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Australian Energy Market Commission

Via: aemc@aemc.gov.au

## **EWOV feedback on the AEMC's proposed 'Improving the application of concessions to bills' rule change**

The Energy and Water Ombudsman (Victoria) (EWOV) welcomes the opportunity to provide input to the Australian Energy Market Commission (the AEMC) consultation on the 'Improving the application of concessions to bills' rule change (the rule change).

EWOV is a free and independent service that resolves disputes between Victorian consumers and energy and water companies. We work to ensure fair and reasonable outcomes when energy and water problems arise between customers and their providers. We also use our unique data insights about consumers' experiences of the Victorian energy and water markets to improve consumer and market outcomes, through our engagement with businesses, government, regulators and the wider community.

EWOV broadly supports reforms proposed by the Energy and Climate Change Ministerial Council (the ECMC), focused on how energy consumer protections can further safeguard households and businesses.

As we noted in our submission to the AEMC's Assisting Hardship Customers rule change, some of the reforms proposed by the ECMC have already been implemented in Victoria. The Victorian Minister for Energy and Resources requested the Essential Services Commission Victoria (the ESCV) consider the remaining changes to the Energy Retail Code of Practice (the Code) as part of a broader review of the Code currently underway. This has led to the ESCV consulting on options to improve the application of concessions to bills, as proposed by this rule change.

EWOV has been engaging directly with the ESCV, including providing two written submissions outlining insights, data and case studies from our caseload. This feedback provided to the AEMC highlights relevant analysis from our submissions to the ESCV, which are provided in full at attachments [1](#) and [2](#).

As with other rule change proposals in this reform package, this proposed rule change will not directly apply in Victoria. EWOV nevertheless has an interest in this consultation, as we see benefit in the AEMC and the ESCV progressing consistent reforms that drive better outcomes for energy consumers as well as providing a smooth pathway to implementation and reducing regulatory burden for industry.

EWOV welcomes the opportunity to discuss this feedback further with the AEMC as needed.

## The need to act – not all eligible consumers are receiving concessions or rebates

*This responds to questions 1 and 2 in the AEMC's consultation paper*

EWOV agrees with the AEMC's statement noting that not all eligible consumers are receiving concessions or rebates. As the AEMC notes, there is well-established analysis indicating the scope of the gap between eligible consumers and consumers accessing concessions and rebates. Data suggests approximately 14% of Victorian households who were eligible for a concession were not accessing them.<sup>1</sup> Much of the analysis notes that low consumer awareness is a key challenge.

As we noted in submissions to the ESCV's review, complaints to EWOV indicate common challenges for consumers seeking to access energy concessions. These include:

- names or addresses failing to validate with Centrelink, leading to the Victorian energy concessions not being applied
- consumers not being aware that their concession had expired
- retailers not backdating concessions, or providing incorrect advice about backdating requirements, and
- process issues such as retailer system updates that lead to concession details dropping off the account.<sup>2</sup>

Currently, the Code only requires retailers to provide consumers with specific advice about government and non-government assistance available when the consumer is already in arrears.<sup>3</sup> EWOV considers there are often missed opportunities to identify that a consumer may be eligible for a concession, provide early assistance to access a concession and avoid payment difficulty. Further, there is no requirement for retailers to notify or explain concession issues to consumers. In this context, the onus is on consumers to identify and resolve concession issues, such as ensuring concession details are correct, applied and/or backdated.

EWOV welcomes the AEMC's close consideration of specific issues facing consumers when transferring. Our case insights indicate that consumers commonly face difficulties transferring their concession when they switch or transfer providers or move house and set up a new account either with the same or a new provider. Some of these issues are canvassed in Poorna's story below. In Poorna's case, she experienced delays, customer service issues and the time and administrative burden of submitting and following up on concession detail forms.

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<sup>1</sup> Victorian Council of Social Service, [The missing 14%: Why so many Victorians are missing out on energy concessions](#), May 2023, p 4.

<sup>2</sup> [EWOV Submission to the Essential Services Commission – Review of the Energy Retail Code of Practice](#), July 2024, p 21.

<sup>3</sup> *Energy Retail Code of Practice 2022* (Vic), clause 128 (1)(d).

### Poorna's story – concession issues after switching providers

Poorna\* contacted EWOV about a concession issue. Poorna told us that in May 2023, she moved from one retailer (Retailer A) to another (Retailer B). Poorna gave Retailer A authority to forward her medical cooling concession details to Retailer B, but when she received the first bill from Retailer B, no concessions were applied. Poorna told us Retailer B asked her to submit a new application that needed to be signed by a doctor, which she felt she did not need to do as she already provided Retailer A with those details. Poorna said she was dissatisfied with the customer service, and felt Retailer B had not engaged with her appropriately given her vulnerabilities. She was seeking for Retailer B to apply the medical cooling concession, her aged pension concession and reissue the bills accordingly.

We investigated whether Retailer B had correctly applied the medical cooling concession and the aged pension concession. We found that there had been a delay in applying the medical cooling concession, because Retailer B did not receive the appropriate information from Retailer A. Given this, Retailer B made a reasonable request for Poorna to complete a new application.

Retailer B advised there were further delays due to the time Poorna took to return the completed form, and then, once received, Retailer B filed the form under the wrong file number and could not immediately locate it.

Retailer B then advised that Poorna would need to provide the second page again as it was not legible, which Poorna did. However, this was later found to be a mistake as Retailer B did hold legible copies of both pages. Retailer B subsequently processed the form, and the concession was applied to Poorna's account from the start date of 1 November 2023. EWOV assessed that Poorna was therefore financially no worse off from the delay.

EWOV reviewed the bills which showed the aged pension concession was applied to the account each month from July 2023 to November 2023. Retailer B advised that when Poorna's aged pension concession expired in September 2023, Retailer B was supplied with new details indicating this concession would expire in November 2023. When the aged pension concession details expired again in November 2023, Retailer B notified Poorna and asked her to complete and return a concession consent form so they could apply the concessions. At the time EWOV was conducting its investigation, the form had not been returned to Retailer B, so EWOV sent Poorna another copy of the form to return to Retailer B.

Retailer B offered to apply a customer service gesture for inconvenience and poor customer service and, subject to her eligibility, to backdate the aged pension concession to when it had expired. We assessed this as a fair and reasonable offer in the circumstances. Both parties agreed to our assessment, and the complaint was closed.

## Mechanism for increasing the number of eligible consumers accessing concessions and rebates

*This responds to questions 3, 4 and 5 in the AEMC's consultation paper*

### Mechanism for new and existing customers

The rule change request proposes an obligation for retailers "to proactively seek information from any new...consumers on their eligibility for energy concessions or rebates", which the ESCV has also proposed in its concurrent review of the Code. EWOV broadly supports these proposals and sees benefit in both the AEMC and the ESCV clearly defining its expectation of what is 'proactive' in

this context. In addition, EWOV supports the introduction of an overarching principle based obligation to help drive fair outcomes and alleviate the need for comprehensive prescriptive rules.

### Proactive obligations

At sign up, EWOV has supported the ESCV's specific proposal to establish a requirement for retailers to proactively seek concession information from the customer via sign up communications, such as on the electronic sign-up form or by asking when on the phone. For consistency, the AEMC may wish to consider a similar requirement for retailers in NECF jurisdictions.

EWOV also supported the ESCV's proposals to improve access to concessions for existing customers. This included proposals to:

- Require retailers to proactively check within a certain period if their existing customers who are not receiving concessions may be eligible for one and take proactive steps to contact those consumers and inform them about their potential eligibility.
- Introduce specific requirements for retailers to notify consumers when the retailer is aware of a customer's eligibility period being close to expiry or having expired without action by the customer.

Further to these scenarios, EWOV suggested that the ESCV consider requiring retailers to proactively conduct a concession check and provide practical assistance to access energy concessions when engaging with consumers in the following scenarios:

- Consumers who have previously had a concession on their account, including in circumstances where there is an incomplete concession application on the account due to issues such as validation errors.
- Consumers contacting their provider about a high bill, affordability issues and/or payment difficulty assistance.

EWOV notes analysis by the ESCV highlighting there were 121,000 electricity consumers each month in 2023-24 who had arrears greater than \$300, but were not accessing payment assistance from their retailer, placing them at higher risk of being disconnected.<sup>4</sup>

To address this issue, EWOV recommended the ESCV consider encouraging retailers to develop mechanisms to capture indicators of payment difficulty. This could be used to identify and proactively engage with consumers who may be eligible for a concession but are not receiving one, as well as other payment difficulty assistance suitable in the circumstances.

For example, the Australian Energy Council's "*Guidance for retailers seeking to implement best practice customer support*"<sup>5</sup> suggests that indicators might include:

- multiple reminder notices issued the previous six months
- issuing a disconnection warning notice
- incomplete bill payment or underpayment in the last three months, including where those payments are made by Centrepay
- significant increases or decreases in usage/bills between periods
- application of any external assistance in the past 12 months, such as an energy rebate or concessions.

EWOV considers that any new rules establishing requirements for retailers to proactively check and provide practical assistance to access concessions could be supported by complementary

<sup>4</sup> ESC, [Victorian Energy Market Report](#), September 2024, p 17

<sup>5</sup> Australian Energy Council, [Guidance for retailers seeking to implement best practice customer support](#), June 2021.

requirements for retail staff to be sufficiently trained and capable in identifying consumers in payment difficulty or experiencing other vulnerabilities. As the AEMC notes, low consumer awareness of their entitlements, and/or shame and stigma associated with asking for assistance are key barriers to consumers accessing concessions and other entitlements. Ensuring retail staff have the necessary skills to identify consumers in payment difficulty and offer assistance suitable in the circumstances will help to improve access to relevant entitlements, including concessions.

### Principle based obligation

The AEMC is considering how a principles based versus a prescriptive rule might impact both consumers and retailers. As we have noted in previous submissions to the ESCV<sup>6</sup> and the Victorian Department of Energy, Environment and Climate Action (DEECA)<sup>7</sup>, EWOV strongly supports the introduction of a principle based obligation to help providers focus on fair consumer outcomes and deter a culture of rigid compliance that does not meet the intended objective.<sup>8</sup>

A principles based obligation may provide retailers with greater flexibility to develop effective approaches to achieve the intended objective of this reform. The obligation can be supported by both guidance and rules to help set expectations.

EWOV also considers that some of the issues the AEMC and the ESCV are seeking to address with the proposed consumer energy reforms package could be addressed by articulating a fundamental, overarching principle, which frames how rules should be applied in practice. EWOV supports introducing an overarching obligation on retailers to *act efficiently, honestly and fairly*. EWOV considers this obligation could encapsulate relevant consumer protections and allow for the framing of more specific rules which apply to particular circumstances and risks of harm. In this way, principles based obligations come together with rules based regulatory approaches, to deal with the full range of risks and conduct in the dynamic energy market.

EWOV recommends the AEMC consider how an overarching obligation for NECF could strengthen the application of existing rules. Further detail is provided in our submissions to ESCV and DEECA.

### Mechanism for transferring customers

EWOV is broadly supportive of the proposal to require information transfer between retailers when a consumer remains in the same premises and switches retailers, by adding a field associating the National Metering Identifier (NMI) with an active concession or rebate. EWOV agrees that the combination of a requirement for the incoming retailer to check at sign up whether a consumer is eligible for concessions, followed by a validation process during the NMI transfer would minimise the number of customers who no longer receive their concessions because they neglected to submit or were unaware of the need to submit concession details when they changed retailers.

EWOV acknowledges the information transfer proposal will not address concession issues arising where customers move premises, as noted in the consultation paper. In this context, the proposed requirement for retailers to proactively seek concession information on sign up and for existing customers, including existing customers who are moving premises, is critical to realising the intent of this reform.

EWOV recommends the AEMC consider protections to address issues arising from sharing sensitive customer information and associated privacy considerations as part of assessment of the feasibility of this obligation.

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<sup>6</sup> [EWOV Submission to the Essential Services Commission – Proposed Energy Consumer Reforms to the Energy Retail Code of Practice](#), November 2024, p 4.

<sup>7</sup> [EWOV Submission to DEECA – CER Consumer Protections Review](#), February 2025, p 17 – 19.

<sup>8</sup> [EWOV Submission to the Essential Services Commission – Review of the Energy Retail Code of Practice](#), July 2024, p 10.

## Alternative approaches to increasing the number of eligible consumers accessing concessions and rebates

*This responds to question 7 in the AEMC's consultation paper*

### Future concession system upgrades

As we highlighted in our submissions to the ESCV, EWOV continues to support concession system upgrades to allow automation and portability, as noted by the AEC in its “*Gamechanger*” report. It highlighted the benefits of requiring retailers to automatically verify concession eligibility and apply it to a consumer’s account. It also noted that both government and retailer system upgrades would be required to facilitate centralised access to consumer data, and the need for government to lead the necessary changes.

EWOV notes that, at a recent meeting of the ECMC, state and territory ministers agreed to explore changes needed for Commonwealth concession card holders to access state-based energy concessions, a process that may take some time to progress and require retailers to change their systems in the future.

EWOV considers the changes the ESCV and the AEMC have proposed are a positive step change ahead of future changes to allow for automation and portability.

### Broader changes to improve access to concessions

EWOV considers other changes are needed to increase consumer awareness of and access to their entitlements, which we noted in more detail in an earlier submission to the ESCV on its Review.<sup>9</sup>

As part of EWOV’s regular outreach activities to a range of community-based organisations, EWOV commonly engages with consumers who are in significant financial hardship (for example, due to visa status, unemployment or insecure housing) and who had an energy issue but were not aware of, or had not engaged with, their energy provider about assistance available.

As we noted above, EWOV considers low consumer awareness of, and barriers to, accessing entitlements can be effectively addressed when retailers take proactive steps to engage with consumers. For example, in response to one of our recent investigations, a retailer launched two initiatives to improve consumer awareness of URGs and streamline application processes. The first was a dedicated URGs website. The second was sending proactive URGs specific communication to likely eligible consumers. Both the webpage and the proactive communication included a direct number to the retailer’s Energy Assistance team where applications could be made over the phone. The retailer reported to us that in the month after introducing these measures, the number of URGs requests it received increased by 225%.

Outside of the energy sector, EWOV notes research by the Victorian Council of Social Service (VCOSS) that highlighted the role of frontline community sector workers (such as financial counsellors), can play, where resourced effectively, in identifying energy-related hardship and to facilitate connections between consumers, retailers and government systems.<sup>10</sup>

The AEMC and the ESCV could consider how energy retailers could leverage these and other programs to improve access to concessions, to complement the proposed rule change.

<sup>9</sup> [EWOV Submission to the Essential Services Commission – Review of the Energy Retail Code of Practice](#), July 2024, p 23.

<sup>10</sup> Victorian Council of Social Service, [The Missing 14%: Why so many Victorians are missing out on energy concessions](#), May 2023, p 6.

We hope this submission will assist the AEMC with the important task of improving the ability to switch to a better offer. If you would like to discuss any aspect of our submission, please do not hesitate to contact me or Felicity Fast, Head of Public Affairs at [Felicity.Fast@ewov.com.au](mailto:Felicity.Fast@ewov.com.au)

We welcome the opportunity to further discuss this submission, the consultation and the AEMC's next steps.

Yours sincerely



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