



22 April 2021

Mr Jim Betts
Secretary
Department of Planning, Industry and Environment
Level 6, 66 Harrington St
The Rocks NSW 2000

Email to: Kathryn Grantham, Senior Project Officer
kathryn.grantham@planning.nsw.gov.au

Dear Mr Betts

Department of Planning, Industry and Environment – Consultation on the NSW Social Programs for Energy Code Version 7.0

Thank you for the opportunity to comment on the proposed revisions to the NSW Social Programs for Energy Code (Version 7.0).

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 commented on the proposed changes that align with issues customers raise with EWON, or with our organisation's operations as they relate to the proposed changes to the NSW Social Programs for Energy Code.

If you would like to discuss this matter further, please contact me or Helen Ford, Deputy Ombudsman on (02) 8218 5225.

Yours sincerely

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

Janine Young
Ombudsman
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Department of Planning, Industry and Environment – Consultation on the NSW Social Programs for Energy Code Version 7.0

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1. Embedded network definition

EWON continues to strongly support the proposal to expand the definition of on-supply customer to include embedded networks (draft clause A1.20). This is critical as it will prevent customers from falling through gaps in the consumer protection framework.

Expansion of the definition to include Stand Alone Power Systems (SAPS) is also critical.

In response to the Australian Energy Market Commission (AEMC) review of SAPS (2019), all three NSW networks said they expect an increase in customers being served by SAPS. Essential Energy advised the AEMC that over the next 10 years SAPS could be the best option for serving over 2,000 customers, and Endeavour Energy and Ausgrid both said they expect to have several candidate SAPS in 5 to 10 years.

Retrospective regulation ie waiting for a significant number of customers to be impacted by consumer protection framework gaps before addressing those gaps has proved very problematic for embedded network customers to date – it is critical that this does not continue to occur in the future when potential gaps can be closed now through expansion of the definition of embedded networks.

2. Seniors Energy Rebate

EWON continues to strongly support the proposal to introduce one webform for all rebates. This includes the Seniors Energy Rebate which the Department proposes to add to the Code (draft clause E1.3.1). However, while the proposed process will work for many customers and will increase efficiency, alternative approaches must be considered for customers who do not, for many reasons, have access to digital technology.

3. Liquefied Petroleum Gas

EWON continues to support the proposal to add clauses for Liquefied Petroleum Gas (LPG) to the Code.

4. White label partnerships

EWON continues to support the proposal to clarify the role and requirements for white label partnerships in the Code.

5. Australian Energy Regulator Customer Hardship Policy Guidelines

EWON continues to support the proposal to add a reference to the Australian Energy Regulator (AER) Hardship Policy Guidelines.



6. Limiting Energy Accounts Payment Assistance (EAPA)

EWON does not support the proposal to limit the types of energy debts that EAPA can be used for, including introducing a 12-month time limit for EAPA eligibility and the inability to use it for final bills (draft clause D1.4.1).

Missed payment following establishment of an agreed payment plan

The proposal may disadvantage customers who have accumulated arrears and have missed a payment having previously established an agreed payment arrangement and are then either disconnected or are at risk of disconnection. Many customers referred by EWON to EAPA face this risk. It is a short-term crisis which has significant impacts. It can be avoided by access to EAPA vouchers, which would assist the customer to pay off their remaining debt and avoid disconnection.

For example, a customer with high arrears who is on a payment plan and has access to the retailer's hardship program may experience further crisis ie unemployment or illness and as a result, miss a payment, could then be removed from both the payment arrangement and the hardship program. All arrears would then become due leading to risk of disconnection. It is critical that the EAPA eligibility requirements do not prevent these customers from accessing EAPA vouchers.

Long term financial hardship

The proposal may disadvantage customers experiencing long term financial hardship. A customer's current financial crisis may be the result of debt accumulated over a long period (more than 12 months). Customers may be on payment plans for both current debts and accumulated arrears. When customers make payments to an energy account, retailers will often apply the payments to historical debts first. This means that customers may be paying off the accrued debt and then have difficulty paying for current consumption, which can lead to disconnection. While recognising that EAPA is designed to provide short term assistance in response to a current crisis, being too restrictive in the types of debts EAPA can be applied to could result in customers experiencing vulnerability being disconnected.

The EAPA eligibility requirements should not exclude customers experiencing long term hardship. Access to EAPA vouchers is critical for these customers.

Final bills

Customers who have missed payments for a payment arrangement or are experiencing long term financial vulnerability may have difficulty paying final bills. If these customers do not pay their final bill, they do not qualify for retailer payment plans or hardship programs and are at risk of credit default listing. It is important that EAPA requirements do not exclude final bills.

Flexibility for community agencies

It is important to maintain the option for community agencies to be flexible in issuing EAPA vouchers. Community organisations can work with customers to understand their specific financial situations and, by providing tailored assistance when it is needed, can have a significant impact on addressing financial difficulties. It is important that EAPA eligibility requirements allow community agencies to have flexibility and do not unnecessarily restrict their decision-making process.

Additional considerations

EWON does not support limiting the types of energy debts that EAPA can be used for. If this proposal is to be implemented, there should be a transition period to allow retailers time to change systems and for both retailers and community agencies to provide training for staff (and volunteers).



Retailers can apply any new payments to historical debt and when this occurs, it is likely that a customer with large arrears would not know if EAPA is applied to current debt or accumulated debt. There is potential for harsh misinterpretation by EAPA providers if these general conditions are made too specific in the Code. Instead, the EAPA Guidelines should explain the issues and processes that EAPA providers can consider when determining whether to issue EAPA vouchers. This would prevent EAPA providers misinterpreting conditions and deciding not to issue EAPA vouchers to customers. Further, this would prevent a disconnected customer who has relatively small arrears and cannot afford to pay a reconnection fee, being unable to be reconnected.

7. Better market offers advice

EWON continues to support the proposal to require retailers to advise EAPA customers about better market offers.

8. EAPA Delivery Guidelines

EWON does not support the proposal to remove the requirement for EAPA Delivery Guidelines (Guidelines) to be “...issued by the Department and published on the Department’s website” (draft clause D1.2.2).

Transparency for government programs

Transparency is a key principle for the delivery of government programs and the proposal is contrary to the NSW Government’s position on open government. EWON strongly supports the publication of the Guidelines on a public government website, in a location that is easily accessible. We also note that commitment to open government is a stated aim of the NSW Government, and access requirements are enshrined in the *Government Information (Public Access) 2009 (NSW) (GIPA Act)*.

Access for customers

In the Department’s consultation correspondence, the proposal for the Guidelines is “...to not publish on the website as Service NSW has this information available”. It is not clear what that information is and how customers, and other stakeholders such as community agencies and advocacy services, would know that Service NSW is the place to access EAPA information. Further, it is not clear whether customers would be able to access the full Guidelines or limited information only from Service NSW.

Customers should not have to rely on Service NSW to decide what information they will be provided with when making decisions about applying for EAPA vouchers. If Service NSW provides limited information, then customers will be reliant on Service NSW to decide what is relevant. This could lead to customers not having important information relevant to their circumstances.

It is essential that the complete Guidelines are published on the Department’s website.

Informed decisions based on the Guidelines

During the previous consultation, the Department advised that the proposal was developed because of concerns that customers could misuse the Guidelines. Further, the Department was concerned that when some customers apply for EAPA vouchers, they could select the reasons or conditions set out in the Guidelines and then insist that EAPA providers give vouchers to them.

EWON strongly refutes this reasoning. Appropriate adherence to the Guidelines should ensure robust decision making, rather than creating a process for misuse by customers or providers. Customers should have access to the Guidelines in order to either understand their eligibility or accept why they are not eligible. It is essential for customers, and/or their advocates, to have access



to the Guidelines so that they can make informed decisions before applying for EAPA vouchers.

In our community outreach and day to day complaints work, we identify many customers who are unaware of EAPA and their eligibility for EAPA support. Rather than the department attempting to limit access through non-disclosure / lack of transparency of EAPA guidelines, it should instead be promoting EAPA and the support the NSW Government is looking to provide to eligible citizens.

9. Secondary account holders

EWON continues to support the proposal for retailers to check for authorised secondary account holders for the Family Energy Rebate.

Enquiries about this submission should be directed to Janine Young, Ombudsman on (02) 8218 5256 or Helen Ford, Deputy Ombudsman on (02) 8218 5225.