



17 November 2017

Inquiry Team
Australian Competition and Consumer Commission
GPO Box 3648
Sydney NSW 2001

Email: retailelectricityinquiry@acc.gov.au

Dear Inquiry Team

Retail Electricity Pricing Inquiry

Thank you for the opportunity to provide feedback on the Preliminary Report of the ACCC's Retail Electricity Pricing Inquiry.

The Energy & Water Ombudsman NSW (EWON) investigates and resolves complaints from customers of electricity and gas providers in NSW, and some water providers. Our comments are informed by these complaints and also from our community outreach and stakeholder engagement activities.

EWON has responded only to those specific sections and questions that have relevance with our casework, experience and expertise. Throughout this submission we have provided relevant case studies which provide de-identified details of actual customer experiences which support our response. As requested, we have not re-iterated positions taken in our previous submission to this Inquiry.

5.3 Ensuring cost effective and equitable environmental schemes

Energy efficiency for social and affordable housing and issues affecting remote energy consumers

The preliminary report notes that many energy consumers in Australia have achieved decreases in energy consumption through factors such as:

- improved energy efficiency in appliances and buildings;
- reductions in usage in response to higher bills; and
- the effect of greater take-up of rooftop solar, leading to increased usage of own generation capacity and hence decreased usage of NEM electricity.

However, the report acknowledges that vulnerable consumers living in some types of housing face disadvantage in relation to electricity costs through both the cost of environmental schemes, and the inability to invest in technology such as solar PV and batteries which would ease cost pressures. The report also notes that households may find it difficult to institute changes to reduce energy use, particularly if they have fixed routines, for example households with children.

We welcome the fact that a number of governments are exploring targeted programs and regulatory options to improve energy efficiency in vulnerable households through state based schemes and the National Energy Productivity Plan. The NSW Government has recently released its Energy Affordability Package. This includes funding to help households access home upgrades, provides concession holders with discounted energy efficient refrigerators and televisions, provides hardship customers with access to solar, and tenant assistance via grants for upgrading community, public and Aboriginal housing.

Through EWON's community engagement program we hear from, and educate, community workers and consumers about energy issues. We have a particular focus on engagement with Aboriginal and Torres Strait Islander communities, CALD consumers, vulnerable groups and those experiencing hardship, in metropolitan, regional and remote areas of NSW.

It is our experience from almost two decades of engaging with energy consumers in regional and remote areas of NSW, that these households face higher energy costs due to extreme temperatures; are more vulnerable to higher energy debt and misleading marketing practices; and face greater barriers to accessing financial and social support programs. For example, during a recent outreach visit to Wilcannia, some customers told us that they have difficulty accessing NSW EAPA (Energy Accounts Payment Assistance) vouchers without travelling 200 kilometres to Broken Hill – the cost of travel, if available, significantly reduces the benefit of the EAPA contribution towards reducing a large energy account.

Through our experience resolving complaints from consumers in regional and remote areas of NSW, we also recognise that energy affordability is complex, and addressing this issue requires solutions that are targeted to the individual circumstances of each household, such as the physical condition of their accommodation, the type of housing, and even the metering configurations at the property. We consider that energy retailers are well placed to provide tenants in regional and remote areas with help identifying the factors contributing to their energy costs and identify opportunities to reduce the customer's energy costs. The following recent case studies from our community engagement program in regional and remote areas of NSW highlight the kinds of gaps in affordability that retailers can help to identify and address. Some retailers are already doing work in this area but we consider that more can be done.

Recent case studies from EWON's community engagement program in regional and remote areas of NSW

Case Study (Wilcannia): *The physical condition of some housing in remote areas can contribute to high energy bills. Even if maintenance is undertaken, this can still place the customer in financial hardship with large energy debts.*

A customer approached EWON with an electricity debt of \$8,920.14 and a disconnection warning notice for \$2,200.69 of that debt. The customer was a social housing tenant.

The customer had an income but was unable to pay for her ongoing consumption. The customer was also concerned that there were a number of electrical faults in her home which may have contributed to her high electricity bills. For example, half the house was without power and she was using extension cords to power some major appliances. The customer also noted that the windows to the home were damaged. The customer had notified the housing provider which had agreed to undertake maintenance.

EWON identified that the customer was on a residential time of use tariff which may or may not have been beneficial.

EWON assisted the customer in negotiating an affordable payment arrangement and the customer noted that it had taken 12 months for the housing provider to commence repairs to the property.

When a customer is only able to pay an amount less than that needed to cover ongoing consumption, it is a strong signal to a retailer that the customer needs tailored support to identify the possible underlying factors contributing to their energy costs.

Case Study (Coomoalla): *Cost-reflective fees (introduced on 1 July 2015) may be acting as a barrier for vulnerable customers addressing the energy efficiency of their homes.*

A customer approached EWON with an electricity bill of \$5,343, with \$4,416 overdue. The customer was paying \$140 per fortnight, and had recently increased her regular payments to \$180 per fortnight.

The customer had received a number of bills based on estimated meter readings, even though the meter was located at the front of her house and accessible. The customer also considered the usage for hot water to be inconsistent, so she asked her retailer for a meter check. However, the customer was discouraged from investigating the issue further because she would be charged for the meter test if the meter was found to be accurate. A meter test fee in the customer's distribution area was \$501.79.

EWON provided the customer with advice about requesting a billing review by EWON. The customer was provided with a referral for EAPA. The customer wanted time to consider the option of an EWON investigation.

4.5 Vulnerable consumers: *awareness of Ombudsman schemes*

The preliminary report notes the concerns that have been raised about low awareness of energy ombudsmen, and that consumers generally find out about Ombudsman schemes from word of mouth or internet searching, rather than from their energy retailer. Concerns were also raised that many consumers that are experiencing financial difficulties are mistakenly of the view that they are unable to make a complaint as the debt has already been incurred, and therefore must be paid.

One of our principle responsibilities under our Charter is to promote EWON to consumers and small businesses. EWON is committed to continuing its NSW-wide outreach, awareness and community engagement program. This program, which includes events such as Bring Your Bills days, which collaboratively involve organisations such as Legal Aid, the Office of State Revenue, Fair Trading, NDIS providers, Aboriginal Housing organisations, other service providers and most recently energy retailers, which ensures that consumers receive assistance for many aspects of the issues which affect their ability to pay energy accounts.

However, EWON is also of the view that retailers need to do more to promote their membership of Ombudsman schemes and advise consumers proactively of their right to access Ombudsman assistance.

The National Energy Retail Rules (NERR) currently require retailers to:

- Include, as a minimum requirement in relation to the terms and conditions of a market retail contract, the customer's right to refer a complaint or dispute to the energy Ombudsman.
- Publish on its website the contact details for the relevant energy Ombudsman.
- Advise customers of their right to complain to the energy Ombudsman about marketers in marketing material and/or welcome packs.
- Include details of the existence and operation of the energy Ombudsman, including contact details, on disconnection warning notices.

Ombudsman schemes provide a critical service in helping vulnerable consumers to engage with their energy retailer. While EWON is committed to ensuring that retailers continue to be responsible for initially responding to and resolving complaints from their own customers, we also note that consumers are also able to contact EWON for independent information and advice before making a complaint to their retailer. Speaking to EWON can give a customer the confidence and knowledge to be proactive and contact the retailer about their complaint, or to talk to them about payment difficulties.

A number of recent reviews by the Australian Energy Regulator (AER), relating to the sustainable payment plan framework and the minimum disconnection amount, highlighted the importance of early engagement between retailers and customers as being vital in assisting customers experiencing financial difficulties with their energy bills, and ensuring that debts do not become unmanageable.

We believe that Ombudsman services could better facilitate early engagement between retailers and customers in financial difficulty if retailers were required to provide contact details of the relevant Ombudsman on reminder notices as well as disconnection warning notices. Retailers rightly point out that the content of bills is highly driven by regulatory requirements. However, the content of reminder notices is largely free of such requirements and the inclusion of Ombudsman contact

details would provide a further opportunity for customers experiencing payment difficulty to engage with either their provider or the Ombudsman before their situation further deteriorates, for example by seeking pay day lender financing to prevent disconnection.

It is also a requirement of EWON's Constitution that members, including energy retailers, inform their customers that EWON is available to provide them with a free complaints resolution service. We work with our members to ensure that they meet the requirements outlined by the NERR, and our own Constitution, for promoting Ombudsman services. EWON recently wrote to all its members through the Australia & New Zealand Energy and Water Ombudsman Network (ANZEWO), reminding them of the importance of making customers aware of the energy and water Ombudsman in the state/s in which they operate. We have asked our members to review the information they provide to their customers about Ombudsman services and provide us with details about how they comply with these obligations.

EWON's extensive community engagement program also raises awareness of member internal dispute resolution processes and that of other Ombudsman services. We also continue to improve our accessibility in other ways through engaging with energy consumers using multiple channels such as our website, social media, plain English fact sheets, and information resources designed to be accessible for Aboriginal and Torres Strait Islander and linguistically diverse groups.

4.5 Vulnerable consumers: *Renters and those outside the traditional energy market*

The National Energy Consumer Framework is designed around the relationship between the customer (the energy account holder) and their energy retailer. However, where the customer is a tenant, whether off-market or on-market, their consumer choices can be more limited.

Since the inception of the NSW solar bonus scheme, and the introduction of retailer initiated digital meter installation in NSW, EWON has continued to receive complaints which draw attention to how State tenancy laws are not appropriately aligned with the National Framework. For example, we have received complaints about the information available to both landlords and tenants relating to who can make decisions about the installation of a digital meter, and we have seen cases of landlords retaining an energy account in their own name, to benefit from a solar feed-in tariff, effectively limiting the tenant's access to their choice of the available retail offers.

EWON would support any further review of how state tenancy laws could be better aligned with the National Framework to give more clarity to tenants, landlords and energy retailers about access to affordable energy.

5.4 Improving outcomes for small customers

The lack of awareness among consumers of price comparator tools

EWON notes that the ACCC will consider how the current Comparator Code of Conduct could be further strengthened to ensure that it meets the ACCC's guide for comparator website operators and suppliers and guidelines for developing effective voluntary industry codes of conduct.

EWON receives complaints from energy consumers who have established energy accounts through comparator websites. For example, we have received cases where the comparator website, or an

advisor on the phone, has failed to identify that the customer is eligible for a government rebate and the customer receives a number of quarterly energy bills before they identify the error.

Identifying vulnerable customers and customers eligible for government rebates is a crucial issue in addressing affordability. Through our community engagement program, we know there is ongoing confusion by some customers, particularly among culturally and linguistically diverse communities and the elderly, between the available government energy rebates and market discounts offered by retailers, despite these things being wholly unrelated.

We believe that the Comparator Code of Conduct should contain an obligation on comparator companies to identify and consider the specific needs of vulnerable customers or customers experiencing financial hardship.

The lack of awareness among consumers of the options to assist in managing financial hardship, including retailer hardship policies and government concession schemes

Retailers are required to identify residential customers experiencing payment difficulties due to hardship and to assist those customers to better manage their energy bills on an ongoing basis via the retailer's hardship program. However, each retailer's hardship policy is different and will offer different services to customers in financial hardship. Currently, there is no easy way for a customer to compare retailers' hardship policies. While this will not be high on the list of most customers' criteria when choosing a new electricity contract, there are customers for whom the level of service available during times of hardship will be very important.

One option that could benefit vulnerable consumers would be for the AER, or another independent organisation, to apply a rating system to each of the retailers' hardship policies which takes into account a program's accessibility, regularity of customer account management / contact, provision of payment matching, debt waiver, low consumption appliance provision etc, as these vary significantly between retailers. Including this rating information as part of the search function on the AER's Energy Made Easy website would help to raise awareness about the different retailer hardship programs and their availability to consumers.

Alternatively, any offer found through a search of Energy Made Easy could also link the consumer directly to the retailer's hardship policy, and also indicate whether or not the retailer making the offer has adopted the AER's voluntary sustainable payment plan framework.

Improving vulnerable consumers' access to appropriate products and services

The ACCC has acknowledged that households may find it difficult to institute changes to reduce energy use, particularly if they have fixed routines, for example households with children. We note that consumers with very low consumption, which is often the case for consumers on a fixed income, do not have a large discretion on changing their energy use.

Through our ongoing engagement with community workers, we more and more often hear that customers on fixed incomes are significantly reducing their usage of heating and cooling but continue to struggle to pay their energy accounts due to the cost of the fixed charges of their energy bills.

A move to cost reflective tariffs and conditional discounts could have the greatest impact on consumers who are experiencing difficulty paying on time, and who also have little discretion on how and when they consume energy. In our previous submission to this ACCC inquiry we stated that:

“The concept of a distributor social tariff is therefore worth exploring. The success or otherwise of a social tariff is in part dependent upon the tariff structure. Hardship and vulnerability are complex, and a suitable tariff for a large single parent family may be very different to that for a single person with very low consumption.”

Ausgrid noted in its recent submission to the NSW Legislative Council Select Committee on Electricity Supply that it is considering introducing a safeguard tariff, as part of its upcoming regulatory proposal. This tariff would be aimed at supporting low income earners that could otherwise be disproportionately impacted by the standard tariffs.

It is critical that vulnerable energy consumers have access to a range of offers based on different pricing structures, rather than conditional discounts.

We also note with interest the state government initiatives mentioned in the ACCC’s preliminary report, such as the allocation by the Victorian Government of funds to establish a pilot energy brokerage service to support hardship and culturally diverse consumers find an appropriate energy offer; and the South Australian Government announcing its intention to negotiate a preferable electricity offer with retailers that will be available for any concession card holder. The NSW Government has also recently announced an initiative to require retailers to offer concession card holders their best possible market contract. While not commenting on the need for further regulation in this space, the intended outcomes from these initiatives are welcome.

Additional resourcing to improve and promote the AER’s Energy Made Easy price comparison website

Customers contacting EWON with a complaint about their energy services will often ask for advice finding the most suitable or competitive retail offer. As an independent dispute resolution scheme, EWON cannot provide advice to consumers on choosing between retailers or products. When customers ask EWON about comparative offers and seek information on energy prices, we refer them to the AER’s Energy Made Easy as a source of independent information.

The importance of an effective, easy to navigate and understand, and independent, comparison site cannot be overestimated. While acknowledging the ongoing development of Energy Made Easy over the years, driven by the complexity of market offers and retail and network cost factors, further improvements to the site and the information available on the site will further benefit consumers.

4.6 Approach in the United Kingdom

We note from the preliminary ACCC report that, in the United Kingdom, Ofgem has set Standards of Conduct for retailers in the energy sector. We also note that the ACCC will closely consider the implementation of equivalent standards in Australia in forming its recommendations.

Whilst the recent changes to the 'fairness test' as set out in the UK Standards have only taken effect from 10 October 2017, we consider it important for the ACCC to seek information from independent organisations such as Ombudsman Services (UK) about the effectiveness of the framework at delivering positive consumer outcomes.

If you would like to discuss this matter further, please contact me or Rory Campbell, Manager Policy and Research, on (02) 8218 5266.

Yours sincerely



Janine Young
Ombudsman
Energy & Water Ombudsman NSW