

19 August 2022

Ms Anthea Harris  
Chief Executive  
Energy Security Board  
Level 15, 60 Castlereagh St  
Sydney NSW 2000

Via email: [info@esb.org.au](mailto:info@esb.org.au)

Dear Ms Harris

### **Response to Electric Vehicle Smart Charging - Issues Paper**

Thank you for the opportunity to respond to the Energy Security Board's (ESB) Electric Vehicle Smart Charging issues 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. Accordingly, we are only responding to questions 8, 9 and 10 that relate to the potential gaps and barriers in policy and regulatory settings relating to:

- customer participation in EV smart charging, and
- roles and responsibilities of the Charge Point Operator (CPO) function.

### **EV Smart Charging: Consumer Participation**

Domestic EV charging is forecast to have a significant impact on our energy system in the coming decade but has the potential to increase costs for all energy consumers. EV smart charging, however, is aimed to benefit consumers by reducing costs, managing peak demand, increasing system security, and supporting more equitable outcomes including for non-EV consumers.

EWON supports the planning for an EV smart charging framework that will regulate the active coordination of household EV charge points, and we strongly agree with the ESB's statement that consideration must be given to the rights and protections of consumers.

Our response to consultation question 8 is focused on the consumer protection issues that must be considered by the policy framework for EV smart charging.

*8. What are stakeholder views regarding the potential costs and benefits of requiring consumers to participate in remote coordination capabilities for smart EV charging?*

Requiring consumers to participate in remote coordination capabilities for smart EV charging means that customers will inevitably find themselves in situations where they believe their EV to be charging, when in fact the CPO has curtailed or slowed charging due to system or market conditions. The benefits for consumer participation in the smart management of electric vehicle (EV) charging should be a reduction in the cost of energy and overall system security. However, if appropriate consumer protections are not built into the policy framework, the potential cost for consumers will be an overall weakening of the consumer protection framework for energy services.

The specific consumer risks which need to be considered now relate to the fact that new energy services, including EV smart charging, may result in customers being disconnected from their energy supply. Extending energy specific consumer protections to EV smart charging therefore must be a key part of the planning process for the development of electric vehicle smart charging policy.

The current consumer protection framework for energy consumers, the National Energy Customer Framework (NECF), was designed to embed a set of rights and obligations between energy consumers, electricity distributors, and energy retailers. The laws and rules in the NECF are designed for energy as an essential service and include specific protections for:

- contract terms
- marketing and offers ie explicit informed consent
- information requirements
- disconnection and reconnection protections
- assistance for consumers experiencing financial difficulty
- consumers experiencing vulnerability
- complaints and dispute resolution (including access to external dispute resolution)
- retailer failure (including the Retailer of Last Resort (RoLR) framework).

The Australian Energy Regulator (AER) recently commenced a review of authorisation and exemption framework which aims to assess the adequacy of the current energy consumer protection framework in the context of a transitioning energy market. Importantly, the issues paper released by the AER identifies that new energy services (such as EV smart charging) may have interlinkages with or may impact the essential supply of energy<sup>1</sup>.

EWON's submission to the AER's review provided over forty case studies that involved energy consumers who are engaged with both new energy services and the retail energy market – including complaints from consumers with EV charging energy plans<sup>2</sup>. EWON's complaints show that when things go wrong for energy consumers who use distributed energy resources (DER), it is not possible to simply separate the problems with a service like EV charging from the problems with the consumer's essential energy supply.

EWON's case studies (**Attachment 1**) demonstrate that the interrelationship and interlinkages between traditional and new energy services are such that the regulatory framework must be designed, or redesigned, to adequately protect energy consumers for problems that occur on both sides of the connection point. Electric vehicle ownership, and the infrastructure required for charging a vehicle at home, will be just as closely linked to a consumer's other energy services as a household battery, inverter or rooftop solar system.

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<sup>1</sup> AER, Retailer authorisation and exemption review issues paper, April 2022, pp7-8

<sup>2</sup><https://www.ewon.com.au/content/Document/Publications%20and%20submissions/Submissions/2022/EWON%20submission%20-%20AER%20authorisation%20and%20exemption%20review%20-%20June%202022.pdf>

EWON analysis of new energy complaints received to date shows that consumer gaps are emerging as the energy market evolves. The NECF was designed over a decade ago and does not provide protections that match the changing priorities of energy consumers, such as:

- *New channels for communication and engagement*: NECF provides consumer protections that focus on how a consumer is billed for their energy usage, and what information is provided on an energy bill. However, EWON's complaints show that consumers are now placing a greater importance on digital services such as mobile apps and online portals. The energy specific consumer protections contained in NECF do not apply to the delivery and transparency of these services. Energy consumers who are participating in smart EV charging will rely heavily on these services. Therefore NECF requirements need to be expanded for application to digital services including apps and portals.
- *Data services and home energy management systems (HEMS)*: consumers engaged with DER technologies and new energy services also place a high priority on the data services and HEMS that are delivered alongside these services. These data services and HEMS are offered to the consumer as part of the marketing for new energy services (such as smart EV charging plans) and are critical for maximising the benefits that consumers will receive from the service. The NECF does not provide protections for consumers engaged with these services, and the Consumer Data Right (CDR) will not address many consumer issues, such as the failure to deliver these services as promised.
- *The remote control of domestic appliances (including batteries, inverters and charging equipment)*: EWON complaints, particularly those involving demand response products such as virtual power plants, highlight the consumer issues that emerge when energy services include the remote control of customer appliances. This will be an important issue for consumers participating in remote EV charging. The consumer issues include how and when a consumer has provided consent for the remote control of their appliances, and how to resolve disputes when an appliance has been remotely controlled without consent.
- *Energy trading*: EWON complaints involving consumers with energy contracts that cover charges for the energy used, generated and traded by the consumer show that when things go wrong, disputes about energy charges cannot be separated from the problems that have occurred with the energy generated and traded by the consumer. Equal consumer protections, such as access to information, transparency in billing, and dispute resolution, are also needed for the energy generated and traded by consumers.

These emerging consumer issues need to be adequately considered and addressed as more consumers engage in EV smart charging and enter into contracts, including those that involve remote co-ordination capability.

### Charge Point Operator Function: Roles and Responsibilities

The consultation paper notes that an EV smart charging framework may include the introduction of a new service provider – the Charge Point Operator (CPO). Our response to consultation questions 9 and 10 is focused on how the introduction of a CPO role may impact on the effectiveness of the existing external dispute resolution options for energy consumers.

If a new service provider role is introduced as part of an EV smart charging policy framework, consideration must be given to how consumers will resolve disputes, when things go wrong with a smart charging service.

The Power of Choice reforms, implemented in 2017, introduced a third party to customers – the metering provider – responsible for installation of smart meters. For the purposes of dispute resolution of complaints to EWON, metering providers are regarded as agents of the retailer. However this can be detrimental to customers as retailers often advise EWON that the metering provider has either caused the underlying issue or is unresponsive to its requests for information. Similar issues will undoubtedly arise with CPOs and care will need to be taken in assessing the precise role and relationship that they will have with customers.

*9. What are stakeholder views in regard to the use of CPOs [Charge Point Operator] for residential charging? What are stakeholder views on which parties (Traders (retailers/aggregators), DNSPs, OEMs, other parties) should be able to take on the function of CPO? Should the requirement for a CPO be mandatory?*

*10. What are stakeholder views in respect of the relevant and appropriate responsibilities that should be taken on by a CPO: e.g., ensuring rate limits, customer support?*

Complaints to EWON show that consumers often engage with new energy services, such as virtual power plants, by accepting retail energy contracts that bundle these services with retail market services. The bundling of different energy services by authorised energy retailers is in part due to energy market and regulatory constraints on third-party providers; however, it is highly likely that this trend will continue as more consumers take up electric vehicles.

**Attachment 1** contains the EV charging complaint analysis and case studies EWON provided in its submission to the AER review of the authorisation and exemption frameworks.

Regardless of which entities or people perform the role of CPO, it is critical that consumers have access to effective dispute resolution when things go wrong with this service. Effective dispute resolution and access to external dispute resolution is critical for maintaining consumer trust in energy services.

As outlined in its response to consultation question 8, EWON's case studies demonstrate that the interrelationship and interlinkages between traditional and new energy services are such that the regulatory framework must be designed to adequately protect energy consumers for problems that occur on both sides of the connection point.

EWON recently published a Spotlight On report, *Dispute resolution in the evolving energy market*, which highlights the fragmentation of the dispute resolution journey for energy consumers over time<sup>3</sup>.

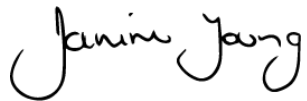
EWON strongly recommends consideration of how consumer disputes will be resolved – when EV smart charging will potentially involve bundled energy services and multiple service providers – at the early stages of planning for an EV smart charging policy. This may need to include establishing an effective exemption framework for service providers that are not authorised energy providers.

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<sup>3</sup> <https://www.ewon.com.au/page/publications-and-submissions/reports/spotlight-on/dispute-resolution-in-the-evolving-energy-market>

Please contact Rory Campbell, Manager Policy and Research, on (02) 8218 5266 for further information.

Yours sincerely

A handwritten signature in black ink that reads "Janine Young". The signature is written in a cursive, flowing style.

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

## EWON analysis of complaints about EV charging based on the ESB consumer risk assessment tool

Risks categories	Consumer protection issues	Case studies	External Dispute resolution (EDR) options
Access to energy	Bundled energy plans – the interlinkage between the consumer’s EV charging service and their retail energy market contract. This means that it will become impractical, if not impossible, to separate the consumer protections the consumer needs for the management of their main energy supply from the EV charging service they receive from their energy retailer.	Case studies 1 & 2	Energy Ombudsman
	Bundled energy plans – services from energy retailers that include the installation of charging infrastructure and submetering will lead to more complex disputes over the supply and billing of electricity to a consumer’s home.	Case study 2	Energy Ombudsman
Switching providers	Installation of EV charging infrastructure and submetering will limit some consumer’s ability to switch energy retailers, with potential financial penalties or delays removing or replacing charging infrastructure.	Case studies 2 & 3	Multiple (unclear)
Access to information	Access to clear information about EV charging options is a potential barrier to uptake – such as network and retail tariffs, metering and connection requirements.	Future risk	Energy Ombudsman
Dispute resolution	The installation, operation and management of EV charging infrastructure will complicate disputes over the billing of a customer’s energy supply. If an energy consumer makes a complaint about their retail energy account, the avenue for EDR is less clear if the dispute involves the operation of behind the meter charging infrastructure and data.	Case study 1	Energy Ombudsman

### Case Study 1

#### Retailer breaches contract terms for electric vehicle energy plan

A customer purchased an electric car and accepted an electric car plan from an energy retailer of \$1 per day. The customer then received his first electricity bill from the retailer which he considered to be high and did not reflect the energy plan he accepted. The customer called the retailer to complain about the bill and was advised that a new electricity meter must be installed before the plan could commence. The customer was disappointed that this was not clearly explained to him earlier so he could adjust his usage and use a petrol car while waiting for the meter. The new meter was installed by the retailer with cabling to allow the meter to be placed in a new location. The customer complained to EWON that it had been two weeks and it was unclear whether his electric car energy plan had commenced. The customer had contacted the retailer three times and was told that an officer from its care team would call him back, but this never occurred.

EWON referred the matter to the retailer for resolution at a higher level. The customer returned to EWON as the complaint remained unresolved. The customer advised us that the retailer had agreed to replace his

original three phase meter with two new three phase meters. The retailer instead installed a one phase meter to service his electric vehicle which caused the electricity supply to trip. After the retailer removed this new meter, the vehicle was charging from the main electricity meter for his home. We contacted the retailer to clarify its response to the complaint. The retailer advised that when the customer accepted the electric car energy plan an off market submeter was installed to record the usage by the electric vehicle. The retailer would not reinstall the submeter after it was removed because it no longer offered the plan that the customer originally accepted. The retailer acknowledged the customer was no longer receiving the benefit of the \$1 per day electric car plan despite the 12-month contract automatically rolling over for an additional year. The retailer offered the customer a credit of \$500 to cover the lost benefit of the plan based on an estimated usage for the car of 8kWh per day. EWON requested the meter data from the off market submeter to review how the customer's car had previously used electricity when charging. EWON's estimate of the daily usage by the electric car was 43kWh per day. On that basis, the retailer revised its offer to credit the customer with \$3,000 to reimburse him for the benefits of the \$1 per day electric car plan. The customer accepted this offer as a resolution to the complaint.

## Case Study 2

### **An additional meter behind the connection point records the amount of electricity used to charge the customer's electric vehicle**

A customer was disputing a quarterly electricity bill from her energy retailer. 2,319 kWh of electricity consumption was recorded on the bill for the supply period and the retailer had not applied her 17% pay-on-time discount. The customer advised EWON that there was an additional meter installed at the property, specifically used for monitoring the charging infrastructure for her electric car. The energy plan she had accepted was structured so that the consumption recorded by the additional meter would be deducted from the total kWh she was charged for the supply period – which meant that she would not be charged for charging her car. The customer was disputing the amount of electricity recorded by this additional meter (455 kWh) because this indicates the car was only charged five times during the supply period and she knew it had been charged more than that. The customer complained to the energy retailer, which advised that the bill would be reviewed and reissued if it was found to be incorrect. The customer had received no advice from the retailer for four months and was then contacted by a debt collection agency.

EWON referred the matter to the authorised retailer, for resolution at a higher level with the customer's acceptance knowing she could return to us if he was unhappy with the outcome.

## Case Study 3

### **A customer has difficulty closing his energy account with an authorised energy retailer due to the electrical vehicle charging service included with his contract**

A customer contacted EWON to complain that he was unable to close his account with his energy retailer due to the electric vehicle charging service included with his contract. The customer was moving interstate and he contacted his retailer to close the account. The customer was advised by the customer service staff that he needed to contact the specialist team for electric vehicle charging plans to close the account. The customer spoke with the retailer's specialist team on two occasions, but it was unable to close the account because the process required special access to the customer's property – and only another team could handle this. The customer complained to EWON that he had tried on five occasions to close his account and had not resolved the issue.

EWON referred the matter to the authorised retailer for resolution at a higher level with the customer's acceptance and knowledge that he could return to us if he was unhappy with the outcome.