

15 October 2015

Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

Thank you for the opportunity to comment on the AEMC's *Strategic Priorities for Energy Market Development Discussion Paper 2015*.

The Energy & Water Ombudsman NSW investigates and resolves complaints from customers of electricity and gas providers in NSW, and some water providers.

Affordability issues

In previous contributions to the AEMC's consultations on Strategic Priorities for Energy Market Development in 2011 and 2013, EWON identified the significant issue of affordability as being one needing strategic consideration.

EWON is concerned that despite the introduction of stronger consumer protections in the disconnection process under the *National Energy Consumer Framework (NECF)*, the number of disconnections in NSW has continued to rise over the last two years. According to the Australian Energy Regulator¹, there were 32,940 residential disconnections of electricity supply for non-payment in 2013-14, a rise of 8,052 when compared to the previous year. For the first three quarters of 2014-15 the number of disconnections was 25,324, so well on track for a similar result. The number of residential gas disconnections for the first three quarters of 2014-15 was 5,181 – exceeding the total of 4,921 for the previous year. This is despite the fact that one major first tier retailer's disconnection activity was very low.

The number of customers in NSW on payment plans for electricity accounts increased by 66% from 60,960 in June 2014 to 101,327 in March 2015, while gas customers on payment plans rose nearly 98% from 10,584 in June 2014 to 20,962 in March 2015.² At the same time the number of electricity customers in retailer hardship programs only increased 27% from 18,293 in June 2014

¹ <<https://www.aer.gov.au/retail-markets/retail-statistics/nsw-residential-customer-disconnections>>, accessed 6 October 2015.

² <<https://www.aer.gov.au/retail-markets/retail-statistics/nsw-customers-on-payment-plans>>, accessed 6 October 2015.

to 23,353 in March 2015. The number of gas customers in hardship programs only increased 13% from 3,884 in June 2014 to 4,400 in March 2014.³

Overall, less than 1%⁴ of customers in NSW are on hardship programs while 14%⁵ of NSW residents live below the poverty line. All of these statistics support the AEMC's view⁶ that affordability continues to be a pressing issue, particularly for vulnerable customers.

EWON strongly supports a national review of the energy concession and assistance frameworks. The effectiveness of concessions and hardship policies needs to be considered in the context of increasing payment difficulties and disconnections. We suggest there needs to be a holistic policy framework aimed at addressing the issue of affordability, achieved through a collaborative review, involving all stakeholders, government, industry, regulators, ombudsmen and community.

This review should:

- ensure the NECF remains fit for purpose and responsive to the needs of vulnerable consumers as the market evolves with technological innovation
- provide improved outcomes for vulnerable consumers
- provide regulatory consistency across the national energy market
- introduce a national approach for energy concessions and rebates which also considers social housing and the relationship between incomes and affordability.

As you may be aware, the Essential Services Commission (ESC) in Victoria recently proposed a new approach to payment assistance for energy customers in Victoria. This approach involves providing assistance in clearly defined stages and codifying obligations and responsibilities for both retailers and consumers to reduce the subjective and unclear aspects of the current hardship policy framework.⁷ If successful, there may be scope to explore the impact of the ESC's proposal as part of the review.

Consumer engagement and participation

To facilitate effective consumer engagement and participation, EWON considers it is crucial to recognise the spectrum of consumers in the market as the market moves away from discount-

³ <<https://www.aer.gov.au/retail-markets/retail-statistics/nsw-customers-on-hardship-programs>>, accessed 6 October 2015.

⁴ AER Annual Report on the Performance of the Retail Energy Market 2013-14, p. 25.

⁵ ACOSS Poverty in Australia 2014, p. 28.

⁶ AEMC Strategic Priorities for Energy Market Development Discussion Paper 2015, p. 6.

⁷ See Essential Services Commission, 'Supporting Customers, Avoiding Labels: Energy Hardship Inquiry Draft Report', September 2015.

based to innovation-based competition. Energy consumers are not a homogenous group – some consumers are in chronic hardship or otherwise vulnerable, some are highly engaged and technologically savvy, while others prefer to stay disengaged, less engaged or are excluded from engagement because of lack of internet access. It is therefore critical that consumer engagement initiatives are tailored to reflect the needs and preferences of different consumers as well as different levels of energy literacy.

A key priority in this context is to ensure that consumer engagement is based on informed choices. This requires clear and adequate disclosure of key terms and conditions of energy products to enable consumers to make informed and meaningful comparisons of the value of these products. This will become increasingly critical as new technologies, such as battery storage, and innovative provision models, including solar power purchase agreements, begin to develop a stronger presence in the market. Upfront disclosure and tailored engagement initiatives will help foster consumer confidence and therefore encourage further consumer engagement with the market. Without an appropriate level of engagement there is potential for significant consumer detriment, particularly for vulnerable consumers who may be left behind as the level of innovation increases.

Information that is presented in simple, transparent and widely understood language is necessary to empowering consumers at a time when the market is shifting to cost-reflective pricing. Consumers rely on easily accessible and readily comprehensible information in order to engage and respond effectively to price signals and drive behavioural change in their energy usage. Key stakeholders, in particular governments, regulators, retailers and networks, have a role to play in communicating information about tariff structures and more complex pricing models such as load control.

Adequate regulatory frameworks for consumer protection

EWON welcomes the opportunity to consider the adequacy of current regulatory frameworks at a time when the electricity market is entering a period of significant change. The range of new products and services becoming available has the potential to significantly impact how electricity is delivered and consumed by residential and business consumers. In this context it is timely to review how regulation can impact the development of this changing market.

Regulation needs to facilitate consumer benefits while ensuring adequate consumer protections are retained and adapted to changing products and services. It is also critical that regulation does not:

- fall behind market development
- unfairly favour any participants in the market, or
- place some consumers in a position where protections such as rebates are prevented.

A flexible and fit for purpose regulatory framework that is responsive to market changes is critical in building consumer confidence in the market and providing an adequate level of consumer protection, including an appropriate safety net for vulnerable consumers.

Access to independent external dispute resolution (EDR) is an important consumer protection and EWON strongly supports the role of EDR schemes in new models of energy provision. The current arrangement for dispute resolution under the NECF is for retailers and distributors to be members of an approved industry ombudsman scheme. NSW is the only jurisdiction where customers of exempt retailers have access to alternative dispute resolution via EWON. However, to date in NSW there is no requirement for exempt retailers to join EWON and no mechanism for these providers to pay for their customer complaints and investigations. Further, there is no mechanism for ensuring that exempt retailers promote EWON to their customers as authorised retailers are required to do.

EDR schemes play a leading role in not just resolving consumer disputes, but also in identifying and working with relevant stakeholders to resolve emerging systemic issues. This encourages industry best practice and leads to improved outcomes for consumers. It is important that consumers of new energy products and services are able to access external dispute resolution and have the same level of protection as consumers under the NECF. EWON recommends the AEMC and AER engage with the individual energy ombudsman offices, or collectively via the Australian and New Zealand Energy and Water Ombudsman Network (ANZEWON), about industry ombudsmen jurisdiction and the dispute resolution avenues for consumers.

If you would like to discuss this matter further, please contact me or Jane Leung, Policy Officer, on 02 8218 5250.

Yours sincerely



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Ombudsman
Energy & Water Ombudsman NSW**