

6th October 2023

Committee Secretary
Senate Standing Committees on Economics
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600

Submitted via email Economics.Sen@aph.gov.au

Dear Committee Secretary

Inquiry into Residential Electrification

Thank you for the opportunity to comment on the Terms of Reference of the Inquiry into Residential Electrification.

The Energy and Water Ombudsman Victoria (EWOV) provides free, independent redress to Victorian consumers by receiving and resolving energy and water complaints. We work to ensure fair and reasonable outcomes when energy and water problems arise.¹ We 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. Our work is guided by the principles in the Commonwealth Government's *Benchmarks for Industry-based Customer Dispute Resolution*.²

This submission supports much of the joint submission of EWOSA, EWON and EWOQ in that it is vital that consumers can access External Dispute Resolution (EDR) for new and emerging products and services arising from residential electrification. EWOV has produced a submission focusing on the Victorian context and policy settings for residential electrification.

Policy objectives of residential electrification and scope of inquiry

The Australian Government has committed to reaching Net Zero emissions by 2050, while the Victorian government has an additional ambitious target to halve emissions by 2030.³ Residential electrification has been identified as a key pathway to achieving this overarching policy objective, as assumed by AEMO in their recent *Inputs, Assumptions and Scenarios Report* to inform the 2024 *Integrated System Plan*, as

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

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

³ Department of Energy, Environment and Climate Action, *Gas substitution roadmap*, July 2023.



well as in Victoria's Gas Substitution Roadmap.⁴ This transition is particularly acute in Victoria, where approximately 76% Victorian households currently have a mains gas connection for their heating, cooking and or hot water.⁵

Policy settings in Victoria to achieve residential electrification are centred around consumer participation in the transition through uptake of Consumer Energy Resources, electrification of appliances and efficiency retrofits. Consumer Energy Resources (CER) include solar PV, home batteries, demand response enabled appliances such as air-conditioners and EVs. This widespread, rapid uptake of CER, electrification and retrofits will require enormous consumer confidence and trust to engage in these new markets. A consumer protection framework that incorporates new and emerging CER alongside traditional retail energy provision, and includes a clear pathways to free and effective external dispute resolution will be essential to facilitate residential electrification.

We note the Commonwealth Government's *National Electric Vehicle Strategy* is underway,⁶ but given the broader policy aims of residential electrification, the inquiry might give regard to the scope of a residential 'household', whether this extends to electric vehicles owned by a residence, and how EVs may become integral to a households' access to energy.

Rapid consumer uptake of EVs is a key assumption in the pathway to Net Zero. AEMO's modelling for the 2024 ISP assumes 63% to 97% of all road transport will be electric vehicles (EVs) across scenarios by 2050, requiring a rapid uptake given EVs contribute less than 1% of road transport in 2022-23.⁷ A range of possible static and dynamic EV charging and discharging profiles have been outlined, including two-way energy flows, whereby vehicles might be used as a home battery or discharge to the grid at periods of peak demand, potentially through an aggregator or energy management system.⁸ AEMO's modelling highlights an expectation that Time of Use tariffs and dynamically controlled charging will drive a shift to charging during the middle of the day to reflect the pass through of broader grid cost savings.⁹ This may require additional metering arrangements, and create both significant billing complexity and further issues for consumers, particularly where contracted aggregators discharge EV batteries through automated software responding to dynamic wholesale price signals or grid constraints. Modelling by the CSIRO for Energy Consumers Australia suggests that widespread uptake of EVs is likely to benefit all consumers.¹⁰ Through effective network utilisation EVs can help support grid stability through reduced peak demand, can reduce consumers' bills through storage and consumption of residential solar PV generation and avoided peak demand usage, and deliver lower emissions energy supply.¹¹

⁴ AEMO, *2023 Inputs, Assumptions and Scenarios Report*, July 2023; DEECA, *Gas Substitution Roadmap*

⁵ Energy Networks Australia, *Reliable and clean gas for Australian homes*, July 2021, 2.

⁶ [Consultation hub | National Electric Vehicle Strategy: consultation paper - Climate \(dcceew.gov.au\)](#)

⁷ AEMO, *2023 Inputs, Assumptions and Scenarios Report*, July 2023, 56 available online: [2023-inputs-assumptions-and-scenarios-report.pdf \(aemo.com.au\)](#)

⁸ *Ibid.*, 59.

⁹ *Ibid.*, 62.

¹⁰ ECA, *Stepping Up: A smoother pathway to decarbonising homes*, August 2023, 12.

¹¹ AEMO, *Inputs, Assumptions and Scenarios Report*, 59.



Existing regulatory arrangements may need further consideration to facilitate residential electrification. The use of EVs as part of broader electrification hinges on consumers' ability to plug in their EV throughout the day, to draw on cheaper renewable generation and discharge their EV battery during expected evening peaks. Some consumers will be able to charge at home, in their own dedicated parking place or garage. However, a number of consumers may not be able to charge from their premises – e.g. renters unable to install a charger, those living in apartment buildings or without dedicated off-street parking – and may be unable to leverage the benefit of charging directly through their residential tariff. This creates a key issue of equity, whereby consumers with dedicated parking at the premises can fully leverage their own generated energy from rooftop solar PV or through a more cost-effective residential energy tariff, while those without dedicated parking may be forced to charge from public charging stations. If consumers rely either in part or in full on stored energy on their EV battery for part of their primary household energy consumption – particularly during periods of peak demand as assumed - this creates a gap in consumer protections. We note both the AEMC and AER have flagged the NECF is not fit for purpose in managing the future energy market, and we suggest consideration may also need to be given to households increasingly relying on some combination of CER and traditional energy provision. Taking a consumer-centric approach to energy regulation requires that EDR mechanisms can provide assistance to consumers trying to resolve issues that may arise between an increasingly complex array of products and services delivering energy to the home.

The inquiry should consider how to ensure consumer participation in the transition is as **easy and low risk** as possible, particularly given the relatively short timeframe to achieve the broader policy goal.

Barriers to achieving the intended policy objective and absence of effective EDR

A number of barriers need to be addressed to facilitate rapid residential electrification of households – for example up front cost of appliances, Consumer Energy Resources (CER) and Electric Vehicles (EVs), compliance from installation of new appliances, as well as consumer attitudes and behavioural biases. In particular, it is the interplay between each of these that can lead to poor consumer outcomes. A range of initiatives have been proposed to these identified problems, but these often overlook the need for clear and effective dispute resolution mechanisms to build consumer confidence and trust in emerging markets and providers.¹² EWOV already receives a number of energy related cases highlighting these issues, but crucially, many sit out of our jurisdiction. Our jurisdiction is determined by mechanisms such as licence or code provisions, which require businesses to be members of EWOV. Specific to energy businesses, under the current regulatory framework, membership of EWOV is a licence condition for supplying or distributing electricity under the *Electricity Industry Act 2000* in Victoria.¹³ However, the sale of and installation of CER are considered commercial activities beyond the scope of supply and so are not captured by this licence requirement which prevents us from assisting consumers to resolve their complaint quickly and efficiently.

¹² See for example Wood, T., Reeve, A., and Suckling, E. *Getting off gas: why, how, and who should pay?*, Grattan Institute, 2023; ECA, *Stepping Up: A smoother pathway to decarbonising homes*, August 2023.

¹³ *Electricity Industry Act 2000*, S28.1(a)



Up front cost remains a key issue for consumer take up of CER and transitioning appliances. This is despite modelling indicating household benefits from transitioning to all electric appliances (through savings derived from high efficiency appliances) are likely to exceed these upfront household costs over subsequent years.¹⁴ The Victorian government has provided targeted subsidies for solar PV since August 2018, and has proposed to expand the Victorian Energy Upgrade to help consumers replace their gas hot water, heating and cooking through targeted subsidies.¹⁵

This subsidy program has resulted in a rapid uptake of solar PV in Victoria – with the program repeatedly oversubscribed due to unexpected demand.¹⁶ At mid-2022 there were approximately 628,596 residential solar PV installations, meaning approximately 1 in 5 Victorian homes now have a small-scale solar PV system.¹⁷ One consequence of this rapid take up is that while most consumers appear to have enjoyed favourable outcomes, a significant proportion of installations have been found to be substandard. In their review of 4,591 audit results completed February 2021, the Victorian Auditor General’s Office found 36.85% installations were substandard, with 2.57 per cent assessed as 'unsafe' and 34.28 per cent as 'needs rectification'.¹⁸ The VAGO report notes a recognised need for regulatory reform to provide new consumer protections for renewable energy systems through EWOV.¹⁹

EWOV is able to receive complaints about solar PV in a limited capacity – relating to matters regarding retail billing, such as a feed-in tariff not paid by a retailer. While EWOV receives a range of other complaints related to solar installations, including faulty installations, unsafe installations, damaged property as part of installation, issues receiving rebates - these remain outside of EWOVs jurisdiction and it is necessary to refer these to Consumer Affairs Victoria. Even where scheme participants (i.e. a traditional energy retailer) have expanded business activities to include solar PV installation, many of the issues consumers experience are out of EWOV’s jurisdiction. EWOVs has produced a journey map to better understand the range of issues that can occur during a solar installation, which highlights the numerous touchpoints and complexity that consumers face.²⁰ EWOV often receives complaints where a consumer has been bounced between different involved entities in an installation, resulting in significant consumer frustration as where the fault lies outside the scheme participant, the inability for EWOV to reach a suitable resolution.

¹⁴ Ibid.; DEECA, *Gas Substitution Roadmap*, 12;

¹⁵ DEECA, *Gas Substitution Roadmap*

¹⁶ VAGO, *Delivering the Solar Homes Program, Independent assurance report to Parliament*, June 2021, available online <https://www.audit.vic.gov.au/sites/default/files/2021-06/20210624-Solar-Homes-report.pdf>

¹⁷ Department of Environment, Land, Water and Planning, *Consultation paper - Protecting Consumers of Distributed Energy Resources (DER)*, 2022, 7.

¹⁸ VAGO, *Delivering the Solar Homes Program, Independent assurance report to Parliament*, June 2021, available online <https://www.audit.vic.gov.au/sites/default/files/2021-06/20210624-Solar-Homes-report.pdf>

¹⁹ VAGO, *Delivering the Solar Homes Program*, 9.

²⁰ For other examples, see EWOV, *Solar Customer Journey Map*, April 2022 available online https://www.ewov.com.au/uploads/main/Reports/ewov_solar_customer_journey_map_april_2022.pdf



Solar installation difficulty case study – Out of Jurisdiction (case 00026111)

Amish* complained to EWOV about his solar installer (owned by an EWOV scheme participant). The provider installed the solar panels in May 2023. Amish emailed and called the provider on numerous occasions, being transferred between different departments. He was advised that the solar team would return his call, however it did not. Amish followed up by email again and received a call back from the solar team, who advised it was supposed to send the solar documentation to the distributor on 12 June 2023, however there was a delay and it was submitted on 4 July 2023 instead. The provider offered a \$200 credit for the delays and inconvenience, and advised Amish to contact his distributor or his retailer to understand the next process. Amish called his retailer who advised that it has not received any solar installation paperwork. Amish called his distributor who advised that they received the installer’s email on 4 July 2023, however there was some missing information from the documents. The distributor emailed the installer on 5 July 2023 asking for the missing information, however they have not received a response back from the installer.

The relatively new and technical nature of CER purchases, installation and operation means it is often difficult for consumers to know how to fix a problem, who is responsible and where to raise a complaint or concern. Some complaints highlight how faulty new technologies and related information asymmetries can be particularly problematic and how consumer expectations of their purchases and drivers behind these often do not align with their experience. For example, consumers may expect that a solar and battery system will provide them power during a blackout. However, this currently requires an electrician to conduct additional works beyond a standard setup, to enable a solar and battery array to function in “islanded” mode during a blackout. Research commissioned by EWOV highlights the range of drivers behind consumer decisions to purchase and install CER, as well as growing complexity in navigating these new products and services.²¹

Faulty solar and battery installation – out of jurisdiction (Case 00021929)

Larry* called EWOV with a complaint about his solar installer (not a scheme participant). Larry paid for a \$28,000 solar + battery system to be installed on 27 September 2022. Larry advised EWOV his household is still using power from the grid when their battery is full. When the grid goes out, Larry has found they still have no power. Larry also reported to EWOV the solar system is not generating anywhere near the contract estimates.

Where the initial installer is unresponsive or fails to effectively repair recently installed CER or new appliance, consumers can be left without avenue to timely recourse. Where the installation of CER or a new appliance has been partially subsidised through the Victorian Energy Upgrades (VEU) program, it can be unclear where the appropriate redress pathway is for particular aspects of the installation. While the “no wrong door” approach to dispute resolution enables a warm transfer process between dispute resolution services, these transfers highlight the confusion for both regulators and consumers alike,

*All names in case studies have been changed for privacy reasons

²¹ For other examples, see Hugo Temby and Hedda Ransan-Cooper, *‘We want it to work’: understanding household experiences with new energy technologies in Australia - Final report of the VOICES project (Victorian Energy and Water Ombudsman’s Investigation of Consumer Experiences)*, Australian National University: Canberra, Australia. March 2021, available online: <https://www.ewov.com.au/reports/voices>



particularly where some agencies do not have capability to resolve consumer complaints directly. It would be preferable for consumers to have a clear pathway to an expert, external, independent, industry-funded dispute resolution scheme, while its desirable from a policy perspective to have a 'polluter-pays' model, where those responsible for generating issues bear the costs of resolving it to incentivise improved conduct.

Issue with heat pumps hot water installation– out of jurisdiction (case 00010813)

Ahmed* called EWOV and explained that he installed a [heat pump] hot water system with a provider in 2021. Ahmed noticed a leak in the system in May 2022 and advised that after many attempts to contact the provider it finally sent someone on the 23 July 2022. Ahmed told EWOV he has not had hot water since 2 August 2022. He contacted the installer again, he again explained the issue to the company, and they informed him that someone would be in contact. Ahmed then arranged for a plumber to repair the unit directly, but was advised only the installer could repair the appliance because no one else could get the required parts. Ahmed made inquiries with two other plumbers who said the same thing. As the issue was out of jurisdiction, EWOV referred Ahmed to CAV.

Issue with heat pump hot water subsidy – out of EWOV jurisdiction – (case 00025522)

Richard was referred by Consumer Affairs Victoria to contact EWOV in relation to a VEU subsidy for a hot water heat pump system. Richard has had delays with the heat pump installer. EWOV warm transferred Richard to the Victorian Ombudsman.

As has been identified in the broader research, widespread uptake of Electric Vehicles, with effective integration with the grid and network utilisation (Vehicle-to-Grid) may present a significant opportunity to achieving policy objective of reducing emissions.²² Consumers can reduce their energy bills by leveraging flexible tariffs – charging their EV during periods of surplus renewable generation and discharging stored energy either for household usage during peak load periods or to the grid through a peak feed-in-tariff. However, innovative (and often complex) tariffs create the potential for new problems for consumers. EWOV has already seen examples of consumer complaints around EV tariffs – which were in jurisdiction due to their direct impact on a consumer’s electricity bill. However, new ownership, financing models or charging methods may emerge that sit outside existing consumer protections.

²² AEMO, *Inputs, Assumptions and Scenarios Report*, 59; ECA, *Stepping Up*.



Issue with innovative EV tariff, submeter and backbill – 2019/23394

Jerry* called EWOV in 2019 with a complaint about his retailer regarding a higher than expected bill. Jerry signed a contract for an Electric Vehicle plan of \$1 per day for electric vehicle charging. Jerry confirmed that to access this rate, he paid \$431 for installation of active stream digital submeter. His electrician advised he would return to install an antenna, as the smart meter didn't have reception in the basement. The electrician did not return, so Jerry is receiving bills for the un-discounted amount. Jerry's retailer advised it would look into it and place his account on hold while it investigated. However, Jerry received a back bill from August 2018 for \$5,700. Jerry has a direct debit set up for the account, which was scheduled to come out of his bank account on the 16 January 2020 but Jerry advises he does not have \$5,700 available in that account. Jerry has also flagged did not believe the retailer could issue a backbill for more than nine months.

Resolution following EWOV assisted referral:

Jerry's retailer confirmed there were errors in applying the \$1.00 a day Electric Vehicle charge to customers' accounts. The retailer has confirmed they are manually adjusting the billing each quarter and have applied a manual adjustment of \$4373.51 credit to the account. The retailer advised they were working with the meter provider to remove the sub meter on site and once removed will discuss plans available to the customer. Jerry was happy to keep liaising with the retailer case manager to resolve their concerns moving forward and adjust any future billing up until the sub meter is removed, and advised he was satisfied with the outcome.

The use of distributed storage and demand response has also been identified as a key component of the renewables-based grid – which is likely to expose some consumers to unexpected actions by providers. Remote access and control of Demand Response Enabled Devices (DRED), e.g. cycling air-conditioners down during periods of peak demand, and contracted access and control over CER by third parties – e.g. distributed storage through Virtual Power Plants (VPPs) – may create further complexity and risk for consumers. Case studies indicate consumers may not fully understand how the VPP will utilise their assets, contracts can be highly conditional but the terms vary greatly between providers, resulting in consumer frustration and expectations not being met. EWOV has found VPP cases particularly complex to investigate as they may require third party data (in addition to meter data), and the conditions of agreements vary significantly between providers limiting comparability for consumers. Effective and comprehensible information needs to be provided to consumers about how and when devices will be accessed, and robust protections and access to redress for adverse outcomes will be essential to build consumer support and trust in for these arrangements.



Failure to provide clear information around Virtual Power Plant use of battery – in jurisdiction (case 2963)

Gary* contacted EWOV with a complaint about his retailer and a Virtual Power Plant (VPP) agreement he had struck. The VPP agreement entailed selling energy from Gary's battery into the grid once the spot market price exceeded a standard feed in tariff rate, when his battery was full and when the VPP software "deems it appropriate according to [your] household's energy usage patterns". When the VPP discharged from Gary's battery, he was paid a Trading Credit in lieu of this feed in tariff, at the spot market price.

Gary raised a number of issues in his complaint. First, the VPP provider drew his battery down to 15% by 8pm each night, requiring him to draw from the grid directly at a higher price. Second, Gary advised he had been paid very little in trading credits, well exceeding the cost to recharge his battery after these discharge events. While Gary was provided access to the VPP software forecasting discharge events, the provider did not give him information about how and when they had utilised his battery to export into the grid, and without this information, Gary was unable to determine whether he has received the correct benefit. Third, Gary had repeatedly tried to call the VPP to discuss the issue and was unable to get through.

Through an EWOV Assisted Referral the retailer agreed an error had been made, but was unable to document exactly when the VPP software had accessed Gary's battery to discharge to the grid, or provide a true reconciliation of how much energy had been discharged to the grid at what value. The retailer provided Gary a \$400 customer service gesture and EWOV was able to confirm Gary was not left out of pocket.

Though there is evidence of consumer interested in new take up of CER products and services – seen most clearly through the widespread uptake of solar – there is also evidence of well-established consumer preferences around gas appliances in Victoria.²³ Moreover, there is a wealth of research into consumer behaviour that finds consumers often stick with the status quo when faced with uncertain outcomes.²⁴ Consumer research about energy efficiency retrofits in the UK has identified 'fear of getting something wrong means that even those who may have the ability to fund [energy efficiency] retrofit works are not currently doing so.'²⁵ In Australia, research has identified consumers feeling 'ripped-off' by costs associated with transitioning off gas and to all electric appliances.²⁶ This elevates the importance of establishing consumer confidence in these markets for emerging products and services, and the need for clear IDR and EDR processes where things go wrong or providers fail to deliver.

²³ Wood et al., *Getting off gas*, 36.

²⁴ See Daniel Kahneman Amos Tversky, "Advances in prospect theory: Cumulative representation of uncertainty". *Journal of Risk and Uncertainty*, 5, 4 (1992): 297–323; Amos Tversky and Daniel Kahneman, 'Judgment under Uncertainty: Heuristics and Biases', *Science* 185, no. 4157 (27 September 1974): 1124–31.

²⁵ Citizens Advice, *Demand Net Zero: Tackling the barriers to increased homeowner demand for retrofit measures*, May 2023, 14.

²⁶ Wood et al., *Getting off Gas*, 47.



For these reasons it is essential that the inquiry consider how policymakers can **de-risk** these decisions for consumers. Alongside a range of information and communication-based initiatives (outlined elsewhere),²⁷ effective dispute resolution is an essential part of the solution to these barriers. Access to a free and independent external dispute resolution mechanism when things go wrong is essential to consumer confidence to participate in a market and build trust in new providers of goods and services to do the right thing when something goes wrong, or that IDR or EDR can resolve disputes quickly and efficiently.

The advantages and benefits of sound redress also include opportunities to provide valuable expert insight and feedback to businesses about regulatory standards, good industry practice and community expectations, which can be especially valuable in a developing market.

Benefits of Ombudsman as an external redress mechanism

Ombudsman schemes are trusted sources of independent, fair and efficient dispute resolution, and generating and retaining public trust in the sectors they operate in is one of their key functions.²⁸

In its Access to Justice Inquiry, the Productivity Commission concluded that, when governments assess regulatory and other frameworks to enable appropriate pathways for dispute resolution, consideration should be given to subsuming new roles within existing Ombudsman schemes rather than creating new bodies.²⁹

As experienced and established Ombudsman schemes, we are well-positioned to facilitate fair and reasonable outcomes for land access complaints. Using Energy Water Ombudsmen as the dispute resolution body for land access issues has the benefits of:

- **Accountability** – Our work is guided by and accountable to the principles in the Commonwealth *Government's Benchmarks for Industry-based Customer Dispute Resolution* and performance against these benchmarks is independently assessed every five years. This provides a significant, ongoing and established mechanism of assurance that Ombudsman schemes operate in a way that is accessible, independent, fair, accountable, efficient and effective.
- **Cost and time effective dispute resolution services** – Use of Ombudsman schemes is a cost and time-effective way of resolving individual complaints compared to formal legal or regulatory avenues. As the Australian Productivity Commission (Productivity Commission) has observed, Ombudsmen mediate outcomes between parties and conduct investigations where necessary, obviating the need for legal representation.³⁰ Complainants face no, or very low costs and

²⁷Wood et al., *Getting off Gas*; ECA, *Stepping Up*; Citizens Advice, *Demand Net Zero*.

²⁸ Creutzfeldt, N and Gill, C "The Impact and Legitimacy of Ombudsman and ADR Schemes in the UK", The Foundation for Law, Justice and Society, 2014; Gill, C and Hirst, C 2016, *Defining Consumer Ombudsman: A Report for Ombudsman Services*, <https://eresearch.qmu.ac.uk/handle/20.500.12289/4556>

²⁹ Productivity Commission, *Access to Justice Inquiry Report*, 2014, 50.

³⁰ Productivity Commission, *Access to Justice Inquiry Report*, 2014, p. 11. As the National Inquiry noted in 2014, at that time, Ombudsman schemes had capacity to consider approximately 542,000 cases nationally requiring approximately \$481 million combined government and industry funding across all Ombudsman schemes. Tribunals had capacity to consider approximately 395,000 matters, required parties to pay registry and legal fees if represented and required approximately \$508 million in



matters can be resolved more efficiently.³¹ The benefits are particularly pronounced for vulnerable consumers who face a number of barriers when seeking to access formal resolution pathways, meaning they are both more susceptible, and less well equipped, to deal with legal disputes.³² The Productivity Commission also notes that industry Ombudsmen can create cost incentives for providers to resolve disputes in the most efficient manner possible, by requiring providers to pay case fees when Ombudsmen assist in resolving complaints.³³ EWOV is an industry-based scheme that charges providers for the complaints we handle, with costs increasing as the complaint escalate.

- **Informal process with binding powers** – Ombudsman schemes operate an informal process with in built flexibility to cater for the individual complaint. This enhances their accessibility and suitability to all types of complainants, from those that are sophisticated business operators to the most vulnerable individuals. While Ombudsman schemes will try and resolve complaints by agreement, they have the ability to make orders binding
- This clear pathway to a determination can assist keeping the parties to a dispute focused and ensure the complaint can move expeditiously through to resolution.
- **Systemic issues identification and response** – Ombudsman schemes’ approach to complaint handling and data insights enables more effective identification and response to systemic issues, which is a well-established function of Ombudsman services - creating transparency around issues that may otherwise be undetected. Responding to systemic issues is important for addressing underlying policies or approaches that are driving complaints and for assisting consumers who have not raised a complaint or dispute but may, nonetheless, have been impacted by a systemic issue. The importance of identifying and responding to systemic issues is increasingly being recognised as an important function of dispute resolution. For example, a 2020 journal article published in the *Harvard Negotiation Law Review* which conducted a 10-year review of the Australian Financial Ombudsman Service, highlights how systemic issues approaches can be effective in identifying and resolving the root cause of issues that lay both within and outside a provider’s system and provide benefits to a large number of consumers.³⁴
- **Ability to engage necessary expertise** - EWOV has engaged an in-house energy technical expert to assist investigators address more complex, technical complaints, and has well established processes to engage further expertise where required.

Developing a fit-for-purpose jurisdiction

Ombudsman schemes have a history of an evolving jurisdiction. Since their original electricity jurisdiction, Energy and Water Ombudsman schemes have expanded to include gas, water and more recently, embedded networks. This has brought hundreds of additional members and complaints into

government funding support. Civil courts had capacity to consider approximately 673,393 matters, required payment of registry, costs and other legal fees and required approximately \$836 million government funding.

³¹ Ibid., 11.

³² Ibid., 8.

³³ Ibid., 11.

³⁴ Nuannuan Lin, & Weijun Hu. (2020). Systemic Issue Resolution in Two Dimensions: A Reflection Based on a Ten-Year Review of the Australian Financial Ombudsman Service. *Harvard Negotiation Law Review*, 26, 113–151.



EWOV jurisdiction. We anticipate this to continue as the market for renewables evolves and see Ombudsman schemes proven adaptability to be beneficial in this regard.

New products and services, along with innovative delivery mechanisms of these products and services – through disruptive distribution models, innovative pricing models, new leasing and shared asset models – will continue to emerge. Rather than continue to develop ad-hoc rules to capture discrete new products and services as they emerge, EWOV suggests the inquiry consider regulatory and consumer protection arrangements that can accommodate some uncertainty and new emerging markets. This might entail principle-based consumer protection frameworks that offer broader coverage rather than a rules-based approach - which are often unable to anticipate future developments and scenarios. Further, this principle-based approach could draw on consumer’s expectations around what they consider to be related energy products and services.

Ombudsman schemes are well placed to apply regulatory principles and standards at a granular level, to individual facts and circumstances, and both develop a type of informal jurisprudence as well as feedback our observations and insights to policymakers and regulators support ongoing evolution of the regulatory framework.

If you would like to discuss any aspect of our submission, please do not hesitate to contact me, Janine Rayner (Assistant Ombudsman – Insights & Engagement) at Janine.Rayner@ewov.com.au or Ben Martin Hobbs (Policy Insights & Engagement Manager) at ben.martinhobbs@ewov.com.au.

Yours sincerely



Catherine Wolthuizen
Ombudsman and CEO
Energy and Water Ombudsman (Victoria)

