

22 May 2019

Essential Services Commission  
Level 37, 2 Lonsdale Street  
Melbourne VIC 3000

By email: [RetailEnergyReview@esc.vic.gov.au](mailto:RetailEnergyReview@esc.vic.gov.au)

Dear ESC,

**Re: Consequential amendments related to the Victorian Default Offer – Draft Decision**

Thank you for the opportunity to comment on the Essential Services Commission's (ESC) *Consequential amendments related to the Victorian Default Offer – Draft Decision (Draft Decision)*.

The Energy and Water Ombudsman (Victoria) (EWOV) is an industry-based external dispute resolution scheme that helps Victorian energy or water customers by receiving, investigating and resolving complaints about their company. Under EWOV's Charter, we resolve complaints on a 'fair and reasonable' basis and aim to reduce the occurrence of complaints<sup>1</sup>. We are guided by the principles in the Commonwealth Government's Benchmarks for Industry-based Customer Dispute Resolution<sup>2</sup>. It is in this context that our comments are made.

EWOV appreciates the ESC's efforts to clarify the interaction of the best offer requirement with the Victorian Default Offer (VDO), both of which will come into effect on 1 July 2019. The VDO and best offer requirement are both significant reforms which, when taken together, should spur greater consumer engagement with the retail energy market. Higher levels of engagement should in turn result in more appropriate deals for a greater proportion of consumers and – crucially from EWOV's point of view – reduce the occurrence of complaints. High billing complaints remain a significant head of complaint for us. In the 2017-2018 period high billing complaints were our most common form of complaint (we received 3,626), which displaced disconnection complaints. Disconnection complaints had been the most common form of complaint for the previous four years.<sup>3</sup> Viewed in this context, the VDO and best offer requirements are important and timely reforms. We support their implementation, and the clarification that the ESC has provided in this Draft Decision.

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<sup>1</sup> See Clause 5.1 of EWOV's Charter: <https://www.ewov.com.au/files/ewov-charter.pdf>

<sup>2</sup> See EWOV's website: <https://www.ewov.com.au/about/who-we-are/our-principles>

<sup>3</sup> EWOV, *2018 Annual Report*, p. 26. Available at: <https://www.ewov.com.au/files/2018-ewov-annual-report.pdf>

Notably, the Draft Decision clearly seeks to ensure that consumers are given clear and honest information regarding the VDO, and that the VDO is included as a potential best offer option both in best offer notifications and through the clear advice entitlement. This clarification is important because the VDO will be a new and distinct form of offer in the market, with unique product features. It is useful that the ESC has sought to ensure the VDO is not ‘quarantined’ from best offer considerations, and also to ensure that consumers are informed about the VDO - so that they may make their purchasing decision based on all available relevant information.

Our further comments are set out below.

**1. Draft Decision 1: *The deemed best offer must be the lowest cost of a generally available plan or Victorian Default Offer applicable to the customer.***

EWOV agrees with this decision.

Given the policy intent of promoting effective and efficient retail competition through higher levels of consumer engagement, it is only logical that the VDO should be read against other generally available offers and included in a retailer’s assessment of which offer constitutes their ‘best offer’.

If consumers act on this information as hoped, it is likely to lead to a decline in high billing complaints.

**2. Draft Decision 2: *A retailer, under the clear advice entitlement, must communicate to a customer information about the retailer’s other applicable generally available plans and a Victorian default offer that it reasonably believes may be more suitable for the customer.***

EWOV agrees with this decision.

As we read it, this draft decision essentially articulates the intent of the clear advice entitlement and makes it clear that the VDO should be included in the honest dialogue that the clear advice entitlement is intended to create between consumers and retailer representatives.

If the VDO is more suitable for a particular customer than another identified ‘best offer’, then the clear advice entitlement would dictate that the retailer provides that advice to the customer. Similarly, if the retailer has an offer that would be better for the customer than the VDO – then that is the advice that should be provided.

**3. Draft Decision 3: *Under the clear advice entitlement, a retailer is to communicate information about the availability of the Victorian Default Offer and how the customer may access the plan from the retailer.***

EWOV agrees with this decision.

The VDO is a new and different kind of offer – it has the unique product feature of having a price determined not by the retailer offering it, but by the ESC (to be reviewed annually from 1 January 2020

onwards). The unique price setting mechanism of the VDO is an important distinguishing feature that consumers should be conscious of when choosing an energy plan, as it sets it apart from other offers in the market.

We trust these comments are useful. Should you like any further information or have any queries, please contact Zac Gillam, Senior Policy and Stakeholder Engagement Officer, on (03) 8672 4285.

Yours sincerely



**Cynthia Gebert**  
**Energy and Water Ombudsman (Victoria)**