

13 April 2023

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Via: VDO@esc.vic.gov.au

Victorian Default Offer 2023-2024: Draft Decision Paper (15 March 2023)

Thank you for the opportunity to respond to the Essential Services Commission's *Victorian Default Offer 2023-2024: Draft Decision Paper* (the draft decision). We welcome the focus the Essential Services Commission (the Commission) continues to bring to the important issues of energy affordability in the context of current and future energy prices, broader affordability challenges, and consumer supports due to cost-of-living pressures.

We note the important role of the Victorian Default Offer (VDO) in regulating standing offer prices for electricity in Victoria for residential and small business consumers, operating as a key safeguard for consumers who may be on a standing offer contract and are not able to engage with the market for a range of reasons.

We note that having a reasonable price in place through the VDO is key to ensuring that consumers who are unable to engage with the market are not disadvantaged in the prices they pay for electricity. This is particularly the case for consumers experiencing vulnerability. The safeguard is also important for consumers who are impacted or disproportionately impacted by market-based complexity and system design challenges. These challenges mean some consumers are less likely to easily shop around or be successful in obtaining a better deal when they engage. Having a reasonable set price in place therefore helps to manage and support the important opportunities and challenges of energy affordability for Victorian consumers, businesses and the broader community, operating as an effective and efficient designed-in 'safe default'.

We encourage the Commission to consider two other safeguards that are important at this time:

- ensuring consumers and small businesses are aware of how to resolve an issue about their energy bill when problems arise, and, if they cannot resolve their issue with their provider, by contacting EWOV as the pathway for free, fair, accountable, independent, trusted and experienced dispute resolution for Victorian energy consumers
- options for encouraging, requiring or facilitating the direct application of concessions, grants and other relevant supports to bills for residential and small business consumers.

In this submission, we outline:

- EWOV's role in contributing to consumer safeguards, and supporting trust and confidence in the market at this challenging time
- our recent consumer and market insights about energy affordability complaints, cases and issues
- additional options for ensuring Victorian consumers and businesses access best-practice supports.

1. EWOV's role in supporting trust and confidence

The Energy and Water Ombudsman Victoria (EWOV) provides free, independent dispute resolution for Victorian consumers by receiving and resolving complaints about energy and water services. We work to ensure fair and reasonable outcomes when problems with energy and water services arise.¹ We also use our unique data insights about consumer and industry experiences of the Victorian energy and water markets to improve outcomes, in our engagement with consumers, businesses, government, regulators and the wider community. Our work is guided by and accountable to the principles in the Commonwealth Government's *Benchmarks for Industry-based Customer Dispute Resolution*², and performance against these benchmarks is independently assessed every five years.

EWOV is the Commission's approved customer dispute resolution scheme for energy and gas complaints that arise between residential and small business consumers and energy and gas providers in Victoria.³ As an experienced and established scheme, EWOV is well-positioned to provide the fair and independent dispute resolution pathway for Victorian consumers experiencing affordability issues, and in the important areas of payment difficulty, pricing, billing, credit, debt and access to supports and entitlements.

In addition to directly influencing improvements and fair and reasonable outcomes through our core role in resolving individual disputes, we also influence broader, positive improvements that benefit the many consumers who are unable to make an individual complaint to their provider or EWOV. This can be for a wide variety of reasons including when experiencing vulnerability or due to market design challenges which cause unnecessary friction costs for consumers and the economy. This role benefits many consumers whose energy bills are affected by the VDO.

Our decades-long experience as the Victorian energy ombudsman scheme means EWOV plays a key role in helping to ensure that fair and reasonable outcomes are reached when problems arise. Helping consumers and providers to access an experienced, independent complaints and dispute resolution body like EWOV is even more important when consumers and businesses juggle affordability issues and complex information.

2. Current energy affordability and pricing insights

EWOV collects, analyses and regularly shares our unique consumer and industry insights about the current and emerging experiences of Victorian energy consumers and providers. By analysing and sharing this data, we can influence positive improvements that benefit consumers and providers.

In our most recent quarterly report, *Reflect*, we observed that affordability-related issues remain the top complaints areas for consumers contacting EWOV seeking help to resolve problems. In March 2023, we noted:

- during the October-December 2022 quarter, we provided free, independent dispute resolution to over 3,500 Victorian residential and small business consumers who contacted us for help

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

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

³ Section 28(2) of the *Electricity Industry Act 2000* (Vic) and section 36(2) of the *Gas Industry Act 2001* (Vic).

- our data showing key issues that are of increasing concern to consumers are high bills, debt collection and billing errors
- the issues consumers and businesses are navigating remain dynamic and complex
- in a context of cost-of-living pressures, credit collection and payment difficulties cases remain an area to watch:
 - Credit collection cases rose 15% and payment difficulties cases increased by 9% during October to December 2022 when compared to the July to September 2022 quarter. This may indicate a greater degree of hardship in the Victorian community and a willingness on the part of providers to try to recover debts.
 - Billing issues remain the primary driver for consumers to come to EWOV. Billing cases make up 51% of all EWOV cases so far this financial year, an increase from 46% in the previous year. This is not surprising, given the price increases that started to filter through to consumer bills in the middle of 2022.

More insights are available in our [Data Hub](#), [Reflect](#) reports and by [subscribing](#) to EWOV updates.

We encourage the Commission to consider these affordability indicators alongside the potential for increased payment difficulty to emerge when 2023 winter bills are issued and large numbers of people with mortgages move from fixed to variable home loan rates later this year (which will impact both people with mortgages and people who live in leased housing that is subject to a mortgage). We note recent data indicating that:

- 4 in 10 Australians (40%) experienced some form of hardship in Q4 2022, the highest level in nearly three years.
- When people were asked what type of payment they had recently missed, 9% of those who had missed a payment said this was for utility bills for electricity, gas, water and telecommunications. This was the highest reported category of missed payments, and is currently ranking higher than missed payments on: loans from friends or family, insurance, credit cards, BNPL, housing rent, investment loans, payday loans, home loans or mortgage, or personal loans.
- Financial hardship in Australia continues to rise, with around 33% of Australians identifying money as a significant cause of stress in their lives, and 1 in 4 saying they are struggling to make ends meet.
- The degree of financial hardship is being felt most deeply in rural areas, regional cities and among younger people (aged 18-29) and women.
- 16% of people are concerned they do not have enough money for food and basic necessities, and 14% of people report being unable to pay a bill.⁴

⁴ NAB, [Consumer Insights Survey: Financial Hardship – Q4 2022](#), 3 March 2023.

3. EWOV's role in ensuring best practice affordability supports

Considering the above insights, and noting the benefits to consumers, providers, government and regulators, we encourage the Commission to consider additional options alongside the VDO to ensure consumers are accessing the best energy deal for them at this time, and that they are fairly and reasonably receiving supports they are entitled to.

In particular, we encourage the Commission and policymakers to consider measures to ensure Victorian consumers and businesses continue to have access to best-practice supports, including the two approaches below which could operate as important and efficient supports at this time of affordability challenges.

Ensuring awareness of free and fair dispute resolution

Following the *Independent Review of the Electricity and Gas Retail Markets in Victoria* (the Thwaites review) and reforms subsequently implemented by the Victorian government and the ESC, Victoria has led the way in delivering innovative, best practice affordability frameworks and other supports. Key examples include the ESC's leadership in the areas of family violence protections, the Payment Difficulty Framework and the *Getting to fair* strategy.

We consider it is an important time to build on these supports to ensure Victorian consumers and businesses continue to benefit from best-practice approaches. Trust, confidence and fair and reasonable outcomes can be best supported by ensuring consumers and small businesses are aware of how to resolve affordability and energy billing issues when problems arise. Alongside this, access to benchmarked, best-practice independent and external dispute resolution is an important accountability mechanism to ensure appropriate access to the protections noted above. One of the key ways this can be achieved is by ensuring consumers and small businesses are provided with information about how to complain to their provider and how to contact EWOV as the pathway for free, fair, accountable, independent, trusted and experienced dispute resolution for Victorian energy consumers, and that this information is provided in accessible, useful and efficient ways.

Ombudsman schemes are an established, accessible and cost-effective way to resolve individual disputes, particularly when compared to formal legal avenues which are more costly and which many consumers are unable to readily access. EWOV's role provides direct benefits to consumers and businesses, and also wider benefits to the community by incentivising providers to provide internal dispute resolution to an appropriate standard and by reducing the costs associated with complaints handling and justice services. As the Australian Productivity Commission has observed, approximately 80% of matters raised with ombudsman schemes are generally resolved within one month and 97% within six months.⁵ Alongside this, it has been noted that disadvantaged people in particular face a number of barriers when seeking to access formal resolution pathways,

⁵ Productivity Commission, *Access to Justice Inquiry Report*, 2014, p. 11, noted that 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 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.

meaning consumers in vulnerable circumstances are both more susceptible to, and less well equipped to deal with, legal disputes.⁶

Ensuring free, fair, clear and accessible pathways and information about redress is therefore an important way to support consumer trust and confidence in the market and institutions during this time of affordability challenges.

We note that the Australian Energy Regulator issued its new binding and enforceable *Better Bills Guideline – Version 2* (the Guideline) on 30 January 2023, which will apply to jurisdictions regulated by the National Energy Customer Framework (the NECF, which does not include Victoria). Clause 40(I)(ii) of the Guideline includes a new requirement that energy retailers operating within the NECF must include in ‘tier 1’ billing information ‘a telephone number for the customer to . . . contact the relevant energy ombudsman’. The Guideline is being implemented in NECF jurisdictions throughout 31 March 2023-30 September 2023. In advance of full implementation, we encourage the Commission to consider implementing a similar, harmonised requirement in Victoria, noting there are a range of important benefits and efficiencies to consumers and energy businesses.

In addition to ensuring as many consumers and providers as possible benefit from the EWOV scheme through individual dispute resolution and complaints handling, ensuring EWOV contact details are readily available to those who need to contact us will enhance EWOV’s ability to resolve individual disputes, and also to collect, analyse and share our unique data insights and share these with businesses and market stewards to inform evidence-based solutions to current and emerging issues.

EWOV is well-placed to leverage its existing expertise, experience and awareness to meet increased demand for our services during this time. We draw on established experience in providing dispute resolution, data analysis, communications, engagement and outreach to benefit consumers, businesses and the wider community.

We note the development of the AER Guideline was informed by extensive consumer and behavioural insights research and consultation steps, which the Commission could take into account in its considerations.

Direct application of concessions, grants and other supports

In the context of affordability and energy bill challenges, we encourage the Commission and policymakers to consider additional ways in which consumers and providers can directly benefit from concessions, grants and other support schemes currently available. We encourage market stewards to consider ways to prompt, facilitate or require direct application of concessions, grants and other supports where appropriate and where this would enhance consumer and market outcomes.

We consider there is currently a key opportunity to ensure consumers can most easily access the supports they need and are entitled to, and to ensure efficient and cost-effective arrangements for providers.

⁶ Ibid, p. 11.

Recent in-depth research has noted there are opportunities to improve outcomes in this area. As Ben Martin Hobbs of the Consumer Policy Research Centre observed in his November 2022 report, *Mind the Gap*:

- 7% of eligible Victorians did not receive a concession on their electricity bill
- 12% of eligible Victorians did not receive a concession on their gas bill.⁷

As the report notes, 'the nature and structure of the concession and subsequent data collection process may contribute to a higher proportion of Victorians claiming this entitlement relative to other states'.⁸

While Victorian energy consumers are generally faring better than Victorian water consumers and consumers in states where other consumer protections apply, we consider current energy affordability issues create an opportunity to examine new and innovative ways to improve outcomes for Victorian energy consumers and the market. We note that direct application of concessions and benefits would likely have a range of flow-on benefits and savings for Victorian energy retailers as well as to consumers, consumer support workers, regulators and for the costs of administering government schemes.

We trust this submission will assist the Commission in the important task of considering how best to provide important safeguards for consumers during 2023-2024, and to support trust and confidence in the energy market in this important affordability area.

In addition to the insights shared in this submission, EWOV regularly shares and publishes data, reports and case studies about the Victorian energy market. We would be pleased to share with the Commission further data insights and information to inform this process and other measures as they progress.

If you would like to discuss any aspect of our submission, please do not hesitate to contact me or Bronwen Jennings, Assistant Ombudsman – Insights & Engagement, at Bronwen.jennings@ewov.com.au.

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

Yours sincerely



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⁷ Ben Martin Hobbs, *Mind the Gap: Identifying the gap between energy concession eligibility and concessions received*, Consumer Policy Research Centre, November 2022.

⁸ Ibid, p. 12.