

24 February 2015

Mr Paul Smith  
CEO  
Australian Energy Market Commission  
PO Box A2449  
Sydney South NSW 1235

Reference RPR0003

Dear Mr Smith

Thank you for the opportunity to comment on the *AEMC 2015 Retail Competition Review Approach Paper*.

The Energy & Water Ombudsman NSW (EWON) investigates and resolves complaints from customers of electricity and gas providers in NSW, and some water providers. The feedback presented in this submission is drawn from EWON's complaints data and community outreach experiences. We have provided additional complaints data to the AEMC separate to our submission. We welcome the opportunity to work with the AEMC and can provide further information if necessary.

For ease of reference we have adopted the same numbering as the *AEMC 2015 Retail Competition Review Approach Paper*.

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



Janine Young  
Ombudsman  
Energy & Water Ombudsman NSW



Energy & Water  
Ombudsman NSW



**Submission to the Australian Energy Market  
Commission**

# **Approach Paper: 2015 Retail Competition Review**

Energy & Water Ombudsman NSW

**24 FEBRUARY 2015**

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## INTRODUCTION

The Energy & Water Ombudsman NSW (EWON) welcomes the opportunity to respond to the *AEMC 2015 Retail Competition Review Approach Paper*.

Established in 1998, EWON is the approved independent dispute resolution mechanism for customers of electricity and gas providers in NSW, and some water providers. Our aim is to provide fair, equitable and independent investigation and resolution of customer complaints. We work with all the key stakeholders – providers, community, government, regulators – to improve the standard of service delivery for the benefit of NSW consumers.

We have provided EWON's complaints data to the AEMC separate to this submission. The data provides quantitative information about complaints made by electricity, gas and dual fuel customers, in the areas of billing, credit, transfer, marketing and customer service. This submission highlights the retail competition issues evident from our complaints data.

We note that, as a result of the 2014 Retail Competition Review, the AEMC recommended that jurisdictions:

- consider options for raising awareness of comparator tools to improve customer confidence in the market
- ensure concession schemes are delivering on their intended purpose in an efficient and targeted way
- continue to harmonise regulatory arrangements across jurisdictions to minimise costs
- remove energy retail price regulation where competition is effective.

Aside from price deregulation as implemented in NSW from 1 July 2014, we consider that there is still a low level of consumer awareness of independent comparator tools (such as Energy Made Easy). Many vulnerable customers also remain unaware of available concession schemes.

We have responded to six of the nineteen questions outlined in the AEMC's Approach Paper, those which are most relevant to our work at EWON.

## QUESTIONS FOR STAKEHOLDERS

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### 1. Are small customers able to access information that is easy to understand, relevant and up to date to support their investigation and choice of energy offers?

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#### Confusing bills

Customers refer to their bills for information about their usage, charges, and metering and associated tariff structure(s). The key information on a bill needs to be easily accessible and presented in a clear and simple way so that customers can access the information they need to compare energy offers. In our dispute resolution experience, many customers lack understanding of their usage, metering, service availability charge (SAC) and other fees and charges as presented on their bills.

This is compounded when a customer has multiple meters and therefore a number of different tariff structures attached. We receive complaints from customers who do not understand why they were charged various off-peak rates (e.g. off peak domestic usage, control load 1 and control load 2). Customers also report being confused by inconsistent terminology, for example being billed for control load when their contract refers to off peak rates.

It is crucial that all key billing information is readily accessible on customers' bills so that they can make an informed comparison of offers and also have an understanding of the type of offers they should be looking for (e.g. step tariff or time of use). For this to be effective, we consider that the terminology used by retailers needs to be consistent across the products offered, related marketing material and bills. We also consider that it is crucial for retailers to use consistent terminology so that customers can understand and compare like-for-like offers.

EWON is currently involved in a working group led by the Energy Retailers Association of Australia to examine how bills can be simplified and provide clearer information to customers. This project involves industry, community and ombudsman stakeholders and aims to provide improved information to customers.

#### Evergreen contracts

Evergreen contracts with a fixed benefit term became prevalent in 2014 and most retailers now offer this product. We received complaints about this type of contract from customers whose contracts had expired and they were notified by their retailer that the contract would be continuing with a new fixed benefit term. In most cases this involved a reduced discount compared to what the customer had previously received.

Customers are required to opt out of this arrangement if they do not wish to continue with their retailer. Customers reported they were confused about whether they were in fact off contract or not, or whether they would be penalised for switching, as they thought their contract had

expired. Also, many customers do not understand the concept of a fixed benefit period in an evergreen contract, and often assume the benefit or discount is continuous for the life of the contract.

Some customers advised EWON of their concern that retailers were not presenting their most competitive offer at the first point of contact with customers. For example, retailers who offered a new fixed benefit term by letter to customers also offered a higher discount when these customers contacted their call centre to query the reduced discount of the new benefit term. Some of these customers considered their retailer's initial offer to be the most competitive offer on face value and did not know that they could contact their retailer to access better discounts. EWON considers that while it is important for customers to engage with the market and find the best offer, in the context of retail competition customers should be able to access the most competitive offers with relative ease.

Via our casework and outreach initiatives, EWON encourages customers to:

- use the AER's independent price comparator website *Energy Made Easy*
- speak to retailers about the available offers
- carefully read the terms and conditions and pricing fact sheets, and understand when fees may apply.

We note that consumer awareness of the Energy Made Easy tool remains low. Many vulnerable customers are not able to access Energy Made Easy or have the resources to contact their retailer and ask for a better offer. These customers are not engaged in the competitive market, yet need access to the benefits of a truly competitive market.

### **Case study**

A customer advised that he had a two year contract due to expire. He received a letter indicating that his discount would be reduced from 12% to 4% automatically unless he rejected the arrangement in writing. He contacted his retailer and was advised that they have similar offers to the one he was on and he could have a 15% discount. These alternative offers were not mentioned in the letter and he considered this was misleading because most customers may have accepted the 4% discount (2014, 220325).

### **Adequate disclosure of key fees and charges**

There should be transparent upfront disclosure of all fees that can be charged by the retailer at the time the offer is made, particularly if the fees are significant.

The move-out fee, which retailers are required to disclose as a 'disconnection fee', has been a persistent source of complaints to EWON in recent years. Retailers may charge a 'disconnection fee' when a customer contacts them to close their account to prevent unauthorised usage while the premises is vacant. A common feature of these complaints is confusion about whether the fee was adequately disclosed in supply contracts and/or Energy Price Fact Sheets, including the circumstances in which the fee is charged. Customers have advised that they would not have agreed to a contract had they been aware of the disconnection fee. Customers also stated that

they could not find disclosure of the fee in the terms and conditions of their contract. A disconnection fee of \$96.80 is a significant impost for customers who may not have had clear and upfront notice of the additional charge.

EWON notes that under the AER's *Retail Pricing Information Guideline* (June 2012) retailers must title any fees relating to a disconnection as 'disconnection fees'. Although it appears that retailers are following the AER's requirement in this respect, in our experience customers contact their retailer to close or transfer their account when they are moving out of the supply address. These customers are not contacting their retailer to request disconnection of supply. Hence customers often query why they have been charged a disconnection fee, not understanding that it can be charged if the supply address is de-energised when they move out. Most customers associate disconnection fees with credit action. EWON considers that simple, clear and consistent information about this fee at every customer communication point will assist in reducing customer complaints.

### **Case study**

A customer moved out of her house and received a bill for a disconnection fee of around \$90. She rang her retailer and was advised that they could charge this fee. She checked her contract, which stated that there would be no termination fee and it did not mention the disconnection fee. Her retailer advised her to call her distributor. Her distributor advised her that they only distribute electricity and have nothing to do with the charges. In accordance with EWON's process, the complaint was referred to her retailer for resolution at a higher level (2014, 215889).

### **Misleading and pressure marketing**

EWON is concerned that complaints about misleading and pressure marketing persist despite recent regulatory action in the area of door to door marketing. Customers continue to complain about marketers making misleading representations about government rebates, rates, discounts and the purpose of the marketing visit or phone call. Customers also continue to complain about pressure marketing involving intimidating behaviour and persistent marketing to vulnerable customers, in particular having to sign up so that a marketer would leave the premises or terminate the call. We consider that inappropriate marketing conduct prevents customers from making informed choices about offers. Poor marketing practices create confusion and anxiety about the trustworthiness of retailers and can deter customers from fully participating in the market.

**Case study**

A customer advised that he was doorknocked by a marketer. He asked the marketer for a copy of the contract details. The marketer said that he was not permitted to give him a copy until he signed a contract. The marketer quoted a rate of 27c/kWh to the customer and advised that the rate would 'always be' 36c/kWh with any other retailer. The marketer quoted a SAC rate of 26.84c/day and a discount of \$200 if he signed today. The marketer also told him that if he signed up he would receive \$260 from the government. The customer advised the marketer that he was already receiving the Low Income Household Rebate. He considers that the marketer was actually referring to a credit bonus if he signed up. The customer called the retailer and was advised that the SAC rate was in fact \$1.2684/day and that the marketer was 'confused' and had quoted incorrect rates (2014, 213925).

**Ensuring access for vulnerable and remote customers**

In accordance with its Charter, EWON regularly conducts outreach activities across NSW. Feedback we have received from stakeholders, including community workers, is that many vulnerable and remote customers who would benefit from competitive offers are unable to access information about those offers. Customers in rural communities may not have access to the internet and vulnerable customers may not have enough phone credit to ring around for the best offer. Unreliable telephone reception in remote rural areas such as Lake Cargelligo is another barrier to market access. Community stakeholders also advise EWON that even if customers are able to access offers, energy illiteracy prevents them from being able to understand and compare complex information.

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**2. What information or activities would improve consumer awareness, engagement and understanding of the choices available? Are tailored measures needed to encourage consumer engagement in certain areas or demographics?**


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As discussed in Question 1, EWON considers that providing clear and simple information about energy products, in consistent language, is critical if customers are to engage with the market and understand the choices available.

EWON believes that tailored measures aimed at engaging financially stressed and other vulnerable customers, such as those in remote communities, would be beneficial. The feedback we have received from our outreach activities indicates that many vulnerable customers do not understand energy contracts and are unaware of government rebates and retail hardship programs. Targeted information about available market choices as well as retailer and government assistance would put these customers in a better position to consider competitive offers in the market. Based on our partnerships with retailers and community agencies in vulnerable communities, we believe that strategic programs involving retailers, community agencies, ombudsman schemes and governments working together are most effective.



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### 3. Do the issues above differ for customers with solar panels?

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Solar-related complaints to EWON peaked between 2011 and 2012. The issues driving these complaints were related to:

- eligibility for the NSW Government Solar Bonus Scheme, particularly around application deadlines and scheme closure
- variations in the feed-in tariffs paid to customers, particularly after retailers were required to contribute to the costs of the Solar Bonus Scheme
- confusion around technological requirements, such as gross and net meters and inverters
- billing disputes arising from solar generation and payment of feed-in tariffs
- misleading marketing of feed-in tariff amounts
- faulty or delayed installations.

Complaints about these issues have since declined. However, EWON has ongoing concerns about one retailer whose solar products have continued to generate complaints. Their customers have contacted EWON to report their dissatisfaction with:

- the quality of the retailer's solar installation
- lengthy delays with the payment of feed-in tariffs
- ongoing delays with reconciliation of bills over a number of billing periods
- the fact that the retailer's ability to meet their contractual requirements to customers depended on third party contractors meeting their obligations to the retailer.

While we acknowledge the increasing presence of innovative businesses in a competitive energy market, we also note that these complaints have arisen in the context of innovative products. The Australian Energy Regulator is currently consulting stakeholders on regulating innovative energy business selling models such as Solar Power Purchase Agreements. EWON is monitoring this area closely as these new business models will add an additional layer of complexity for customers, in an already complex market.

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### 12. Is there evidence that customers are satisfied with the service quality they receive from their energy retailer(s) and the value for money?

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Customers contact Ombudsmen offices predominantly because of current or past experience of poor customer service. Customers report the following types of poor customer service experiences:

- incorrect information or inadequate provision of information especially about known issues
- failure to action agreed solutions for a customer's problem

- long time frames or delays to resolve what seem to be reasonably simple issues such as a change of address.

In the context of switching and transfers, complaints to EWON about poor customer service can be linked to the complex business to business (B2B) transfer system. Based on our complaints data, it appears that confusion around transfer codes and processes amongst retail staff can result in transfer delays and can lead to poor customer service experiences (this is discussed further in Question 14). Complaints about customer service are generally triggered when:

- the winning and/or incumbent retailers are unable to provide a satisfactory explanation of complications in the transfer process (e.g. transfer failures, objections or administrative errors in the transfer process), instead referring customers back and forth between them without concrete advice or outcomes
- customers are not informed of transfer delays, reasons for its cause and any corrective action to ensure the transfer proceeds.

Given the complexity of the current B2B transfer system, we consider that there is a need for adequate staff training and improved communication between retailers to mitigate confusion and improve the customer experience around transfer procedures.

### ***Case studies***

A customer agreed to transfer to another retailer on the basis that she could be billed on self-reads due to meter access issues. The distributor performed a final meter read so that she could finalise her account. She contacted her new retailer four months later after receiving another bill from her previous retailer. Her new retailer advised that her previous retailer had rejected the transfer, and that she would need to call them to confirm the transfer. She called her previous retailer and was referred back to her new retailer. She considers she was treated rudely when she spoke to her new retailer again and she was placed on hold for an extensive period of time. The customer said she was very dissatisfied with the customer service she received from her new retailer. In accordance with EWON's process, the complaint was referred to her new retailer for resolution at a higher level (2014, 224928).

A customer moved into a new flat and requested a move-in meter reading. Service requests for meter readings were raised three times and he stayed home each time to provide access to the meters. However, the distributor cancelled each one. He stated his retailer did not inform him of the cancelled orders. He was since advised that each request was cancelled because his retailer filled out each request incorrectly (2014, 225383).

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## 14. Are customers satisfied with the ease and speed with which they can switch retailers?

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In EWON's experience, complaints about transfer delays are demonstrative of customer dissatisfaction with the lack of ease and speed of their transfers, as well as the way their complaints are handled by both winning and incumbent retailers. Transfer delays can occur for a number of reasons and EWON discussed these in detail in our submission to the AEMC's *Issues Paper on the Review of Electricity Customer Switching* in December 2013<sup>1</sup>. The feedback we provided then is still relevant today. More recent complaints about transfer delays continue to identify a number of issues in relation to switching. The case studies also expand on the customer service issues discussed in Question 12.

### Confusion around B2B transfer system leading to failure of process

The majority of complaints to EWON about transfer delays are a result of objections to transfer requests within the MSATS system. From our experience in investigating complaints, there is a pattern of winning retailers making administrative errors when following MSATS procedures to request a transfer. Customers have complained of incorrect codes, dates, addresses or jurisdiction being raised with MSATS which led to the incumbent retailer objecting to the change request, or confusion as to what the correct procedure is. Some customers have expressed dissatisfaction at having to contact both winning and incumbent retailers to resolve the matter.

Customers reported that they felt let down by retailers, particularly when they consider they were provided with inadequate explanations as to why transfer objections were raised, as well as the steps and timeframes to resolve the problem. In some cases it was apparent that call centre staff did not have the same access to transfer systems as back-office staff, and therefore provided inadequate, inconsistent or incorrect information to customers. In many instances there were significant delays before the winning and incumbent retailers agreed on where the problem had occurred. Customers have also complained that business-to-business systems appear to be incompatible, often with both winning and incumbent retailers providing contradictory information to customers and shifting responsibilities to each other. We strongly suggest that there is a need for adequate staff training around MSATS transfer codes and objections.

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<sup>1</sup> EWON submission,  
<<http://www.ewon.com.au/ewon/assets/File/Submissions/2013/EWON%20submission%20-%20AEMC%20Review%20of%20Electricity%20Customer%20Switching.pdf>>

### **Case studies**

A customer established an account with his preferred retailer before moving into his new property. He began to receive Dear Occupant notices from the incumbent retailer a month later, including disconnection notices. When he called his preferred retailer, he was advised that they had placed an urgent request to transfer the billing rights on the day of his move-in. When EWON contacted the incumbent retailer, EWON was advised that they could not see any transfer requests for the site. The customer's preferred retailer also advised that a transfer request had been recently rejected. Later, his preferred retailer advised that there was an email between the two retailers indicating that the transfer had been approved, and that a transfer may take up to two weeks to appear on MSATS. The customer contacted EWON three weeks later to advise that his supply was about to be disconnected by a field officer. In the meantime, his preferred retailer raised further but unsuccessful transfer requests. The incumbent retailer advised that the customer's preferred retailer had to notify them of the ongoing requests as the initial request had timed out and therefore closed off. Two weeks later, the incumbent retailer advised that the transfer request had been accepted and should occur the following week (2014, 223487).

A customer established a new account with her preferred retailer for a new property. The retailer advised that the transfer would complete one month later. Several months later she found letters addressed to Dear Customer from the same retailer. They asked her to take responsibility for the account even though she thought she had established an account with them earlier. She attempted to transfer away to two other retailers, however both advised her that her retailer had blocked their transfer requests. When she queried this with her retailer, she was told that the other retailers were responsible. In accordance with EWON's process, the complaint was referred to her retailer for resolution at a higher level (2014, 224528).

A customer moved into the supply address and requested an account with her preferred retailer. The retailer advised her that they were unable to transfer the billing rights as the incumbent retailer was rejecting the transfer. During EWON's investigation, the customer's preferred retailer advised that it was likely they had entered the incorrect transfer code and date for MSATS (2014, 224151).

There can also be room for error in processing transfers within the MSATS system where there has been a subdivision of land (e.g. battle-axe blocks) and a customer's supply address cannot be clearly reconciled with its equivalent listing on MSATS. This can be due to a supply address being listed differently on MSATS or MSATS not being updated to reflect multiple addresses at the same site.

**Case study**

A customer had negotiated a contract with a new retailer. The new retailer raised a number of transfer requests, however his previous retailer rejected them. His previous retailer advised him that they did not receive the requests, and later told him that the transfer was not progressing because lack of meter access had prevented a final meter reading. The customer considered that meter access was not an issue. EWON's investigation found that the new retailer had listed an incorrect supply address on the transfer request. The customer's premises were part of a battle-axe block at the intersection of two roads. His supply address as listed on MSATS was different to the supply address for the subdivided portion of the block. When EWON clarified both retailers' understanding of the customer's address, his previous retailer offered him a customer service gesture of \$100 to acknowledge his inconvenience (2014, 220688).

**Lack of notification about transfer delays**

EWON notes that under Rule 59 of the National Energy Retail Rules, retailers have an obligation to notify customers of a delayed transfer if they had informed the customer of the expected date of transfer.

EWON continues to receive complaints about retailers not providing notification of delayed transfers. Often the delay is only identified when the customer follows up with the retailer or receives Dear Customer accounts and/or disconnection notices from the incumbent retailer. The lack of notification can inconvenience customers, particularly where they have started making payments via Centrepay or direct debit to their new retailer.

**Case studies**

A customer advised that she agreed to a dual fuel contract and had been paying her quarterly bills. She has received a Dear Customer bill from another retailer for her gas supply. When she queried the bill with her retailer, she was advised that the transfer of her gas account did not go through and they acknowledged to her that they had failed to inform her of this. She considers that her retailer's service is poor and she now has to pay a bill from another retailer. She has requested her retailer to transfer her gas account again. In accordance with EWON's process, the complaint was referred to her retailer for resolution at a higher level (2014, 226632).

A customer transferred retailers in May 2013. She set up a Centrepay payment arrangement and began making regular payments to her new retailer. She later found out that the transfer did not occur until January 2014, and that her new retailer did not credit her payments to her account. The new retailer was unable to account for her payments. In accordance with EWON's process, the complaint was referred to her retailer for resolution at a higher level (2014, 224174).

## Objections due to arrears owing

Customers also complain to EWON about incumbent retailers objecting to transfer requests when the previous occupants of their premises have moved away without paying the balance on their energy accounts. EWON notes that under clause 6.10 of the Australian Energy Market Operator's MSATS Procedures: CATS Procedure Principles and Obligations, retailers in NSW are not allowed to object to a transfer on the basis of a debt (it is allowed only in Queensland and Victoria).

Customers report dissatisfaction with being required to prove the date of their move-in, being threatened with disconnection and/or being disconnected, and being asked to take responsibility for another account holder's energy usage before the transfer could proceed. Although a retailer may operate across several jurisdictions, EWON is concerned that the rules governing transfers in other jurisdictions are being misapplied in NSW. Coupled with poor customer service, this can unnecessarily prolong transfers and negatively impact on customers' engagement with the market. We have raised this as a systemic issue with retailers and continue to monitor complaints in this area.

### ***Case studies***

A customer advised that he was unable to transfer to his preferred retailer because the incumbent retailer at the premises would not release the billing rights due to an amount owed by the previous tenants. The incumbent retailer disconnected his gas supply. He advised the incumbent retailer that he was not responsible for the previous tenants' bills and that he was a new tenant. However, they would not discuss the situation with him as he was not the account holder. They also advised the customer that they have done nothing wrong in disconnecting supply. During EWON's investigation, the incumbent retailer advised that they had reconnected the customer the day after he was disconnected. They also offered him a customer service gesture of \$200 (2014, 219774).

A customer advised that he moved into his new property and opened an account with his preferred retailer. Recently his preferred retailer advised that the incumbent retailer would not allow the transfer to proceed because the previous residents had not closed their accounts and they would keep the account open until the arrears were paid. He was told to sort out the problem himself by contacting EWON. In accordance with EWON's process, the complaint was referred to his preferred retailer for resolution at a higher level (2014, 224200).

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**15. Do the number and nature of customer complaints to retailers or Ombudsmen provide evidence of any trends in the quality of customer outcomes?**

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Complaints to EWON are an indicator of industry issues and a source of customer feedback about their experience of the energy market. Our experience shows that increased competition over the past decade has brought about a range of complaints about transfers, marketing practices and customer service. We have also identified potentially systemic and/or compliance issues in these areas, which we have regularly raised with our member providers and regulators.

Regulator action and the subsequent withdrawal of door-to-door sales have seen a decrease in complaints about marketing practices. Overall there has been a decrease in complaints about transfer delays, transfer errors and fees associated with transfers. The complexity of the MSATS system may be a contributing factor however retailer processing errors contribute to negative customer outcomes.

Despite the recent decrease in complaints, poor customer outcomes relating to misleading and pressure marketing, poor customer service and a complex MSATS transfer system have continued to persist in recent years and they appear to be the underlying core driver of complaints about retail competition.

We have provided our complaints statistics to the AEMC separate to this submission and we understand that it will be considered in the AEMC's review and included in their final report. We will continue to monitor the area of retail competition and we will continue to work with NSW retailers and regulators to address any industry issues.

## **CONCLUSION**

Poor customer service, poor marketing practices, lack of access to clear and easy to understand information, and a complex transfer system continue to drive customer complaints to EWON about retail competition. These complaints suggest some customers are not accessing the benefits of the competitive market. To address this, we therefore encourage:

- that information on bills, marketing material and contracts are easy to understand and consistent
- greater promotion of Energy Made Easy website and resources
- targeted delivery of information about concession schemes and retailer assistance programs, particularly among vulnerable and remote communities
- greater staff training among retailers to improve customer service and use of the MSATS transfers system.