



1 February 2022

Electricity Division – Wholesale and Retail Markets  
Department of Industry, Science, Energy and Resources  
GPO 2013  
Canberra ACT 2601

Email: [electricitycode@industry.gov.au](mailto:electricitycode@industry.gov.au)

Dear Wholesale and Retail Markets Team

**Post-Implementation Review – Competition and Consumer (Industry Code – Electricity Retail) Regulations 2019**

Thank you for the opportunity to comment on this directions 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 directions paper that align with issues customers raise with EWON, or with our organisation's operations as they relate to the operation of the Electricity Retail Code.

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

### Post-Implementation Review – Competition and Consumer (Industry Code – Electricity Retail) Regulations 2019 – Directions 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 our complaints, and through our community outreach and stakeholder engagement activities.

We have only responded to those questions in the directions paper that align with the issues customers raise with EWON, as they relate to this review.

#### Direction 1

The department proposes that “Comparison price set by government” be used when advertising offers instead of “Reference Price”.

There has been ongoing discussion in the energy sector regarding customer confusion and lack of consumer trust in the energy sector. A key to building trust is for regulators and retailers to continue to provide clear, understandable, and transparent information.

EWON supports the use of this clearer terminology as this approach enables customers to make informed decisions when comparing available energy offers and works towards bridging gaps in consumer confidence.

Eliminating the use of vague and complicated wording such as ‘Reference Price’ also supports the aim and approach of other regulator initiatives, such as the AER’s Better Billing Guidelines.

#### Direction 4

The department proposes that, in conjunction with the AER and ACCC, it will consult on how best to extend price cap protection provided by the DMO [Default Market Offer] to customers in embedded networks. This consultation will include examining compliance issues and costs. It is not proposed that current requirements regarding the Reference Price be extended to embedded networks.

EWON strongly supports extending the operation of the *Competition and Consumer (Industry Code – Electricity Retail) Regulations 2019* (the Code) to embedded network customers who are on-sold electricity by authorised retailers but do not have the option of changing retailers in order to get a better price or more suitable energy contract.

Embedded network customers who are on-sold electricity by exempt sellers are already afforded price protection by the AER’s Exempt Selling Guideline. Extending the operation of the Code to all embedded networks would ensure that all consumers in this sector equitably receive the same level of price protection.

EWON’s complaint data reflects that most embedded network customers in NSW are now on-sold electricity by authorised retailers rather than exempt entities. This group of consumers is expected



to continue to grow at the rapid rate seen in the last two years. It is essential that this regulatory consumer gap is addressed as soon as possible.

We will participate in the upcoming consultation on this issue. However, it is concerning that embedded network consumers may not have these protections from 1 July 2022 and potentially not until the next review of the Code in two years. EWON supports these changes to the Code being implemented ahead of the review period or as soon as possible after the AER implements DMO determination changes.

### Direction 5

**The department proposes to conduct another review of the Code two years after the implementation of the CDR for Energy for initial retailers.**

EWON supports this direction. With the energy market experiencing continued growth, including in the number of authorised retailers and exempt entities, and the needs of consumers continuously changing, it is essential to continue to ensure that the Code is fit for purpose.

EWON strongly recommends any changes that result in consumer protections for all embedded network customers be implemented before the next review of the Code.

EWON will continue to capture key insights through its complaint data and looks forward to utilising this through our participation in future consultations.

Enquiries about this submission should be directed to Janine Young, Ombudsman on (02) 8218 5256 or Rory Campbell, Manager Policy and Research, on (02) 8218 5266.