limited to one aspect of the service provided but requires consideration of competency and appropriateness at every stage of the consumer/licensee relationship.

This obligation does not require perfection, and it allows for errors or mistakes.<sup>12</sup> However, when an error or known issues arises, the obligation requires doing what is necessary in the circumstances, to minimise consumer harm where it is fair and reasonable to do so. It requires an underlying notion of ethical decision making.<sup>13</sup>

The Code already requires retailers to have regard to the individual circumstances of a consumer and to act "fairly and reasonably"<sup>14</sup>, however this conduct requirement only applies when providing tailored assistance to consumers facing payment difficulties and who are already in arrears. EWOV suggests the Commission consider extending this existing conduct requirement to inform appropriate, impactful and effective application of consumer protections in all aspects of the Code.

An overarching obligation, such as that requiring retailers to do all things necessary to ensure their products and services are provided efficiently, honestly and fairly, will clearly inform retailers of the need to balance their own interests with that of the consumer. It emphasises that there is no 'one size fits all' and sometimes

<sup>9</sup> Australian Energy Regulator, "[Review of consumer protections for future energy services](#)", November 2023, p 3.

<sup>10</sup> *Corporations Act 2001* (Cth), section 912A(1)(a); <https://asic.gov.au/for-finance-professionals/afs-licensees/afs-licensee-obligations/>

<sup>11</sup> *ASIC v AGM Markets Pty Ltd* (in liquidation) (no.4) [2020] FCA 1499.

<sup>12</sup> *ASIC v Commonwealth Bank of Australia* [2022] FCA 1422.

<sup>13</sup> *ASIC v Avestra Asset Management Ltd* (in Liquidation) [2017] FCA 497.

<sup>14</sup> *Energy Retail Code of Practice 2022* (Vic), Clause 141(1)(b).

retailers will need to go beyond the minimum standards of compliance to do what is necessary to ensure the appropriate provision of energy services, and to facilitate fair and reasonable consumer outcomes.

While much of the Commission's intent already exists in the Code through the stated objectives, further clarity about expected outcomes and actions to achieve these can be provided through other notices of regulatory expectations (for example, the PDF guideline). This can also be supported by establishing fit-for-purpose enforcement and compliance activity relating to the new obligation. To inform this, the Commission can draw on the substantial body of jurisprudence already developed in the context of financial services.

EWOV is also well-positioned to support this approach. EWOV's fair and reasonable investigation framework allows us to identify how rules and regulations should be applied to a complaint before us and whether actions have contributed to achieving a fair and reasonable outcome.<sup>15</sup>

In our view, this change would clarify the intent of the existing regulatory framework. We consider that in almost all circumstances, extending this obligation to the remainder of the code would strengthen existing code provisions.

Moreover, in many cases EWOV considers that introducing this obligation could alleviate the need to augment or clarify other provisions, and helps to clarify regulatory expectations into the future.

---

<sup>15</sup> See EWOV's [Fair and Reasonable Investigation Framework](#).

# 1. Protections for consumers experiencing vulnerability

## 1.1 Strengthening family violence protections

We welcome the Commission's commitment to reviewing existing family violence rules in the Code to take into account advancements in other jurisdictions and sectors, where these changes will strengthen existing Victorian protections.

We have recently released a report [Empowering Change: Supporting victim-survivors of family violence](#). We encourage the Commission to consider the insights in this report when deciding what changes to make to existing family violence rules in the Code.

In the report, we identified potential policy and regulatory changes that are directly relevant to the Code.

2. In reviewing existing family violence rules, EWOV suggests the Commission consider the following changes:
  - a) Training that retailers deliver to relevant staff and agents.
  - b) The quality and impact of retailers' family violence-related policies.
  - c) Retailers recognising and supporting consumers impacted by family violence.
  - d) Consumers impacted by family violence accessing relevant protections and entitlements.

Further detail on each of these recommendations is provided below.

### ***Maximising the impact of family violence training that retailers deliver to relevant staff and agents***

We encourage the Commission to strengthen family violence related training obligations.

We consider strengthening training obligations is best achieved by imposing requirements that require family violence training to have a particular effect. To achieve this, we encourage the Commission to replicate obligations in:

- The NERR that require retailers to ensure that any person with authority or capacity to act on their behalf understands the nature and consequence of family violence and can assist consumers impacted by family violence in accordance with the retailers' obligations and policies.<sup>16</sup>
- The *Banking Association's Banking Code of Practice* which requires providers to:
  - train their staff to act with sensitivity, care and compassion if a consumer appears to be in a vulnerable situation, including being a consumer impacted by family violence.<sup>17</sup>
  - take extra care with consumers who are experiencing vulnerability, including consumers impacted by family violence.<sup>18</sup>

<sup>16</sup> *National Energy Retail Rules* version 41, clause 76B(1).

<sup>17</sup> *Australian Banking Association Banking Code of Practice 2021* (Cth), clause 37.

<sup>18</sup> *Ibid*, clause 38.

### ***Enhancing the quality and impact of retailers' family violence-related policies***

We encourage the Commission to strengthen obligations relating to the application of family violence policies. We consider this is best achieved by replicating obligations in the NERR that require retailers to:

- Review and update their family violence policies to reflect changes in circumstances or maintain consistency with leading practice<sup>19</sup>
- To implement, maintain and comply with their family violence policies.<sup>20</sup>

### ***Strengthening obligations relating to retailers recognising and supporting consumers impacted by family violence***

We encourage the Commission to impose clearer obligations and create additional incentives for retailers to identify when consumers may have been impacted by family violence and provide appropriate support. We do not consider that this can be achieved by replicating obligations in the NERR or *Water Industry Standards*. Instead, we encourage the Commission to introduce additional obligations into the Code such as:

- When a retailer is aware or ought to be aware that a consumer has been impacted by family violence, they must ensure they take extra care, provide support that is respectful, sensitive and effective, and apply other entitlements and protections that may be required in the circumstances. This approach has been adopted in other jurisdictions. For example, the *Australian Banking Association's Banking Code of Practice 2021* requires for extra care to be taken with customers who are experiencing vulnerability.<sup>21</sup>
- Imposing more prescriptive obligations in certain circumstances. For example, an obligation could be imposed that requires retailers to flag consumers' accounts as being that of someone impacted by family violence within a specified period when they have willingly disclosed this information and consent to this occurring. We note that similar obligations are currently in effect to protect life support customers in Victoria.<sup>22</sup>
- Exploring other ways to improve retailer sensitivity and responsiveness to reasonable indicators for family violence. For example, obligations could be introduced that restrict retailers recovering debt from consumers impacted by family violence when there have been clear failures to recognise that the consumer has been impacted by family violence and provide related support.

### ***Removing barriers for consumers impacted by family violence accessing relevant protections and entitlements***

The primary burden we have observed for consumers impacted by family violence relates to providing evidence to substantiate that they have been impacted by family violence. We encourage the Commission to address this issue by replicating the obligation in the NERR that prevents retailers from seeking evidence

---

<sup>19</sup> *National Energy Retail Rules* version 41, clause 76A(d).

<sup>20</sup> *Ibid*, clause 76A(c).

<sup>21</sup> *Australian Banking Association Banking Code of Practice 2021* (Cth), clause 38.

<sup>22</sup> *Energy Retail Code of Practice 2022* (Vic), clause 165.

that consumers have been impacted by family violence as a precondition of applying relevant rules and their family violence policies.<sup>23</sup>

### ***Replicating other obligations in the NERR***

Beyond the areas of improvement we identified in our report, we encourage the Commission to implement other elements of the NERR it has identified in the issues paper including:

- Expanding the definition of family violence to include carers and Aboriginal and Torres Strait Islander kinship relationships.
- Expanding current debt management rules so they apply to retailers when transferring debts to third party debt collectors.
- Reviewing existing account security rules in the code of practice to safeguard an affected customer's personal information and ensuring the disclosure of family violence status does not adversely impact their supply of energy.

---

<sup>23</sup> *National Energy Retail Rules* version 41, clause 76I.

## 1.2 Payment difficulty framework – training requirements

EWOV welcomes changes to the Code to improve retailer support to consumers experiencing vulnerability, including payment difficulty, and advance the Commission’s objective that “Services we regulate are more responsive, inclusive and accessible”, set out in its *Getting to Fair* strategy.

EWOV regularly observes missed opportunities to provide early and effective payment difficulty assistance when retailers are not adequately trained in identifying and responding to indicators of vulnerability, as in Jennie’s story below.

### ***Jennie’s\* story - retailer misses multiple opportunities to provide tailored assistance***

Jennie came to EWOV and told us her energy provider had referred an overdue gas account to an external collections agent despite having received an email confirming her accounts were up to date. Jennie told us that in early 2023, she advised her retailer that she was experiencing payment difficulty because she resigned from her job to care for her son. Jennie also told us she was in frequent contact with her retailer over this time.

As part of our investigation of this complaint, EWOV reviewed contact notes and call recordings, which illustrated multiple instances where Jennie had disclosed her circumstances and payment difficulty she was experiencing, including explicitly stating she was in “significant financial hardship”, stating that she was out of work and her car had broken down, and referring to engagements with Centrelink. In these calls, Jennie also requested payment extensions and notified the retailer of missed payments and when payments would likely be made. Although the retailer provided payment extensions, and sent Jennie a fact sheet about assistance available, they missed multiple opportunities to provide information, advice and practical assistance in response to Jennie’s payment difficulty, and had instead referred Jennie’s account for collection.

Following our investigation, in recognition of the missed opportunities to provide assistance, the retailer reduced the remaining balance by \$500, confirmed the deletion of the record with the collection agency and agreed to offer tailored assistance.

High bill complaints are the primary driver of EWOV’s caseload. These complaints are often the first indicator of future payment difficulty and can provide an opportunity for retailers to inform consumers about suitable entitlements or provide assistance suitable to the circumstances. EWOV reviewed a sample of 300 investigations undertaken between 1 July – 31 December 2023, where the consumer presented with arrears of over \$55. Of these, 75 involved high bills as the initial primary case issue. The average (mean) debt of consumers in this sample was \$1,718.53. EWOV commonly observes retailers complying with their requirements to review a bill,<sup>24</sup> and may assist the consumer with arrangements to manage the payment of the bill, EWOV observes missed opportunities to provide other suitable assistance (for example, support to access best offer, discussed further in section 2.3).

---

\* Please note that the names used in all case studies in this submission have been changed for privacy purposes.

<sup>24</sup> *Energy Retail Code of Practice 2022* (Vic), clause 69.



EWOV considers this may be driven by inconsistent approaches to training, both across the market and within providers, with some providers concentrating their vulnerability and payment difficulty capabilities in a specialist team, and others providing shallow/basic training to a broad range of agents.

Similar approaches that focus on training to have a particular effect are already in place in other jurisdictions to improve provider responses to family violence. For example, the NERR requires retailers to ensure that any person with authority or capacity to act on their behalf understands the nature and consequence of family violence and can assist consumers impacted by family violence in accordance with the retailers' obligations and policies.<sup>25</sup> The Australian *Banking Association's Banking Code of Practice 2021* includes provisions such as commitments from providers to:

- train their staff to act with sensitivity, care and compassion if a consumer appears to be in a vulnerable situation, including being a consumer impacted by family violence<sup>26</sup>
- take extra care with consumers who are experiencing vulnerability, including consumers impacted by family violence.<sup>27</sup>

3. EWOV encourages the commission to introduce a training requirement in the Code that ensures energy retail staff are sufficiently trained and capable in identifying and responding to consumers experiencing vulnerability.

Part 2 of the Code outlines retailers' general obligations in any dealings with small customers, whether those dealings take place before, during and after the term of any customer retail contract entered into between the retailer and the small customer. Introducing the proposed training requirement in Part 2 would ensure that any staff who deal with consumers at any point are equipped to identify and respond to vulnerability and ensure opportunities to provide assistance are not missed.

Noting the specific harms arising from family violence, and the need to improve capability to address these, EWOV recommends retaining and strengthening the specific family violence training requirement (see section 1.1).

4. EWOV encourages the Commission to introduce the proposed training requirement (recommendation 3) as a general retailer obligation in Part 2 of the Code.

<sup>25</sup> *National Energy Retail Rules* version 41, clause 76B(1).

<sup>26</sup> *Australian Banking Association Banking Code of Practice 2021* (Cth), clause 37.

<sup>27</sup> *Ibid*, clause 38.

### 1.3 Obligation to place debt on hold for six months

EWOV considers that the issues with the operation of the obligation to place debts on hold for six months are part of two broader challenges the sector faces in providing assistance to consumers in complex or long-term payment difficulty. These broader challenges relate to:

- Establishing payment plans that are suitable to the consumer's capacity to pay but prevent the accrual of further arrears and future harms.
- Providing suitable assistance for consumers who cannot afford ongoing usage.

#### ***Challenges with establishing payment plans that are suitable to the consumer's capacity to pay but prevent the accrual of further arrears and future harms***

EWOV observes a number of issues with retailer approaches to payment plans, including:

- Consumers reporting that they were provided with a payment plan without other complementary assistance.
- Consumers reporting that retailers offered payment plans where payment amounts were greater than their capacity to pay and retailers did not allow for flexibility in these arrangements.
- One provider who was increasing payment plans without consultation or direct consent from consumers. The retailer advised that when it sets up a payment plan with a consumer it obtains their consent for periodic reviews of their payment plan, which may result in the amendment to the terms of the payment plan including payment plan amounts without further consultation.
- Instances where consumers have reported to EWOV that retailers have not informed them, and they were not otherwise aware that their payment plan had ended. In situations with direct debit arrangements in place, this appears to have contributed to either payments stopping (and consumers unknowingly accruing debt) or providers deducting different amounts e.g. full outstanding amounts after the payment plans ended.

EWOV observes that these practices cause considerable consumer harm, undermining consumers' financial management capacity and ability to manage their own debt. EWOV considers these practices are not in the spirit of tailored assistance obligations (e.g. giving consumers who are in arrears flexible and practical assistance) or the broader PDF framework (e.g. engaging with consumers when they are facing payment difficulty and identifying a broad range of assistance that may be available e.g. practical assistance to help consumers reduce their usage).

EWOV considers that these issues are in part driven by interpretation of the Code, including the perceived need for consumers to pay off outstanding amounts in the two-year period,<sup>28</sup> and, although providers should have regard to the consumers' circumstances,<sup>29</sup> there is no explicit requirement for retailers to have regard to consumers' ability to pay debt within a two-year period.

---

<sup>28</sup> *Energy Retail Code of Practice 2022* (Vic), clause 128(1)(a).

<sup>29</sup> *Ibid*, clause 141(1)(b).

### ***Challenges with providing suitable assistance for consumers who cannot afford ongoing usage***

As the Issues Paper highlights, the entitlement to place a debt on hold can provide temporary relief for some consumers, but can compound payment difficulties for consumers who cannot afford ongoing usage and may accrue potentially much higher debt after having their initial debt placed on hold.<sup>30</sup>

EWOV reviewed a sample of 300 investigations undertaken between 1 July – 31 December 2023, where the consumer presented with arrears of over \$55. Of these, 58 consumers could not afford ongoing usage.

Consumers in this group presented with significantly higher average debts (\$3,583.67) than consumers who could afford ongoing usage (average debt \$1,182.57). These cases commonly involved consumers facing multiple intersecting challenges besides their energy complaint, including unemployment, family violence, long-term or complex financial hardship, and severe health issues. When these consumers presented to EWOV, they had debt they were struggling to manage, were facing imminent disconnect or debt collection.

Of this sample, 10 involved debt that had been placed on hold. A key issue across most of these cases was significant debt that had accrued over long periods, where consumers had not accessed the suite of entitlements available to prevent the debt from accruing. In some of these cases, although EWOV's intervention resulted in the retailer providing additional payment difficulty assistance (including, in some cases, assistance above the minimum requirements of the PDF, such as partial credits or debt waivers), consumers still had debt remaining.

5. EWOV encourages the Commission to consider introducing a proactive requirement to engage with consumers about any changes to payment arrangements, such as:
  - Changes to payment plan amounts or
  - When a payment arrangement is due to end and whether other assistance may be needed to meet the consumer's needs or circumstances.

These issues also indicate the need to provide assistance early, to prevent debt from accruing and becoming more difficult to manage. As the Commission noted in its recent annual report, more consumers were accessing payment difficulty assistance, needed assistance for longer periods, and were finding it harder to pay down their arrears.<sup>31</sup>

6. EWOV encourages the Commission to consider how to improve early access to payment difficulty assistance. This could be achieved by introducing a training requirement (see section 1.2) that ensures retail staff are capable at identifying opportunities for early assistance, to prevent circumstances where consumers accrue relatively large debts that become difficult to effectively manage.

EWOV considers that these recommended changes to the Code would assist with achieving fairer outcomes for consumers who cannot afford ongoing usage. However, we acknowledge that broader policy changes may be required beyond the scope of this review.

---

<sup>30</sup> Issues paper, p 27.

<sup>31</sup> Essential Services Commission, [Victorian Energy Market Report 2022-23](#), November 2023, p7.

## 1.4 Accessibility of Utility Relief Grant (URGs) information

Consumers facing barriers to accessing payment difficulty entitlements (including URGs) is an increasing driver of EWOV's caseload. EWOV has seen a steady increase in the volume of complaints about payment difficulty entitlements since July 2023 (see figure below), with 67 complaints in June 2024 compared to 5 in June 2023.

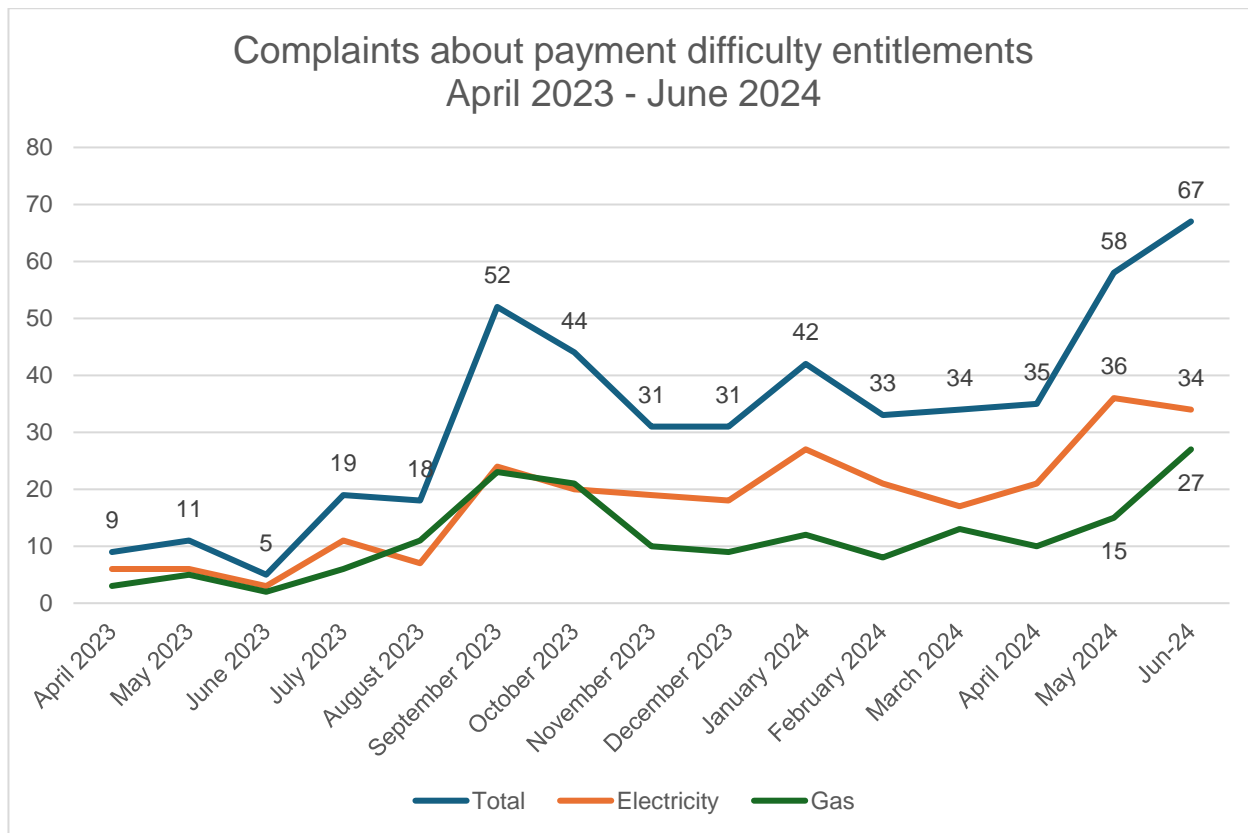


Figure 1: Complaints to EWOV involving issues with accessing payment difficulty entitlements, such as URGs or concessions. Cases are registered as "Credit>payment difficulty>entitlements"

The complaints are driven by a range of factors including consumers reporting that retailers failed to:

- Provide them with sufficient information about their right to access URGs
- Deliver appropriate support in their URGs application processes.

More broadly, our case insights and investigations indicate that consumers are not accessing URGs in circumstances where they are likely entitled to it. For example, we have identified multiple instances where consumers have reported receiving disconnection notices for failing to pay arrears when they have not accessed URGs in the past two years but were eligible to do so. Consistent with these case insights, as part of a recent investigation, a mid-sized retailer reported to us that in the period of November 2022 to October 2023, it commenced disconnection proceedings for 910 consumers who had not accessed URGs in the preceding 24 months. Of those, 421 consumers were disconnected. We consider consumers being

disconnected without accessing URGs is likely being driven by a range of factors including consumer awareness of the availability of URGs.

Based on our engagement with retailers, we consider that URGs issues are most effectively addressed when retailers take proactive steps to engage with consumers. For example, in response to one of our recent investigations, a retailer launched two initiatives to improve consumer awareness of URGs and streamline application processes. The first was a dedicated URGs website. The second was sending proactive URGs specific communication to likely eligible consumers. Both the webpage and the proactive communication included a direct number to the retailer's Energy Assistance team where applications could be made over the phone. The retailer reported to us that in the month after introducing these measures, the number of URGs requests it receives increased by 225%.

In addition to challenges with accessing URGs, EWOV continues to observe consumers experiencing difficulties accessing energy concessions. Complaints about concession errors have been amongst EWOV's top 5 complaint categories in the last 3 years.

These complaints commonly involve issues such as:

- Names or addresses failing to validate with Centrelink, leading to the Victorian energy concessions not being applied
- Consumers not aware that their concession had expired
- Difficulty transferring the concession where the consumer transfers properties or providers
- Retailers not backdating concessions
- Process issues such as retailer system updates that lead to concession details dropping off the account.

Around 900,000 Victorian households are eligible for concessions.<sup>32</sup> In a 2023 report *The Missing 14%*, the Victorian Council of Social Service found that 14 per cent of Victorian households who were eligible for a concession were not accessing them.<sup>33</sup> This report identified a range of issues including a lack of awareness, inconsistent systems and processes between retailers and government, and barriers to consumers accessing assistance from or engaging with their providers.<sup>34</sup>

EWOV notes that the Code already requires a retailer to provide a consumer with specific advice about any government and non-government assistance (including URGs and energy concessions) to residential customers in payment difficulty.<sup>35</sup> We also appreciate that the Code requires retailers to provide practical assistance to help eligible customers apply for URGs.<sup>36</sup>

However, EWOV notes the following limitations with these provisions:

- There is no explicit requirement about when advice about government and non-government assistance must be provided or its form. The lack of explicit requirement is potentially contributing to

---

<sup>32</sup> Department of Families, Fairness and Housing, [A guide to discounts and services for eligible households in Victoria](#), July 2022, p 3.

<sup>33</sup> Victorian Council of Social Service, [The missing 14%: Why so many Victorians are missing out on energy concessions](#), May 2023, p 4.

<sup>34</sup> Ibid.

<sup>35</sup> *Energy Retail Code of Practice 2022* (Vic), clause 128 (1)(d).

<sup>36</sup> Ibid, clause 128(1)(e).

ambiguity as to whether and when retailers must proactively contact consumers to provide advice about URGs. Ensuring retailers are proactively engaging with consumers about URGs is important for URGs to have its intended impact. In particular, proactive engagement can facilitate URGs being applied to a consumer's account prior to the consumer accruing a large debt. This is important for both helping consumers manage their arrears and/or debt and limiting the likelihood of consumers being disconnected. If a consumer only receives URGs after they have large debt, it is unlikely to materially improve the consumer's experience.

- For example, if a consumer has a \$3,000 electricity debt, even if they receive the maximum available URGs amount of \$650, they will still have an outstanding debt of \$2,350 and will likely face ongoing payment difficulty. In this instance, the application of URGs can serve to benefit the retailer in reducing the debt it may write off, but of less utility to the consumer.
- There is no requirement for retailers to notify consumers where there are concession issues of which the retailer should be reasonably aware, such as clarifying name and address issues where validation has failed. In the absence of an obligation for retailers, the onus is on consumers to identify and resolve concession issues, such as ensuring concessions details are correct, applied and/or backdated.
- Retailers are only required to provide advice about external assistance when the consumer is already in arrears, leading to missed opportunities to provided earlier assistance and prevent payment difficulty.

7. EWOV encourages the Commission to introduce clear guidance to retailers about more proactive means of offering assistance to consumers, by:

- a) Prescribing that retailers must take proactive steps to contact consumers who are likely eligible for URGs and inform them about their potential eligibility
- b) Prescribing that retailers must notify and provide practical assistance to consumers where there are concession issues (for example where there are validation issues known to the retailer).

In its "*Gamechanger*" report, the AER noted the benefits of requiring retailers to automatically verify concession eligibility and apply it to a consumer's account.<sup>37</sup> They also noted that both government and retailer system upgrades would be required to facilitate centralised access to consumer data, and the need for government to lead the necessary changes.<sup>38</sup> EWOV notes that, at the recent meeting of the Energy and Climate Change Ministerial Council, state and territory ministers agreed to explore changes needed for Commonwealth concession card holders to access state-based energy concessions,<sup>39</sup> a process that may take some time to progress and require retailers to change their systems in the future.

8. EWOV encourages the Commission to consider the need for future system improvements that would facilitate automatic application of concessions.

<sup>37</sup> Australian Energy Regulator, [Gamechanger: a package of reforms to improve outcomes for consumers in energy hardship](#), November 2023, p 11.

<sup>38</sup> Ibid, p 12.

<sup>39</sup> Energy and Climate Change Ministerial Council, [Meeting Communiqué](#), 19 July 2024, p 1.

## Broader changes to improve consumer awareness of and access to entitlements

EWOV regularly engages with consumers experiencing payment difficulty and other intersecting challenges. For example, as part of EWOV's outreach activities to a range of community-based organisations in April and May 2024, EWOV identified multiple consumers who were in significant financial hardship (for example, due to visa status, unemployment or insecure housing) and who had an energy issue but were not aware of or had not engaged with their energy provider about assistance available.

### ***Jonathan's\* story — challenges with customer engagement when there is significant financial hardship***

Jonathan contacted EWOV in November 2023 about a gas disconnection and ongoing payment difficulty, after he came home to find the gas had been disconnected.

Jonathan was in severe ongoing hardship – he was unable to work following a stroke, was living on Jobseeker and primary carer for a child with disability. Jonathan told us that he knew he was in arrears of around \$4,000 but had been reluctant to contact his retailer as he had received disconnection and collections notices, and was concerned he would be required to pay the full amount. Jonathan told us he had a health care card and had previously received URGs but was uncertain about whether they had been applied to the account.

EWOV initiated an investigation, and the retailer told us that the consumer had not made any payments since 2021, the last payment being for \$20. Jonathan had provided concession details, but despite attempts these details were not validated (due to an address mismatch), he was eligible to apply for URGs and he was not on the best offer. The retailer had attempted to contact the customer via mail, email, SMS and phone contact, but had not had any engagement with the customer and as a result, it was not aware of Jonathan's current circumstances and Jonathan was not aware of options for payment difficulty assistance he was entitled to.

Following our investigation, the gas was reconnected, and the retailer agreed to work with Jonathan to establish a suite of tailored assistance options to manage the payment the arrears and ongoing payment difficulty.

EWOV has observed cases like Jonathan's above involving consumers experiencing significant vulnerability, where the consumer is not aware of and has not accessed their entitlements. In other cases, retailers have taken action that led to poor consumer outcomes (such as consumers not accessing assistance, or retailers initiating disconnection or debt collection). These outcomes are often avoidable had appropriate tailored assistance, including tailored communication, been received.

Currently, retailers are required to make information about payment difficulty assistance easily available to consumers via their website, and to provide a copy of that information if the consumer requests it.<sup>40</sup> If a consumer has not paid a bill by the pay-by date and contacts the retailer, the retailer is required to provide them with information about their entitlements to payment difficulty assistance. When a consumer misses a

---

<sup>40</sup> *Energy Retail Code of Practice 2022 (Vic)*, clause 13.

pay-by date and has arrears of more than \$55, they are entitled to be contacted by the retailer within 21 business days after that pay-by-date and given information about their entitlements to payment difficulty assistance.<sup>41</sup>

EWOV notes the following limitations with these provisions:

- When consumers are experiencing payment difficulty, or anticipate difficulty paying a bill, but have not yet incurred arrears, the onus is on the consumer to seek assistance. This presumes that consumers know they are entitled to assistance, and places specific barriers on consumers with language, literacy or digital barriers, or who do not seek assistance due to shame or stigma.
- Even once consumers have accrued arrears, information that retailers provide about payment difficulty entitlements can be generic, and may not specify the range assistance options available to consumers relevant to their needs or circumstances.
- They do not require the retailer to use the consumers preferred method of communication, or otherwise ensure consumers receive information about or understand their entitlements.

Energy Consumers Australia's most recent Energy Consumer Sentiment Survey found that consumers under financial pressure are more likely to have trouble accessing information to help them with energy costs.<sup>42</sup> Consumers under financial pressure were more likely to say they had considered switching, but had decided not to because it was confusing, time-consuming or complicated, and were likely to be less confident in their ability to make choices about energy products and services.<sup>43</sup>

EWOV notes that both the recent ASIC Report "*Hardship, hard to get help*"<sup>44</sup> and the Australian Energy Council's "*Guidance for retailers seeking to implement best practice customer support*"<sup>45</sup> highlighted the benefits of tailoring communication based on the consumer's circumstances. For example, whether it was their first time engaging with their retailer about payment difficulty, whether they had previously received assistance for payment difficulty, experiencing additional challenges or who have specific or critical needs.

This guidance also suggests that before disconnecting a consumer, retailers might undertake an audit of the customers history, their previous usage, actions and contact points to determine whether or why engagement with the consumer has broken down. This "audit" provides an opportunity to reset engagement with the consumer – ensuring correct contact details or preferred, tailored communication methods have been adopted, and the correct series of notifications sent.<sup>46</sup> This additional step can help to initiate action to re-engage a consumer, provide assistance suitable in the circumstances and ensure that disconnections are truly a measure of last resort.

---

<sup>41</sup> Ibid, clause 129.

<sup>42</sup> Energy Consumers Australia, [Energy consumer sentiment survey](#), June 2024, p 10.

<sup>43</sup> Ibid.

<sup>44</sup> Australian Securities and Investments Commission, [Hardship, hard to get help: Findings and actions to support customers in financial hardship](#), May 2024, p 41 – 60.

<sup>45</sup> Australian Energy Council, [Guidance for retailers seeking to implement best practice customer support](#), June 2021.



9. To improve consumer awareness of and access to their payment difficulty entitlements, EWOV encourages the Commission to expand clause 13 to require more frequent, proactive and tailored means of communicating consumer entitlements to payment difficulty assistance.
10. EWOV encourages the Commission to consider additional requirements to ensure retailers more thoroughly consider disconnection as a measure of last resort. For example, at the point before disconnection, the Commission could consider introducing an additional obligation for retailers to undertake an audit of the customers history, their previous usage, actions and contact to determine where the relationship has broken down and what opportunities may exist for a reset.

## 1.5 Assistance and information on energy efficiency

In light of the varied individual circumstances which may influence a consumer's energy efficiency arrangements, EWOV does not recommend the quality and suitability of efficiency advice be addressed through more prescriptive rules.

EWOV notes the Commission is considering whether to provide guidance to encourage retailers to connect customers with existing energy efficiency government programs (such as the Victorian Energy Upgrades (VEU) program). EWOV has observed that the broader transition away from gas fired appliances and inefficient electric household appliances has seen an expansion in the number of VEU products and services available to consumers, and a range of consumer harms that have emerged from this (such as appliance installed incorrectly leading to high bills, or not meeting key safety requirements, and consumer confusion in seeking the correct redress pathway).<sup>47</sup> EWOV notes the potential for even greater consumer harm with more expensive products, such as solar panels, where retailers engage in misleading or deceptive sales.<sup>48</sup>

EWOV considers that an overarching obligation such as the obligation to act efficiently, honestly and fairly, would be beneficial in ensuring that this proposal does not lead to unfair or dishonest conduct that causes consumer harm, or provide an avenue for providers to generate marketing leads.

EWOV also continues to reiterate that the Victorian Government consider requiring providers of energy products and services to be members of an authorised EDR scheme such as EWOV, to support consumer trust and confidence in the market and prevent any gaps emerging in the consumer protection framework.

---

<sup>47</sup> See recent EWOV submissions to DEECA on the Victorian Energy Upgrades Program: [Banning telemarketing under the Victorian Energy Upgrades Program \(July 2023\)](#) and [Telemarketing and doorknocking ban under the Victorian Energy Upgrades program \(March 2024\)](#).

<sup>48</sup> Consumer Action Law Centre, [Media release: Consumer group calls for unsolicited sale ban after solar company fined \\$3 million](#), 6 May 2021.

## 1.6 Further actions to advance *Getting to fair*

EWOV commends the Commission for implementing its [Getting to Fair strategy](#) which aims to break down barriers to essential services,<sup>49</sup> and welcomes the commitment to revise the Code and build on action already taken to provide better support to consumers experiencing vulnerability.

As previously discussed in section 1.2, EWOV considers that introducing a training requirement to improve retailer capability to identify and respond to vulnerability is a key priority to advance *Getting to fair*, and to give effect to our proposal to introduce an overarching obligation for retailers to act efficiently, honestly and fairly.

In addition, to encourage retailers to be more responsive, inclusive, and accessible to a diverse range of experiences of vulnerability, we consider targeted changes to the Code are appropriate in four key circumstances of:

1. Strengthening access to PDF entitlements when a consumer has a closed account.
2. Improving existing protections for consumers using life support equipment when they move address.
3. Introducing specific protections for consumers impacted by natural disasters.
4. Strengthening protections for consumers seeking reconnection after being disconnected.

### Strengthening access to PDF entitlements when a consumer has a closed account

We have identified issues where retailers are providing limited financial hardship assistance to consumers once their account closes. This is arising in two circumstances.

- Firstly, when a consumer transfers to another retailer and has an outstanding debt. In this circumstance, we have identified that some retailers are cancelling payment plans that are in operation and/or limiting the length of payments plans for the outstanding debt. For example, one retailer has advised that when a consumer transfers to another retailer, it offers a payment plan with a maximum length of three months unless it identifies special circumstances.
- Secondly, when a consumer moves address and remains with the same retailer whilst having an existing debt. In this circumstance, we have identified that some retailers are:
  - Cancelling payment plans that were in operation at the initial address
  - Not transferring existing entitlements at the initial address to the subsequent address, or not proactively providing information about PDF entitlements at the new address to avoid further arrears, despite knowing of the customer's payment difficulties
  - Not proactively contacting customers and offering to transfer their debt from the initial address to the subsequent address to allow PDF entitlements to continue at the new address. We consider this has the potential to cause consumer harm as certain PDF entitlements such as URGs are only available in relation to active consumer accounts.

We have also identified two isolated instances where:

- A consumer reported that a retailer cancelled their payment plan when they moved address and requested for the consumer to pay their outstanding debt in full.

---

<sup>49</sup> Essential Services Commission, [Getting to fair. Breaking down barriers to essential services](#), August 2021, p.2.

- A separate retailer refusing to accept a consumer as a customer at a new address unless they paid their full outstanding balance.

We consider these practices are likely causing significant consumer harm by impeding consumers who are in financial difficulty accessing support to pay their outstanding debts. In addition, we consider that these practices are undermining the effective operation of the market by discouraging consumers who have debt from transferring to other providers who have the best available offer i.e. if they transfer retailers, they will lose entitlements to relevant protections that help them to manage their debt.

Whilst we consider that the Code already likely confers some rights for consumers to access PDF entitlements for closed accounts, we note that regulatory ambiguity may be contributing to the identified practices.

11. EWOV encourages the Commission to make changes to the Code to provide clear and unambiguous direction that relevant PDF entitlements and broader financial hardship assistance must be provided for closed accounts.

## Improving existing protections for consumers using life support equipment when they move address

As part of a recent investigation, a retailer advised us that when a consumer is registered as a life support customer and moves address, it does not automatically transfer the life support registration to the new premises. Instead, the retailer requires consumers to complete new life support forms including new medical confirmation forms for their new address. If a new medical confirmation form is not completed when a consumer moves to a new premises, the retailer considers that the original confirmation form is no longer valid for the new premises. The retailer advised that, between November 2022 and October 2023, 168 medically confirmed life support customers of the retailer moved address. Of those consumers, 39 were deregistered for failures to be medically confirmed at their new address.

Our understanding is that this practice arises due to interpretation of the requirement to provide a 'medical confirmation form' in accordance with clause 163(5) which includes 'medical confirmation'. Clause 163(5)(a)(iii) provides that a medical confirmation form must request the property address of the relevant customer, the dates from which supply is required for the purpose of life support equipment, and medical confirmation. The Code's definition of 'medical confirmation' requires certification from a medical practitioner that a person residing at a customer's address requires life support. These provisions suggest that a specific address needs to be identified and it does not indicate that a previous medical confirmation can be re-used. This has given rise to retailers requesting new medical confirmations for each address which can require much time and effort on the consumer's behalf.

In contrast, similar provisions in the NERR clarify that medical confirmation previously provided can be re-used as long as it was signed and dated within the previous four years.<sup>50</sup> The medical confirmation follows the customer rather than a specific address. The NERR also clarifies that medical confirmation submitted to a previous distributor or retailer can be re-used if it meets the four-year criteria.<sup>51</sup>

<sup>50</sup> *National Energy Retail Rules* version 41, clause 124(1)(b)(viii).

<sup>51</sup> *Ibid*, clause 124(1)(b)(ix).

We consider that this is appropriate because:

- It would benefit both customers and retailers to minimise administrative burden and barriers to life support registration by clarifying that medical confirmation and a medical confirmation form for the purposes of life support equipment is valid for a customer rather than an address and for a specified period.
- A consumer's medical condition or other reason(s) for being eligible for being a life support customer is highly unlikely to be related to their address.
- In these circumstances, a consumer's medical condition or other reason(s) for being eligible for being a life support customer has already been confirmed by a medical practitioner so the risk of a consumer's claim being false is minimal.
- Requiring a consumer to seek new medical confirmation each time they move address imposes a significant additional burden on a cohort of consumers who are already known to be experiencing a vulnerability.
- The potential harms associated with a consumer who is likely eligible for being a life support customer being deregistered and not receiving relevant life support protections are severe.

12. EWOV encourage the Commission to improve protections for consumers on life support by replicating the relevant requirements in the *National Energy Retail Rules*.

## Introduce specific protections for consumers impacted by natural disasters

Our case insights indicate that natural disasters are a growing cause of consumers experiencing vulnerability. Consumers have reported experiencing a range of issues stemming from energy retailers' and distributors' responses to natural disasters. These include:

- Consumers continuing to receive bills with new charges for properties that have been destroyed or uninhabited due to natural disasters. We have identified cases where consumers have reported experiencing this and note that our case insights indicate that this is primarily being driven by retailers issuing estimated bills based on historical usage for periods when consumers were not inhabiting properties and using energy.
- Consumers receiving bills and disconnection notices for properties that have been destroyed or uninhabited due to natural disasters.
- Consumers experiencing delays in having meters that were damaged during natural disasters replaced.
- Consumers receiving inadequate financial hardship support after natural disasters such as retailers seeking large lump sum payments from consumers.
- Consumers incurring large fees to have their supply reconnected after natural disasters.

More broadly, as part of our engagement with consumers through our outreach work, consumers have reported to EWOV instances where they tried to contact their retailer to seek assistance after natural disasters and their retailer:

- Was not aware that a natural disaster had occurred in their area
- Treated them with a lack of empathy.

Community organisations in areas that have been impacted by natural disasters have shared similar insights with EWOV.

We note that the consumer experiences we have identified are largely consistent with practices that have been observed in other jurisdictions. For example, in its [Natural disasters - the long-term customer experience](#) report, the Energy and Water Ombudsman of New South Wales (EWON) noted widespread issues of consumers facing continued billing issues (particularly in relation to estimated reads), meter replacement delays, inappropriate collection activities for unpaid bills and general lack of empathy and understanding by energy providers after natural disasters.<sup>52</sup> The impact of these practices can be severely detrimental, particularly as consumers who have been impacted by natural disasters are often experiencing trauma and associated short or long-term health impacts.<sup>53</sup>

Currently, there are no specific obligations in the Code that are designed to assist or protect consumers who have been impacted by natural disasters. We consider that this is potentially contributing the issues that consumers have reported to us relating to energy retailers' and distributors' responses to natural disasters. For example, in relation to estimated reads, the Code allows retailers to bill consumers based on estimated reads when they are not able to reasonably or reliably base a bill on an actual reading. This has given rise to estimated reads where an actual read cannot be obtained due to damage caused by a natural disaster.

13. EWOV encourages the Commission to consider additional provisions to better support consumers who have been impacted by natural disasters. This could involve:
- a) Similar to current family violence related obligations in the Code, requiring energy retailers and distributors to recognise natural disasters as a potential cause of payment difficulty and vulnerability and implement targeted natural disaster policies.
  - b) A natural disaster response plan including appropriate and tailored assistance for affected customers
  - c) The proposed outcomes-based training requirement (see section 1.2) should ensure retailers are sufficiently trained and capable in identifying and responding to vulnerability, including vulnerability arising from impact of natural disasters
  - d) Amending relevant obligations in the Code to better support consumers who have been impacted by natural disasters and meet community expectations. For example, in the absence of an obligation to act efficiently, honestly and fairly, the Commission may need to introduce obligations that:
    - i. Prevent retailers billing consumers based on estimated reads when they are aware or ought to reasonably be aware that a consumer has been impacted by a natural disaster and this has affected their usage.
    - ii. Not charging daily supply charges for periods in which there has been no supply because of a natural disaster.
    - iii. Require retailers to provide additional financial hardship support to consumers who have been impacted by a natural disaster such as not disconnecting or carrying out debt collection activities in the immediate aftermath of a natural disaster.

<sup>52</sup> Energy and Water Ombudsman NSW, *Natural disasters - the long-term customer experience*, 2023.

<sup>53</sup> Creamer, M. Burgess, P. & McFarlane, A., *Posttraumatic stress disorder: Findings from the Australian National Survey of Mental Health and Well-being*, 2021, p 204-212.

## Strengthening protections for consumers seeking reconnection after being disconnected

We have identified a potential issue with a retailer's approach to reconnecting consumers after they have been disconnected for non-payment. We have observed instances where the retailer requested consumers to make large upfront payments in order to be reconnected. The retailer has advised that:

- When a consumer has been disconnected for non-payment, it is their policy to require reasonable payments prior to reconnection. The retailer may initially ask for full payment and if the consumer cannot pay the full amount, they may ask for 50% payment.
- If the consumer cannot pay 50% of their arrears, the amount of payment required will depend on the circumstances.
- If the consumer refuses to make reasonable payments towards their arrears or otherwise take reasonable action, the retailer may refuse to reconnect their supply.

We consider the retailer's practices are likely being driven by the current construction of reconnection obligations of the Code. Clause 192(1)(a) of the Code explains that in the relevant circumstances, a consumer needs to rectify the matter that led to disconnection or make 'arrangements to the satisfaction of the retailer'. We are concerned that retailers may be interpreting this as unfettered discretion to determine what arrangement is satisfactory.

14. EWOV encourages the Commission to strengthen protections for consumers seeking reconnection after being disconnected. This can be achieved by removing reference to consumers 'making arrangements to the satisfaction of the retailer' and replace it with a more objective standard such as the consumer having taken reasonable steps to begin to rectify the matter that led to the disconnection, such as offering a payment plan.

## 2. Supporting the choices of energy consumers

### 2.1 Supporting customers who want to disconnect from gas

EWOV supports the need for clarified timelines, process and cost information for customers seeking to disconnect from or abolish their gas connections. EWOV is also supportive of specifying retailer obligations, such as the provision of information, so that the Code supplements and supports distributor obligations under the Gas Distribution Code of Practice. An aligned approach will assist with consumer confidence, consistent industry outcomes and increased consumer and stakeholder understanding of their rights and entitlements regarding disconnection and abolishment.

EWOV has received some complaints about gas meter and supply abolishment, where lack of clarity about cost, process and/or timelines have been the underlying driver of the complaint. In some cases, a lack of clear process and obligations can result in a process failure. In one complaint, a consumer had made an enquiry about cost and timing information about gas connection abolishment with their retailer - due to lack of publicly available information – and was waiting for a response. Three days later, when the consumer returned home the consumer found workers already proceeding with the gas connection abolishment. The consumer had not received confirmation of pricing or process, confirmed the job request or provided explicit informed consent to go ahead with the abolishment. In other cases, consumers have complained about delays caused by communication between retailers and distributors, with the potential to create significant additional costs where demolition or renovation works are involved. In another case, the consumer raised a complaint that a disconnection order was not processed by their retailer, which was resolved through EWOV referral of the complaint to the provider.

15. EWOV supports the need for clarified timelines, process and cost information for customers seeking to disconnect from or abolish their gas connections.
16. EWOV supports specifying retailer obligations, such as the provision of information, so that the Code supplements and supports distributor obligations under the Gas Distribution Code of Practice.



## 2.2 Bill information requirements

### *Include EWOV's details on bills*

EWOV strongly supports the Commission requiring retailers to include EWOV's phone number on the front page of bills. Victoria is the only state in the National Electricity Market where the ombudsman's details are not required on the front page of the bill. As a result, Victorian consumers may encounter more difficulty accessing external dispute resolution services when they encounter an issue with their energy supply. Putting EWOV's contact details on the front page of the bill is an important step to raise awareness of EWOV and facilitate more consumers having access to independent, free, fair and reasonable dispute resolution services when they have a complaint. In our view, this could be achieved through alignment of billing information requirements in the Code with the AER's Better Bills Guideline (the Guideline). This approach reduces regulatory burden for retailers by harmonising bill formats across Australia.

Whilst EWOV is continuing to take steps to advance accessibility and awareness of EWOV through actions such as proactive community outreach, we are concerned that our current awareness is not where it could be. For example, Energy Consumers Australia's June 2024 Energy Consumer Sentiment Survey identified that 66% of consumers in Victoria were either not very familiar or not at all familiar with EWOV.<sup>54</sup> This is a 12% increase from the June 2022 Energy Consumer Sentiment Survey where 54% of consumers were either not very familiar or not at all familiar with EWOV.<sup>55</sup>

Evidence from other jurisdictions indicates that including Ombudsman contact details on bills is likely to improve consumer awareness and support them to escalate a complaint to their Energy and Water Ombudsman where they remain dissatisfied with how their provider has dealt with it. In September 2023, the Guideline came into effect which, amongst other things, required energy retailers operating in certain jurisdictions outside of Victoria to include a telephone number to contact the relevant energy ombudsmen on the front page of their bills. Following this change, Energy and Water Ombudsmen in these states report that complaint numbers have increased. A proportion of the increases are directly attributable to consumers becoming aware of Ombudsmen through their bills.

For example, the Energy and Water Ombudsman of South Australia (EWOSA) has advised EWOV that in the period of September 2023 (the period the Guideline came into effect) to June 2024 there were 1,346 instances where consumers who contacted EWOSA reported that they had heard about EWOSA through their bill or invoice. This is a 2,070% increase from the same period a year earlier (September 2022 to June 2023) where 62 consumers who contacted EWOSA said they had heard about EWOSA through their bill or invoice. Similarly, after EWON's contact details were included on bills, EWON identified an increase in the proportion of complaints where consumers heard about EWON through their bill or invoice. For example, in June 2023, in 4.3% of EWON's total complaints relating to authorised retailers, consumers advised EWON that they had obtained EWON's information through a bill or invoice. This number increased to 18.9% in June 2024.

Complaint numbers increasing after retailers include Ombudsmen contact details on bills is also consistent with EWOV's own case insights. Although retailers are not required to include EWOV's contact details on bills in Victoria, some retailers have voluntarily chosen to do so. We have observed that this has often

---

<sup>54</sup> Energy Consumers Australia, *June 2024 Energy Consumer Sentiment Survey*, June 2024.

<sup>55</sup> Energy Consumers Australia, *June 2022 Energy Consumer Sentiment Survey*, June 2022.

correlated with an increase in complaint numbers for these retailers. For example, after one large energy provider included EWOV's contact details on bills, the number of the retailer's consumers who raised complaints with EWOV increased by 66.12%.<sup>56</sup> Of these increased complaints the majority were within jurisdiction. We note that this is consistent with the experiences of other Ombudsmen such as EWON and EWOSA.

EWOV is aware from its outreach and media activities, of latent demand within the community, where consumers are not aware of their right to complain, right to escalate their complaint if their provider has not addressed their concern satisfactorily, or of the existence of EWOV. When consumers do find their way to us, we are able to provide information, manage expectations, investigate and resolve a complaint and connect a consumer to other sources of support where required. At present, Victorian consumers are less aware of or able to access this assistance than consumers in other states.

Further, we consider taking steps to increase consumer awareness of EWOV is appropriate as our insights indicate that in some instances, retailers are not appropriately informing consumers about their rights to raise complaints with EWOV. For example, consumer responses to EWOV's consumer satisfaction survey<sup>57</sup> indicate that providers are failing to inform consumers that they can return to EWOV if they are dissatisfied with the outcome of their complaint. In the 2023/24 financial year, in response to the survey, on average, 38.63% consumers<sup>58</sup> advised EWOV that their provider did not inform them that they could return their complaint to EWOV if they were dissatisfied with the outcome of their assisted referral

In addition to increasing awareness, including EWOV contact details on bills will also likely assist to resolve complaints more efficiently and fairly by providing a clearer pathway to external dispute resolution. This is an important consideration as:

- In the current environment where consumers are facing increasing issues with energy affordability, access to independent and fair external dispute resolution is more important than ever.
- Research indicates that a significant proportion of consumers use information on bills to assist them to resolve complaints. For example, [BETA's Improving Energy Bills](#) research, which was used to inform the AER's Better Bills approach, indicates that 26% of consumers use their energy bill to find contact details to make a complaint.<sup>59</sup>

17. EWOV recommends including EWOV's phone number on the front page of bills. This could be achieved by aligning billing information requirements in the Code with the AER's Better Bills Guideline.

<sup>56</sup> This is based on comparison between the periods of September 2023 to June 2024 and the same period a year earlier (September 2022 to June 2023).

<sup>57</sup> EWOV's consumer satisfaction survey is a monthly survey that EWOV sends to consumers who have raised a complaint with EWOV which is designed to understand their complaint experience.

<sup>58</sup> This is based on responses from 1,597 consumers. It captures practices of all EWOV members including water providers but primarily relates to electricity retailers.

<sup>59</sup> Behavioural Economics Team of the Australian Government, *Improving energy bills: Final Report*, 2021, p.19.

### *Alignment with other parts of the Guideline*

We support adopting the Guideline as a means of harmonising billing information requirements across Australia and reducing regulatory burden for retailers. To maintain ongoing harmonisation, we encourage the Commission to consider the best way to allow for simple adoption of potential future changes to the Guideline. We consider this is an important consideration as we understand the AER is currently evaluating the Guideline. Our case insights suggest there may be changes that improves the quality and prominence of information on bills, including:

- What ombudsmen related information is included on bills. For example, there would be value in providing clarity about when to contact Ombudsmen (i.e. after first contact when an issue has not been resolved) and to include a weblink to the relevant ombudsmen’s website to submit a complaint (in addition to the ombudsmen’s phone number).
- Presenting information to notify a consumer their bill is based on an estimated read – to prompt consumers to conduct a self-read where appropriate and help avoid large back-bill issues; and
- Concessions information outlined more clearly and prominently – to help consumers identify where their concession hasn’t been applied.

### *Prescribed requirements relating to billing communications*

As noted by the Commission in its issues paper, we understand that many retailers are currently sending bills to consumers with a summary and payment link in the email. This is potentially causing consumers to not consider important information that is contained in their bill – particularly where consumers sign up to direct debit arrangements. We consider this is potentially contributing to issues such as reduced visibility of best available offer. Due to the nature of the medium, we note it may be less costly for retailers to make changes to emails communicating bills than to changes to the bill themselves.

If the Commission decides to require retailers to include certain information in the transmittal of bills e.g. emails, we consider it appropriate to only require retailers to include information that is critical to consumers. We consider the information that is critical to consumers includes:

- Information about the best available offer.
- Details of how to raise a complaint with EWOV. This could include further information about when to contact EWOV, e.g. “If you want to raise a complaint, first contact your retailer. If your retailer cannot resolve your complaint, contact EWOV for further assistance”.

18. EWOV supports the Commission prescribing obligations that relate to bill communications about the best available offer and how to raise a complaint with EWOV, including key information in transmittal of bills - for example email body.

## 2.3 Clarifying best offer obligations

EWOV supports the Commission’s proposals to improve accessibility and availability of best offers, and suggests a broader consideration of barriers to the best offer is warranted. This is an important consideration as a significant number of consumers are still not accessing their best available offer. For

example, in Q3 2023-24, the Commission identified that 34% of electricity consumers were not on their retailers' best offer.<sup>60</sup>

Consumers continue to report to EWOV a range of barriers preventing them from accessing the best offer, including:

- They do not have an email address.
- They do not have a direct debit set up with the retailer.
- Consumers encounter difficulties reaching call centre staff to enquire about best offer, possibly due to long wait times.
- When consumers contact call centre staff they experience difficulties in switching to the best offer.
- Retailers failing to transfer consumers to their best offer despite confirming they have been switched across.
- Consumers report confusion that the best offer on the bill is named the same as their current plan offer.

EWOV has also received some complaints where consumers expressed frustration that retailer did not automatically put them on the best offer, or discuss the best offer available.

EWOV suggests there is an opportunity for retailers to provide tariff reviews earlier to help mitigate further payment difficulty, which links to training requirements to better identify vulnerability. EWOV has observed cases in which consumers have enquired about high bills and raised affordability concerns, or explicitly expressed payment difficulty to their retailer, but the retailer's call centre staff have not conducted a tariff review or discussed switching to the best offer, though it would assist with energy affordability.

#### ***Janette's story\* - delayed access to best offer***

Janette moved into the newly built home in Jan 2023. Her builder had set up the electricity account - which was the retailers standing offer. Janette told EWOV she received a number of high bills, prompting her to contact her retailer to question the bill. During one of these contacts, Janette identified that her concession wasn't applied to the bill. After a number of subsequent conversations with the retailer, Janette found out she was also not on the retailer's Best Offer. The retailer then notified her there was a better offer available, but would not backdate it.

When Janette contacted EWOV, she owed approximately \$2,600. Her retailer had not discussed or assisted her to apply for the Utility Relief Grant. EWOV conducted a high bill review as part of its investigation which confirmed that her billed usage was accurate. The higher than expected usage was directly attributed to heating and cooling. As part of our review and discussion with the customer, EWOV identified that Janette was required to operate her split system on temperature control because of her daughter's medical condition. EWOV provided advice to Janette about relevant concessions and grants she was entitled to apply for which included the Medical Cooling concession. EWOV also identified that the customer may have saved almost \$600 less per year, had she been on the retailer's Best Offer.

---

<sup>60</sup> Ibid.

As a result of EWOV's investigation, Jannette's retailer agreed to apply a credit to her account of approximately \$800, reflecting the difference between the best offer and Jannette's standing offer tariff calculated over the period, plus a \$100 Customer Service Gesture. The retailer agreed to assist Jannette to apply for a Utility Relief Grant, set up a payment plan for the outstanding arrears and put Jannette on its Best Offer upon closure of the complaint.

The Code does not currently require retailers to proactively offer a tariff review to consumers who say they are experiencing payment difficulty. As a minimum standard, this tariff review requirement only applies to consumers with arrears who cannot afford ongoing usage only after receiving other forms of tailored assistance.<sup>61</sup>

19. EWOV recommends the Commission consider options for increasing access to retailers' best offer, including the introduction of a requirement for a proactive best offer tariff review for all consumers expressing payment difficulty when contacting retailers for assistance.

Where consumers are experiencing payment difficulty with arrears accruing, access to the best offer should be improved. EWOV has also observed instances where consumers receiving payment assistance are offered the best offer by their retailer but are still required to sign up to a new plan via a link sent to their phone or email after a phone call with a service agent, rather than switching over during the phone call. While this may simplify the processes for a retailer, particularly in light of explicit informed consent requirements, this may create additional unnecessary steps for consumers to access a best offer, and does not align with appropriately balancing the needs of both the consumer and retailer.

EWOV suggests the Commission consider options for switching consumers to the best offer – potentially through a more streamlined process in appropriate circumstances. For example, where a consumer agrees to a retailer's hardship assistance program or a payment plan to repay arrears, whether they can afford ongoing arrears or not, consumers could be switched to the best offer as part of this program or plan. This provides an opportunity for a consumer to provide explicit informed consent to opt-in to both the repayment arrangement or hardship program as well as best offer, rather than requiring further contractual engagement.

EWOV notes that this approach has been applied in another sector. The Banking Code of Practice requires banks to ensure consumers that receive government concession payments are entitled to access appropriate accounts.<sup>62</sup> A recent ASIC review identified that some banks had been systematically overcharging low-income consumers through inappropriate high-fee accounts.<sup>63</sup> As a result of this review, and this BCOP commitment, \$28 million in fees will be returned to low-income consumers.<sup>64</sup> In our view, proactively helping low-income consumers or those in arrears switch to lower cost plans can help mitigate affordability challenges and further arrears accruing.

EWOV recognises that explicit informed consent protections are intended to help prevent consumers being switched onto inappropriate offers. An obligation to act efficiently, honestly and fairly could provide a check

<sup>61</sup> *Energy Retail Code of Practice* (Vic), clauses 128(1)(f)(i) and 128(3).

<sup>62</sup> ASIC, [Better banking for Indigenous consumers, Report 785](#), July 2024, p 3.

<sup>63</sup> *Ibid.*

<sup>64</sup> *Ibid.*

on retailers switching consumers to inappropriate offers – including offers where a lower rate has a short expiry or where behaviour change is required to deliver a lower bill - in the case of time of use and demand tariff offers.

## 2.4 Accuracy of information on Victorian Energy Compare Website

We have identified multiple instances where consumers reported to EWOV that Victorian Energy Compare website included details of offers that retailers claimed were no longer available or had changed when consumers contacted the retailers.

Ensuring consumers can access accurate information on the Victorian Energy Compare website is critical for the effective operation of the market.

20. To improve the accuracy on the Victorian Energy Compare website, EWOV supports the Commission making changes to the Code by clarifying the timeframe for the removal of out-of-date information from retailers' own websites and the Victorian Energy Compare websites.

## 3. Pricing and contract protections

### 3.1 Bill frequency obligations

EWOV supports bill frequency obligations extending to market retail contracts. Consumers identifying that they have received delayed bills is a consistent driver of EWOV complaints. For example, in the 2023/24 financial year, EWOV received 301 complaints relating to billing delays. As part of these complaints, consumers reported to EWOV that billing delays contributed to:

- Affordability issues, as consumers' ability to budget for and manage bills and/or debt was undermined. We have observed that these consumer harms are particularly pronounced when billing delays occur after price increases and charges are higher than expected.
- Consumers experiencing anxiety and stress because of the fear of falling behind in their bills and/or accumulating debt.

A significant number of EWOV billing delaying complaints in the 2023/2024 financial year were driven by a large retailer experiencing a system issue that impeded its ability to accurately determine charges and send bills to consumers at agreed times. Despite the retailer's practices causing consumer harm, its conduct was compliant with bill frequency obligations in the Code which are confined to standard retail contracts.<sup>65</sup> This impacted EWOV's capability to fairly and reasonably resolve individual complaints relating to this issue. We note that confining bill frequency obligations to standard retail contracts is a particularly significant limitation as the majority of consumers in Victoria are currently on market retail contracts. For example, in Q3 2023-24, the Commission identified 87.1% percent of consumers were on market retail contracts.<sup>66</sup>

Whilst we support consumers being empowered to make their own choices through market retail contracts, we consider it is important that certain protections are enshrined to limit consumer harm. This is particularly important as our broader outreach work indicates that some consumers, particularly consumers experiencing vulnerability or who face difficulties speaking English may:

- Not realise that their market retail contract may allow for retailers to send them bills less than once every three months.
- Be focused on a specific part of a market retail contract such as the proposed rates and give less consideration to other things such as billing terms that may allow for retailers to send them bills less than once every three months.

21. EWOV encourages the Commission to amend the Code to require retailers to send bills to consumers who are on market retail contracts at least once every three months.

22. EWOV encourages the Commission to amend to the Code to require retailers to include the best offer information on all bills.

<sup>65</sup> *Energy Retail Code of Practice 2022 (Vic)*, clause 62.

<sup>66</sup> Essential Services Commission, *Victorian Energy Market Dashboard*, 2024.

## 3.2 Clarifying unclear definitions

It is understood that the Commission is considering clarifying certain terminology and phrasing used within the Code which has been identified as potentially causing consumer confusion and inconsistent use.

23. EWOV supports clarification and guidance on the acceptable use and interpretation of 'standard offer', 'pay-by date', and 'arrange a disconnection' when such changes provide clear, transparent, unambiguous and accessible information limiting the potential for consumer confusion and harm.

### Standard offers

Where retailers use the terms 'standard offer' EWOV would generally expect the relevant contract to include the VDO or gas standing offer in addition to the standard retail contract model terms and conditions (or the permitted alterations). In circumstances where the contract offered does not meet both these conditions, consumers should be clearly informed that it is a market offer and therefore different terms, conditions and protections may apply.

By specifying that 'standard offer' is only to be used to describe standard retail contracts, which offer both the VDO or gas standard offer and the standard retail contract model terms and conditions, consumers are provided greater opportunity to be clearly and unambiguously informed of the relevant terms and conditions. This enhances accessibility and limits the risk of confusion or misrepresentation.

EWOV notes the Commission's concern that retailers may use other similar words to advertise offers which could also cause confusion and misunderstanding. To address this, EWOV considers it reasonable to include a requirement for retailers to clearly and accurately identify their energy plans as either a standard offer or market offer in all advertising. This will allow retailers to better meet the Code objectives to:

- Enable small customers to engage confidently with the energy market
- Provide clear, helpful information to small customers to allow them to easily understand their options
- Provide clear, timely and reliable information and mechanisms to compare features and prices of different energy plans to assist small customers assess the suitability of a retail contract.

### Pay-by date

The Commission notes potential issues with the term 'pay-by date' not being defined and confusion around corresponding retailer obligations to provide reminder notices and payment assistance information, especially once a customer has entered a payment arrangement.

EWOV notes that currently:

- Clause 65 of the Code specifies the period required for a pay-by date following a bill issue date, and
- Clause 182(4) indicates that, for the purposes of provision of a reminder notice, the pay-by date is extended to an amended payment date under an agreed payment arrangement.

While this provides some guidance for retailers, EWOV supports further defining 'pay-by date' to enhance both consumer and retailer understanding of their rights and obligations.



This would also assist EWOV's functions when considering whether retailers have complied with their respective obligations during consideration of related complaints and disconnection matters.

EWOV also supports an explicit requirement for retailers to extend the applicable 'pay-by date' when consumers enter into a payment arrangement to reflect the amended terms agreed between the parties. While this means obligations relating to provision of notices and information may be affected, consistent application and understanding of the pay-by date would provide greater opportunity for fair and appropriate consumer outcomes and retailer practices.

## Arrange a disconnection

We support the Commission's assessment in the issues paper that disconnections can significantly impact consumers and that obligations for arranging a disconnection must be clear. We also support the Commission's acknowledgement that there is inconsistent understanding around the phrase 'arrange a disconnection' which may lead to wrongful disconnections. The Commission highlights circumstances where, after a service order is raised to arrange a disconnection, a consumer arranges a payment plan and the service order is not cancelled before disconnection occurs. The Commission has questioned whether changing the wording 'arrange a disconnection' to 'disconnect' would assist.

EWOV welcomes further clarification of retailer obligations in such circumstances, but questions whether a change in wording will provide the outcome the Commission is seeking to achieve.

Provisions relating to disconnection in both the *Electricity Industry Act 2000* and the *Gas Industry Act 2001*<sup>67</sup> use the same phrasing of 'arrange a disconnection' which reflects the retailer's responsibility in the disconnection process (which also involves the distributor). For example, the applicable legislation requires compliance with the relevant code requirements before the retailer 'may arrange for the supply [of electricity or gas at a relevant premises] to be disconnected'.<sup>68</sup> Therefore, different terminology in the Code compared to legislative provisions may risk exacerbating confusion and inconsistency regarding retailer responsibilities.

EWOV is also concerned that the change in wording will not address the issue of consumers making reasonable contact to arrange a suitable payment arrangement in the period between the date of the disconnection warning notice and the end of the disconnection warning period or before the disconnection occurs.

We therefore encourage the Commission to include guidance in the Code that makes it expressly clear that a retailer must take all necessary steps to cancel a service order for disconnection when a consumer takes reasonable action towards remedying the matter that gave rise to the disconnection, such as seeking payment assistance.

Further, we consider it would be useful for the Commission to provide greater clarity as to how retailers should cancel disconnection orders. We have observed instances where retailers have cancelled disconnection orders through their relevant systems rather than calling a distributor directly. As a result of this approach, disconnections still occurred because distributors had already dispatched staff to carry out the disconnection prior to receiving the system notification.

---

<sup>67</sup> *Electricity Industry Act 2000* (Vic), section 40SM(1)(f) and *Gas Industry Act 2001* (Vic), section 48DO(f).

<sup>68</sup> *Ibid.*

More broadly, we note the Commission has reported an increase in disconnection notices<sup>69</sup> and in our own case data we see examples of notices being used by retailers when there have been challenges with engagement, and where customers have not accessed their entitlements. We support robust measures and mechanisms to ensure consumers have a fair and appropriate opportunity to engage with the retailer to understand the assistance available and to remedy payment difficulties giving rise to disconnection. In this context, we welcome the Commission's proposed changes to limit the likelihood of confusion, inconsistent or unfair practices and avoidable wrongful disconnections.

---

<sup>69</sup> Essential Services Commission, [Victorian Energy Market Report 2022-23](#), November 2023, p 7.

### 3.3 Disclosure of additional retail charges in contract terms and conditions

EWOV broadly supports the proposed changes to require that additional retail charges are set out in a market retail contract or exempt person arrangement, to reduce the potential for consumer confusion.

EWOV has received a few complaints driven by additional retail charges relating to the abolishment of gas meters, “disconnection fees” and “establishment fees” for embedded network customers as well as unspecified “other charges”. Clearly outlining these charges can help to ensure consumers are fully informed before making decisions where an additional charge might apply. Clear publication requirements may also help to ensure that staff can effectively and accurately communicate any additional fees or charges should consumers contact a call center to find this information.

As the energy market continues to transition towards net zero, the Commission might consider drafting this change to capture future market developments that may result in additional retail charges, such as specific charges and benefits relating to Virtual Power Plants, any retail costs associated with replacement of smart meters, additional connection points,<sup>70</sup> EV chargers, and other additional retail charges relating to new consumer energy resources/distributed energy resources.<sup>71</sup>

24. EWOV supports the proposed changes to require that additional retail charges are set out in a market retail contract or exempt person arrangement, to reduce the potential for consumer confusion.

### 3.4 Requirement to publish changes of tariffs and charges in newspapers

Our experience indicates that consumers primarily rely on direct communications from their retailers to alert them of changes to tariffs and charges. We have reviewed our case insights and have not identified any insights where consumers have referred to seeing tariff or charge information in newspapers. Reflecting this and costs associated with retailers including this information in newspapers, we support the Commission removing the current obligation to publish variations to tariffs and charges of standard retail contracts in a newspaper.

We consider it may be appropriate to strengthen obligations relating to tariff notification requirements in other areas. We note that the Australian Energy Market Council (AEMC) has recently published a draft determination relating to [Accelerating smart meter deployment](#) (Draft Determination). The AEMC has noted that in response to the Draft Determination, a range of stakeholders raised concerns about the impact of new retail tariff structures on consumers and considered that it should strengthen its proposed consumer safeguards package. The AEMC is planning to publish a directions paper in August 2024 to consult further on consumer safeguard issues.

Although some of the protections the AEMC is considering are unlikely to be applicable in Victoria given that electricity smart meter rollout is already complete, others may be relevant. For example, some stakeholders

---

<sup>70</sup> AEMC, [Draft rule determination: National Electricity Amendment \(Unlocking CER benefits through flexible trading\)](#), 29 February 2024.

<sup>71</sup> See Department of Energy, Environment and Climate Action, [Victorian Gas Substitution Roadmap](#), 2023 and Department of Climate Change, Energy, the Environment and Water, [National Consumer Energy Resources Roadmap Powering Decarbonised Homes and Communities](#), July 2024.

have suggested that proposed obligations in the Draft Determination that would require retailers to notify a small customer at least 30 business days prior to any tariff pricing structure or charge variation related to a meter replacement should be extended to all tariff variation notification scenarios on an ongoing basis.<sup>72</sup> This would include circumstances such as those prescribed by clause 46(4C) of the NERR which requires a retailer to provide the notice of a variation to tariffs or charges to a customer as soon as practicable and, in any event, no later than the customer's next bill, where the variations to the customer's tariff and charges are a direct result of a tariff reassignment by the distributor. We note that clause 46(4)(c) of the NERR is largely replicated in the Code.<sup>73</sup>

EWOV observes the following in relation to the current obligations:

- Consumers receiving adequate notice of tariff changes is critical to allow them to meaningfully engage in the market and to avoid harms. For example, if a consumer is moved from a flat tariff to a time of use or demand tariff without realising this, they will not be able to change their usage habits and will likely incur greater costs.
- Our case insights indicate there is consumer confusion relating to tariffs including potential issues relating to consumers receiving inadequate information about what type of tariff is being applied to their account.

25. EWOV encourages the Commission to strengthen obligations relating to tariff notification, specifically by engaging with the AEMC and consider potentially replicating relevant consumer protections developed through this process into the Code.

---

<sup>72</sup> For example, the Australian Energy Regulator whose submission is available [here](#).

<sup>73</sup> *Energy Retail Code of Practice 2022 (Vic)*, clause 106(8).

## 4. General code of practice updates and other changes

### 4.1 Protections for embedded network customers

EWOV supports the Commission's proposal to introduce additional protections for embedded network customers.

Though we note the Victorian Government's intention to respond to General Exemption Order (GEO) 2022 review in a subsequent response in 2024, EWOV observes ongoing harms caused by the gaps in the consumer protection framework for embedded network customers. For example, EWOV receives complaints about embedded network consumers experiencing difficulty accessing concessions, where embedded network providers do not provide guidance about how to claim their concession through the Department of Families, Fairness and Housing (DFFH), or additional payment difficulties caused by a lack of access to their concession on each bill rather than at the end of the year via DFFH. In other cases, consumers in payment difficulty applying for an URG have been advised by their embedded network provider to continue to pay bills while they wait for the URG to be processed. EWOV supports the Commission looking for opportunities to extend consumer protections to embedded network customers who are sold electricity by a retailer or exempt person in advance of further embedded network reforms.

EWOV also welcomes the Commission's proposal to extend protections relating to the benefit or price change notification via preferred communication method, to align with obligations for on-market consumers.

EWOV suggests the Commission might consider further clarity around other billing requirements to ensure embedded network customers are not subject to excessive energy rates. The GEO 2022 requires that electricity sold or supplied by an exempt person, including new embedded networks meeting the new renewable energy condition, must not exceed the Victorian Default Offer (VDO).

EWOV has identified in some cases restricted plans offered to embedded network customers on an energy only plan may exceed the VDO. Our case data suggests some customers may be paying duplicated network charges – due to a lack of clarity about the implementation of a restricted plan for embedded network customers on an energy only plan.

For example, the Commission might consider adopting provisions that require retailers to remedy any duplication of network charges experienced by existing customers where new embedded networks are set up.<sup>74</sup>

26. EWOV suggests the Commission provides further clarity about how embedded network operators should implement restricted plans for energy only customers, particularly with regard to requirements not to exceed the VDO.

---

<sup>74</sup> See for example AER provisions relating to tenants who were resident at the time of the creation of the embedded network, AER's [Electricity Network Service Provider - Registration Exemption Guideline](#), requiring retailers to explicitly avoid duplicated network charges. section 4.9.5.

## 4.2 Use of preferred communication method

EWOV supports changes that would improve retailer approaches to communicating with consumers experiencing payment difficulty.

Improving retailer communications would address a range of communication issues we see in our caseload, including:

- Retailers failing to adequately explain relevant customer entitlements.
- Challenges for consumers when attempting to proactively seek assistance, due to extended call wait times, difficulties with accessing the appropriate contact within the retailer, or limited availability of relevant contact points (eg: specialist hardship teams only available on weekdays between 9am - 6pm).
- Retailers struggling to engage customers through regular written, email or phone communication, including some cases where customers do not engage at all (for example, due to shame or stigma associated with seeking assistance, or who may be avoiding engagement due to a lack of trust).

These issues are more common for customers with language, literary or digital access barriers, or who may be experiencing other vulnerabilities alongside their energy issue.

27. EWOV supports the Commission's proposal to extend the requirement for retailers to use a consumer's preferred method of communication to clauses related to the PDF and disconnections. This includes obligations to take reasonable steps to ascertain the consumer's preferred communication method.
28. EWOV encourages the Commission to consider other changes to improve retailer approaches to communicating with consumers experiencing payment difficulty, and vulnerable consumers broadly. This could include:
  - a) introducing a training requirement that ensures retail staff are sufficiently trained and capable in identifying and communicating with consumers experiencing vulnerability (see section 1.2)
  - b) expanding clause 13 to prescribe more frequent, proactive and tailored means of communicating PDF entitlements to improve consumer awareness of entitlements to assistance (see section 1.4)

The Commission notes that using a consumer's preferred communication method may not always be reasonable or practicable, and alternative methods should be used.<sup>75</sup>

The Commission could also consider requirements for retailers to communicate with consumers using other methods in addition to their preferred method of contact, based on the consumer's circumstances (for example, whether it was their first time engaging with their retailer about payment difficulty, whether they had previously received assistance for payment difficulty, experiencing additional challenges or who have specific or critical needs or whether disconnection may be imminent). The benefits of and better practice examples of this approach were highlighted in both the Australian Energy Council's "*Guidance for retailers seeking to implement best practice customer support*"<sup>76</sup> and the recent ASIC Report "*Hardship, hard to get*

<sup>75</sup> Issues paper, p 71.

<sup>76</sup> Australian Energy Council, [Guidance for retailers seeking to implement best practice customer support](#), June 2021.

help.”<sup>77</sup> These requirements should align with existing requirements to identify and use safe and preferred methods of communication for consumers impacted by family violence, as well as broader reforms to improve retailer practice in recognising and supporting victim-survivors (see section 1.1).

### 4.3 Receipt of communications and notices

EWOV considers there are a broad range of circumstances where consumers may not receive communications and notices from a retailer, despite efforts on their part to ensure contact details are correct. EWOV does not consider that the Electricity Distribution Code of Practice sufficiently covers these circumstances and so the benefits of aligning to these may be limited. EWOV instead considers this requirement is better expressed as a broader principle so that retailers should take reasonable steps to ensure communications and notices are received before taking action which may result in a detrimental outcome for that consumer.

However, EWOV would see the benefit of further guidance on retailer obligations in the context of disconnection for non-payment where consumers have not engaged and there are indicators of significant vulnerability (see recommendation 10). In these instances, it may not be enough to show that the required notices were dispatched and the required timeframe for receipt has elapsed.

29. EWOV encourages the Commission to consider reasonable steps are taken to ensure communications and notices are received before taking action which may result in a detrimental outcome for consumers.

This will assist to ensure that consumers have a fair and reasonable opportunity to engage with the retailer to understand the assistance available and to remedy payment difficulties which may give rise to disconnection.

---

<sup>77</sup> ASIC, [Hardship, hard to get help: Findings and actions to support customers in financial hardship](#), May 2024, p 41 – 60.

## 4.4 Bulk hot water formulas

The Commission has invited stakeholder comments on the Bulk Hot Water formulas contained in Schedule 4 of the Code.

EWOV supports a comprehensive review of the way retailers and embedded network companies supply and bill bulk hot water. While EWOV notes a comprehensive review of bulk hot water is not within the scope of the review, we welcome further clarification of the application of the bulk hot water provisions and formulas.

In response to an ongoing EWOV investigation, a retailer that bills for the supply of hot water from a centralised plant to individual units, advised EWOV that it considers consumer protections in the Code (such as the four month back billing restriction) do not apply to bulk hot water consumers because:<sup>78</sup>

- it is a serviced hot water system rather than a bulk hot water system
- it does not apply the formula contained within schedule 4 of the Code
- it bills in cents per litre and therefore it is not energy.

As part of the investigation, the retailer advised that it had experienced a system issue which caused extensive billing delays for its bulk hot water consumers. As the retailer considers that back-billing restrictions in the Code do not apply to bulk hot water consumers, it chose to back-bill impacted consumers for periods of greater than four months, despite the consumers not being the cause of undercharging. The retailer advised that it back-billed more than 10,000 consumers for periods of greater than four months with a total dollar value of more than \$2 million.

This highlights the need for further clarification within the Code to ensure consistent industry practice and appropriate consumer protections for energy services, especially where there is a risk of avoidable bill shock and where consumers do not have access to a competitive market.

We encourage the Commission to consider further prescription around how centralised hot water is referenced (characterised) on bills, given the license requirements of energy companies do not include water.

EWOV also recommends review of the scope of the Code and its required extension to those who are unlicensed but supply gas-related services, especially where the consumer is billed for their portion of gas consumption, such as gas centralised hot water services. EWOV observes that often bills are issued by embedded network companies who do not hold a retail license. As there is no gas General Exemption Order that enables the Code to cover these providers, retail consumers are not afforded the necessary protections creating a greater risk of consumer inequity and harm. EWOV is also not able to assist customers in this situation because their complaint is not against an entity that is required to be a member.

---

<sup>78</sup> Ibid, clause 70(2).



30. EWOV supports a comprehensive review of the way retailers and embedded network companies supply and bill bulk hot water.
31. EWOV welcomes further clarification of the application of the bulk hot water provisions and formulas. EWOV's view is that:
  - a) The bulk hot water provisions and formula should apply to all 'centralised hot water' (including both serviced hot water and bulk hot water), and
  - b) Consumer protections should be clarified by confirming that any retailer or embedded network company that **supplies or bills** for centralised hot water is subject to relevant provisions of the Code, including all billing provisions.

## 4.5 Complaint handling processes

### Internal dispute resolution processes

Currently, the Code requires retailers to develop, make and publish internal dispute resolution (IDR) procedures that are ‘substantially consistent’ with the *Australian Standard AS ISO 10002 Guidelines for Complaint Management*.<sup>79</sup> The phrasing ‘substantially consistent’ is open to interpretation and does not provide a clear, consistent or unambiguous standard required of retailers or exempt persons.

EWOV considers it important to provide energy consumers with equitable access to efficient pathways for fair and effective dispute resolution, including clear information about retailer obligations and expectations during complaint handling. EWOV supports consideration of the Australian Standard guidelines for complaint management but considers additional obligations around IDR procedures is required to supplement these standards. This would result in more consistent, accessible and appropriate IDR procedures throughout the industry.

EWOV notes that other industries such as the financial services sector and the consumer data right (CDR) framework require internal dispute resolution procedures to be consistent with certain aspects of *ASIC Regulatory Guide 271 (RG271)*.<sup>80</sup> RG271 builds upon the Australian and New Zealand complaint management standards to include additional matters relevant to the industry, including (amongst other things):

- Clarification around what constitutes a complaint and ways complaints can be communicated by consumers
- Minimum content requirement for all IDR responses
- Maximum IDR timeframes for providing an IDR response
- Requirements to inform consumers of the relevant industry ombudsman and to provide details about how to access the ombudsman
- Requirements for identifying and escalating systemic issues
- The development of a positive complaint management culture which recognises that everyone has a right to complain and to demonstrate a commitment to proactively resolve complaints
- Appropriate resourcing with requisite skills, attributes and training
- A focus on objectivity and fairness.

32. EWOV considers there is an opportunity to enhance consumer protections and to support fair outcomes by strengthening the Code requirements relating to retailer’s IDR procedures.

We consider this will assist to address a range of issues related to IDR including:

- Inconsistent internal dispute resolution processes between different retailers
- Unclear retailer standards for how to handle consumer complaints
- Consumer confusion as to IDR pathways

<sup>79</sup> Ibid, clause 14.

<sup>80</sup> ASIC Regulatory Guide RG 271; *Competition and Consumer (Consumer Data Right) Rules 2020 (Cth)*, Schedule 4, Part 5, 5.1.

- Lengthy IDR processes and consumer disengagement
- Transparency and accountability.

## Access to external dispute resolution

We consider there are potential opportunities to improve the Code to make it easier for consumers to access authorised external dispute resolution schemes (EDR) such as EWOV.

EDR is critical to allow consumers access to a free, fair and independent service for resolving their complaints and for building consumer confidence and trust in the energy sector. We have observed issues relating to consumer awareness and access to EDR, including consumers reporting to EWOV that their energy retailers or distributors:

- Provided what we consider to be insufficient details about EWOV after engaging in the retailer's internal dispute resolution processes.
- Put pressure on them to accept an offer e.g. only making offers available for a set period.
- Actively discouraged them from contacting EWOV e.g. making offers contingent on consumers not escalating their complaint with EWOV. In one case, an energy distributor sent an email to a consumer stating, 'if you choose to escalate this matter to EWOV to an investigation, the offer will no longer be available due to the additional costs of the escalation'.

In addition, as identified in section 2.2 of this submissions, consumer responses to EWOV's consumer satisfaction survey indicate that providers are failing to inform consumers that they can return to EWOV if they are dissatisfied with the outcome of their complaint.

We consider that further guidance in the Code, stipulating when retailers must inform consumers about their option to complain to EWOV, would assist efficient and effective dispute resolution and consumer welfare. Currently the Code requires energy providers to include EWOV's contact details:

- On their websites<sup>81</sup>
- In market retail contracts<sup>82</sup>
- On disconnection warning notices.<sup>83</sup>

In addition, energy providers must provide information to consumers about their rights to complain to EWOV when they are not satisfied with the retailer's response to a complaint about:

- Retail marketer conduct<sup>84</sup>
- Retailers not accepting customer read estimates provided to request billing adjustments<sup>85</sup>
- A billing dispute.<sup>86</sup>

These circumstances are quite confined and do not cover a range of reasons why consumers are likely to wish to contact EWOV for dispute resolution assistance. For example, there is currently no requirement in

---

<sup>81</sup> *Energy Retail Code of Practice 2022* (Vic), clause 13(1)(c).

<sup>82</sup> *Ibid*, clause 102(d).

<sup>83</sup> *Ibid*, clause 185(g).

<sup>84</sup> *Ibid*, clause 47(1)(e).

<sup>85</sup> *Ibid*, clause 59(11).

<sup>86</sup> *Ibid*, clause 69(8).

the Code for energy retailers to inform consumers that they can make a complaint to EWOV when the retailer has not been able to resolve a complaint relating to the retailer providing payment difficulty assistance. This is one of the most common reasons consumers raise complaints with EWOV and as reflected through our insights throughout section 2 of this submission, can cause a high degree of consumer harm. In the 2023/24 financial year, EWOV received 1,171 complaints relating to payment difficulty assistance.

Clause 102(1)(d) of the Code requires a retailer to include provisions within a market retail contract which recognise that, if a customer is not satisfied with a retailer's complaint response, the customer has a right to refer their complaint to the energy ombudsman. There is a similar requirement in the model terms and conditions for standard retail contracts. However, this relates to provisions within the supply contract. It does not address appropriate, accessible and timely provision of information about EWOV when the consumer requires it most.

33. EWOV encourages the Commission to consider expanding clause 13(1)(c), which prescribes retailer obligations to provide the contact details for the relevant energy ombudsman on its website. This obligation could be revised to align with obligations in RG271 including that a retailer must inform consumers of their right to complain to EWOV if and when:

- a) They are not satisfied with the retailer's IDR response<sup>87</sup>
- b) The consumer's complaint is not resolved within a set timeframe such as 30 calendar days.<sup>88</sup>

We consider this approach would help to:

- Reduce confusion as to when energy providers must inform consumers about their right to raise a complaint with EWOV.
- Improve consumer awareness to EWOV and therefore access to independent, fair and efficient dispute resolution
- Align with other relevant complaint handling rules and processes that are already being applied to parts of the energy sector. For example, consumer data right rules, that require accredited persons other than energy retailers, to have IDR processes that comply with certain provisions in RG271.<sup>89</sup>

<sup>87</sup> RG271 2021, clauses 271.53(b) and 271.111(a).

<sup>88</sup> Ibid, clauses 271.56, 271.111(a) and 271.66(b).

<sup>89</sup> *Competition and Consumer (Consumer Data Right) Rules 2020* (Cth), Schedule 4, part 5.