



13 December 2013

Ms Agata Evans
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Australian Competition & Consumer Commission
Level 24, 400 George Street
Brisbane Queensland 4000

By email: Agata.Evans@accc.gov.au

Thank you for the opportunity to comment on the draft *Debt Collection Guideline for Collectors and Creditors* and the current consumer guide *Dealing with Debt – your Rights and Responsibilities*.

The Energy & Water Ombudsman NSW (EWON) investigates and resolves complaints from customers of electricity and gas providers in NSW, and some water providers.

We believe the draft Debt Collection Guideline will assist EWON with the resolution of complaints from customers regarding collection activity, as well as assisting energy and water retailers with their collection practices.

EWON has experienced a significant increase in the number of complaints involving credit issues, in particular debt collection, credit rating and declined payment arrangements. The table below shows the increase in complaints involving credit issues from the 2012 financial year to the 2013 financial year.

AFFORDABILITY-RELATED COMPLAINTS			
Note: There may be more than one issue raised per complaint.			
A total of 7610 complaints involved credit issues, up from 5936 in 2011-2012	No. complaints 2012/2013	No. complaints 2011/2012	% change
Issue			
Arrears/utility debt	2777	2381	+17%
Facing disconnection due to non-payment	2056	1931	+6%
Contacted by debt collectors	1467	977	+50%
Disconnected due to non-payment	1293	1090	+19%
Credit rating affected	1116	710	+57%
Payment arrangement declined	703	490	+43%



Liability for actions of agent and for conduct prior to the sale of debt

EWON receives a number of complaints relating to debts that have been referred to collection agents. We have also seen the recent energy industry development of selling aged debts to mercantile agents.

We consider that in most circumstances energy and water retailers are liable for the actions of their collection agent, and that the sale of the debt does not remove these complaints from EWON's jurisdiction where the complaint relates to conduct prior to the sale. We are pleased that the draft Debt Collection Guideline continues to inform creditors of their liability in these circumstances.

'Flexible, fair and realistic approach to collection'

EWON has experienced an increase in the number of complaints from customers with large arrears with their energy retailers. It is not uncommon for customers to contact EWON about payment difficulties where their energy account arrears are well in excess of \$2,000.

A change in their retailer's credit policies has resulted in some customers being unilaterally informed of a doubling or more of their current payment plan. These vulnerable customers generally need more time to adjust to already tight financial arrangements.

Changes in credit policies have also resulted in some customers facing disconnection or requiring reconnection being asked to make large upfront payments, which are not possible for financially vulnerable customers to meet.

The draft Guideline for Debt Collection continues to encourage a 'flexible, fair and realistic approach to collection'¹. EWON supports this approach and we note the Guideline's statement that:

A flexible approach involves making meaningful and sustainable payment arrangements that reasonably take into account a debtor's ongoing living expenses to enable them to live in basic comfort and prevent impoverishment or humiliation.²

References to the energy retail industry

EWON welcomes the reference to the ACCC and AER's consumer information fact sheet *Energy bills, hardship programs and disconnection – your rights* in the draft Debt Collection Guideline.

¹ Australian Competition and Consumer Commission & Australian Securities and Investments Commission, *Draft Debt Collection Guideline: for Collectors and Creditors*, page 9

² *ibid*



We encourage the inclusion of the reference to the fact sheet *Energy bills, hardship programs and disconnection – your rights* in the updated Consumer Guide.

We are pleased that the draft Debt Collection Guideline specifically mentions the National Energy Retail Law's requirement that energy retailers develop, maintain and implement a customer hardship policy for residential customers.

We also encourage the inclusion of the reference to the energy retailer hardship policies in the updated Consumer Guide.

We note, however, that the National Energy Retail Law is not included in the list of relevant legislation at Appendix B and request that it be considered for inclusion in the final version.

Liability for someone else's debt - joint account holders

Energy and water retail contracts refer to joint account holders rather than co-borrowers. The current Consumer Guide may confuse energy and water retail customers as to their liability for their joint account holders' debt. We request that this section clarifies that co-borrower includes joint account holders for utility accounts.

If you would like to discuss this matter further, please contact me or Emma Keene, General Manager Policy and Community Engagement, on 02 8218 5250.

Yours sincerely

A handwritten signature in black ink that reads "Clare Petre".

Clare Petre
Energy & Water Ombudsman NSW