



22 June 2020

Director  
Climate Change and Energy Savings Policy  
NSW Department of Planning, Industry and Environment

By email: [energysecurity@environment.nsw.gov.au](mailto:energysecurity@environment.nsw.gov.au)

Dear Director

**Energy Security Target and Safeguard – Consultation Paper**

Thank you for the opportunity to comment on this consultation paper

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 our investigations into these complaints, and through our community outreach and stakeholder engagement activities.

We have only responded to those questions in the consultation paper that align with issues customers raise with EWON, or with our organisation's operations as they relate to the issues raised within the paper.

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

A handwritten signature in black ink that reads "Janine Young".

**Janine Young**  
Ombudsman  
Energy & Water Ombudsman NSW



### Question 29. What are the key issues, and potential mitigation measures, the NSW Government should consider on consumer protection?

The provision of energy as an essential service has become fragmented in its delivery.

Where previously a customer would open one electricity and one gas account, as a result of the proliferation of embedded networks, customers can be required to open accounts for multiple services. Within embedded networks we are now seeing an increase in separate billing for services such as air-conditioning, hot water and recycled water. All of these, despite their main input costs being energy, are not covered by the NECF consumer protection framework. Yet, depending on a customer's circumstances, each is, or is directly linked to, an essential service.

The consultation paper identifies that the peak demand reduction scheme will create a market for new and emerging products and services, and that existing consumer frameworks will need to be reviewed to ensure that consumer rights are protected.

The paper further notes that the AEMC is currently reviewing consumer protections in the energy market, initiated because of changes in energy technology and regulations. The AEMC is proposing to adopt a series of principles, originally proposed by the Productivity Commission in 2008.<sup>1</sup> Since those principles were first proposed, energy prices have grown at a much faster rate than wages or CPI.<sup>2</sup> In addition, recent market statistics published by the AER show that average energy debt is rising.<sup>3</sup>

It is therefore critical that the introduction of a peak demand reduction scheme be enshrouded by a strong and comprehensive consumer protection framework.

Accordingly, the following critical principles with respect to energy market consumer protection are essential:

- consumers need to be well-informed to benefit from the market and stimulate effective competition
- products and services must be safe and fit for the purposes for which they were sold
- products and services must meet the needs of those consumers who are most vulnerable, or at greatest disadvantage
- consumer protection must prevent practices that are unfair and contrary to good faith
- product and service providers must provide accessible and timely redress where consumer detriment has occurred, including escalation to external dispute resolution mechanisms
- consumer protections should promote proportionate, risk-based enforcement.

An additional principle is also critical:

- consumer protections should promote increased trust in the energy market.

The energy sector recognises that consumer confidence and trust in the energy market and energy providers is at an all-time low. The success of the peak demand reduction scheme requires consumers to put the management of their consumption into the hands of third parties. The success

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<sup>1</sup> Productivity Commission, Review of Australia's consumer policy framework, Inquiry report, Volume 1, 20 April 2008.

<sup>2</sup> ACCC Retail Electricity Pricing Inquiry: Preliminary Report, p13.

<sup>3</sup> AER, Retail energy market performance update for Quarter 1, 2019-20



of the scheme is therefore dependent on the creation of a consumer protection framework that builds consumer confidence and increases trust across and beyond the sector.

Energy markets can only be considered well-functioning if they meet the needs of the most vulnerable customers. Further, energy markets cannot be considered well-functioning if they create greater gaps between vulnerable and non-vulnerable consumers or increase the cohort of consumers experiencing vulnerability.

A scheme such as the peak demand reduction scheme needs not only to be accessible to all consumers, but it is vital that the consumers experiencing financial vulnerability are able to easily participate as they have the most to gain through lower bills.

A robust consumer protection framework, supported by compliance monitoring and reporting, will be an essential element for the success of the peak demand reduction scheme.

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