

28 September 2009

Manager, MCE Secretariat
Department of Resources, Energy and Tourism
GPO Box 1564
Canberra ACT 2601

By email: MCETMarketReform@ret.gov.au

Dear Manager, MCE Secretariat

Re: MCE SCO's Smart Meter Customer Protection and Safety Review – Draft Policy Paper One

Thank you for the opportunity to provide comment on the Ministerial Council on Energy (MCE) Standing Committee of Officials' (SCO's) *Draft Policy Paper One - Smart Meter Customer Protection and Safety Review* (the Draft Policy Paper).

The Energy and Water Ombudsman (Victoria) (EWOV) wishes to comment on sections two to seven of the Draft Policy Paper.

Section two: Distributional impacts of time-related pricing

EWOV acknowledges the distributors' aim of meeting supply demand whilst ensuring a fair share of electricity usage among customers. EWOV also supports the concept of an individual customer paying for their usage in peak demand to alleviate pressure on low users already aiming to reduce their consumption. It appears that the new technology introduced through smart meters allows for a timelier response to peak demand and, as outlined in the Draft Policy Paper, more efficient pricing.

EWOV questions, however, whether Victorian retailers will offer customers a choice of tariff such as a continuing flat tariff or a time-related tariff. After a distributor reassigns a network tariff, will it be common retailer practice to advise customers of tariffs to choose from including a new time-related tariff? Or will a retailer more likely place a customer's account on an assigned tariff assuming the customer will either consent to this new tariff or request to be put on a different tariff where available? This assumes a customer's ability to make an informed choice based on their clear understanding of tariff structures and compatibility. EWOV is of the view that if retailers choose to introduce new tariffs, customers should be given the opportunity to make an informed choice about whether to move to the new tariff or stay on their existing tariff. This means that customers must be provided with sufficient and clear information prior to the practical application of a new tariff.

With regard to hardship customers and their limited ability to reduce electricity usage and to adequately respond to peak pricing, EWOV appreciates MCE SCO's acknowledgement that this customer group may not be flexible enough to react to these circumstances given their reduced cash flow. Further consideration needs to be given on how these customers can be effectively assisted. Whether this is through the option of more frequent monthly billing is, however, questionable. Monthly billing may not be feasible from a retailer's perspective and may also not be beneficial for hardship customers due to potentially more frequent debt collection measures if payment difficulties occur. EWOV also notes that monthly billing is currently only made available to market contract customers. EWOV does not support the compulsory introduction of monthly billing to all customers as those experiencing payment difficulties may be put on increasing pressure to meet their payment due dates and in some jurisdictions may also be subject to more late payment fees charged to their accounts if payments are missed.

Should MCE SCO decide on monthly billing being introduced to all customers regardless of the kind of contract they are on and should retailers subsequently take up this more frequent billing option based on actual and accurate data, EWOV expects that retailers will have greater opportunity to identify customers with payment difficulties earlier. They can then take appropriate and swift action providing assistance with their hardship programmes.

EWOV encourages MCE SCO to further consider the potential increase of temporary energy-related hardship cases resulting in higher demand for payment assistance relating to arrears. EWOV welcomes the hardship provisions contained in the National Energy Customer Framework (NECF), however, encourages MCE SCO to place retailers under an active obligation to identify hardship customers and to place those customers on their hardship programmes ensuring that sufficient assistance is made available from the outset minimising the potential of a transition to long-term hardship.

Therefore, in respect of draft policy position 1, EWOV believes the NECF hardship provisions should be amended to place a more active obligation on retailers to identify customers in hardship.

Section three: Customer billing

Bill content requirements

EWOV strongly agrees with MCE SCO's draft policy position 2 that a customer should be able to check that their meter is working correctly and reconcile their bills against their meter.

Not all customers have access to the internet, so this reconciliation should be available on the bill. As MCE SCO correctly identifies, the bill is the major form of communication between a customer and a retailer.

EWOV notes that MCE SCO is currently awaiting the Victorian Essential Services Commission's work on bill content requirements resulting from the forum it conducted in July 2009. Drawing from EWOV's case handling experience, we note that customers regularly contact us to verify their bills based on interval meter data where no meter reading information (e.g. relating to start and end meter readings) was

provided on the bill. To ensure customers' confidence in the accuracy of their bills and to enable them to verify their bills, EWOV proposes the following bill content requirements in addition to current standards:

- total consumption of each tariff segment shown in accumulated usage data; and
- the overall total consumption adding up the individual tariff segments.

Accordingly, EWOV agrees with draft policy position 3.

Substitutions and estimations

EWOV agrees with MCE SCO that estimated interval data is temporary and allows for a replacement with real accurate data once obtained, whereas substituted data is final with no opportunity for replacement of lost data.

In determining whether and how substitutions can occur, manually read interval meters need to be distinguished from remotely read smart meters. EWOV anticipates that once remote capabilities are functional, retailers will be obtaining daily meter reads from distributors. Assuming retailers will continue to bill on a quarterly basis, they will have approximately 90 occasions to obtain all interval data held by a customer's smart meter. Where actual meter reads cannot be obtained, a distributor and a retailer would be able to identify a potential error allowing for a swift investigation of the matter. EWOV notes that on the rare occasion where interval data cannot be recovered either remotely or onsite, the accumulated register reads could serve as an accurate and true representation of a customer's usage allowing for the avoidance of substitutions.

EWOV continues to receive numerous complaints where customers have received high bills following estimated bills calculated on the basis of the Meteorology Procedure. With regard to interval meters, EWOV sees a further trend of high bill complaints where substituted data has been used as illustrated in the following case study C/2009/2234: A business customer received high bills for a period when the property was unoccupied. The customer contacted their financially responsible retailer which advised that it was unable to accurately bill the customer's account due to corrupted meter data received from the distributor. The retailer further explained that the configuration of the distributor's data was not compatible with its billing system. EWOV's investigation showed that the distributor's submitted actual meter data was in fact overwritten with higher substituted data. The initial 30-minute interval data had been divided into two 15-minute intervals and every second interval showing 'nil' as a consequence was replaced with substituted data to enable validation. Upon receipt of the actual interval data, the retailer re-billed the customer in line with their actual usage, applied a customer service gesture on the account and established a payment plan to enable the customer to pay off the arrears.

EWOV, in its aim to find a fair and reasonable outcome for both parties, seeks MCE SCO to consider whether more emphasis should be placed on ensuring that technical equipment and systems are working accurately which is the responsibility of a distributor and retailer respectively and lies outside the scope of a customer's liability. To encourage a timely rectification of a problem with the meter or any technical systems, the obligation to ensure accurate billing based on actual meter data should lie with the distributor and the retailer. Both parties are provided with the option to recover charges via their business to business processes. Also, a business's tariff

pricing and the fees introduced with the interval meter rollout should be sufficient to cover such incidents.

EWOV therefore supports the removal of all substituted data where smart meters have been remotely read. EWOV notes that this would result in only a small number of intervals not being charged to a customer and considering daily readings are available where there are remote capabilities, consumers should not be disadvantaged due to deficient assets.

EWOV notes that if substitutions are considered appropriate then an allowable limit should be determined. This limit may be a percentage figure and determined through consultation and consideration of the technical constraints presented by interval meter systems and other relevant benchmarks. Substitutions however should not occur where customers switch off their supply during peak pricing events to manage their usage costs. Such self-controlled activity should be identifiable by a distributor's system without resulting in a failure of data validation.

Finally, with regard to bill content requirements, EWOV suggests that the bill should show the following components regarding estimations and substitutions:

- the total number of intervals in the billing period;
- the total number of substituted / estimated intervals;
- the percentage of substituted / estimated data; and
- an explanation in plain English of the substitution methodology used or the reason for the estimation (e.g. no access to a manually read meter).

Overcharging and undercharging

45% of EWOV's overall cases received in 2008/09 relate to billing issues with estimated bills and backbills (relating to the recovery of undercharges) accounting for 15% of these cases. With regard to over- and undercharging and lost data during a Dynamic Peak Pricing (DPP) event being substituted and recovered based on a non-DPP tariff, EWOV continues to be of the view that customers should not be billed on substituted data where the failure of obtaining actual data lies within the asset or systems maintained either by a distributor or retailer. If MCE SCO, however, is of the opinion that customers can be billed on substituted data and undercharging can be recovered based on such data, then EWOV supports the draft policy position that customers should be charged on a non-DPP price.

Historical billing data

EWOV agrees with MCE SCO that customers should be able to request historical billing data for their own comparison purposes. EWOV is however mindful of how this data is presented by retailers so that customers with limited technical expertise are able to analyse and compare the data. A NEM12 file provided by the distributor may not be useful in these circumstances. EWOV's case handling experience shows that retailers' usage graphs detailing usage levels over regular time intervals are a useful way of illustrating meter data based on a customer's billing. Therefore EWOV agrees with draft policy position 8, but encourages the SCO to give consideration to mandating, or at least suggesting, the provision of usage graphs as a way of providing summary information.

Section four: Direct load control (DLC)

EWOV agrees with MCE SCO that a customer's explicit informed consent is necessary to enter into a DLC arrangement and suggests that this agreement should form part of a separate market contract outlining all DLC specifics such as the included appliances and any time specifics. EWOV notes that this implies an onus on retailers and their sales agents to provide clear and concise DLC information to customers. It would be beneficial if MCE SCO outlined some of the information requirements to be covered when marketing DLC to customers. EWOV therefore awaits the finalisation of the National Stakeholder Steering Committee (NSSC)'s work on this aspect before commenting further.

Section five: Supply capacity control (SCC)

EWOV notes that whilst DLC focuses on appliance control, SCC concentrates on a customer's behaviour. As discussed during the public forum held in Melbourne on 15 September 2009, EWOV notes that the practicalities of SCC depend on a customer's appliances. The determination of a kW-threshold may prove to be rather difficult as this largely depends on individual household circumstances. It is unknown what kind of electric or gas appliances an individual customer has in place. Appliance usage also differs depending on the age of the appliance and its energy efficiency. It may therefore prove difficult to determine a kW-threshold that allows for basic appliances such as fridges, freezers, heaters, cooking appliances and lights to be continuously run. If MCE SCO considers a certain minimum kW-amount, how will customers know what appliance they can use, at what time and whether it can be run at the same time with another?

Giving these difficulties, EWOV does not see SCC as an effective tool that retailers can use to manage debt collection. From its case handling experience EWOV notes that every household's usage differs and changes in a customer's circumstances may lead to fluctuating usage, e.g. in situations where a household requires more electricity than normal, such as due to illness, a newborn or more time spent at home caused by unemployment which in turn can lead to payment difficulties. To subsequently restrict electricity flow seems to further disadvantage customers who can - under normal circumstances - rely on a safety net such as appropriate debt collection processes and special measures such as the Victorian Wrongful Disconnection Payment regulation. What process will MCE SCO put in place prior to retailers restricting electricity for non-payment?

EWOV is of the further view that retailers should not be allowed to use SCC as a credit management tool. EWOV understands MCE SCO's argument that limited electricity is better than no electricity given the restrictions practised in the water sector. EWOV, however, doubts that electricity supply can be compared with water supply given the competing needs for lighting, cooking and heating facilities. Therefore EWOV regrets that the SCO did not develop a draft policy position limiting the ability of retailers to use SCC as a credit management tool.

EWOV further queries what assistance retail customers on SCC will receive to reduce their arrears and regain unlimited supply. Customers with payment difficulties may not be able to afford more energy efficient basic appliances to ensure they live within the kW-threshold being applied to them. SCC may also not have the same educative effect than de-energisation of supply as the latter prompts customers to seek

assistance either through a retailer's hardship programme or with the help of an independent financial counsellor.

Whilst a distributor may wish to enter into a separate SCC contract with a customer provided that they have given their explicit, informed consent, a customer needs to be able to easily opt out of this contractual arrangement if personal circumstances require them to use more electricity. Such exceptions, e.g. health and safety reasons, should be listed in contractual terms and conditions. On that note, EWOV appreciates the NECF's emphasis on a direct relationship between a customer and a distributor, but sees difficulties when it comes to marketing and billing as this interaction may cause customer confusion. The industry needs to ensure that clear information is provided to customers outlining a distributor and a retailer's responsibilities and a customer's respective rights and obligations regarding both parties. EWOV welcomes the inclusion of distributors and their agents in the National Energy Marketing Rules ensuring consistent and appropriate pre-contractual conduct.

Section six: Remote de-energisation

EWOV welcomes MCE SCO's consideration of stakeholders' concerns regarding the level of notification provided to customers prior to de-energisation and the application of appropriate safeguards to ensure accuracy in remote de-energisation.

In light of increasing Victorian disconnection cases where a Wrongful Disconnection Payment was found to be payable, EWOV is not confident that all retailers consistently follow accurate disconnection procedures. EWOV strongly suggests that, as a minimum, MCE SCO adopts the current Victorian or equivalent notification requirements prior to activating remote de-energisation. This will allow a customer to take appropriate action to secure ongoing supply. Apart from issuing bills, reminder notices and disconnection / de-energisation warnings, retailers should also use their best endeavours to contact the customer during and after business hours to discuss the pending loss of supply and to ensure the accuracy of this remotely carried out measure.

At this stage, EWOV is awaiting the NSSC's review of the appropriate checking mechanisms for remote de-energisations to ensure the correct premise is de-energised before commenting further.

Section seven: Retailer marketing through in-home displays

EWOV agrees with MCE SCO's draft policy response to extend the National Marketing Rules to include distributors and their agents and any activities undertaken through in-home displays.

As these displays are within a customer's home and used to monitor usage on an ongoing basis, EWOV suggests prescription of less intrusive marketing activities (e.g. avoiding any sound notifications once a message is received) so that customers do not have to switch off their device in order to avoid marketing messages. EWOV suggests consideration to be given to allowable marketing hours for messages to be sent to in-home displays, such as the allowable phone marketing hours as outlined for example in the Victorian Fair Trading Act 1999 or other states' equivalent legislation.

We trust the above comments are helpful. Should you require further information or have queries, please contact Frances Wood, Manager Public Affairs and Policy, on (03) 9649 7599 or at frances.wood@ewov.com.au.

Yours sincerely

A handwritten signature in cursive script that reads "Janine Young". The signature is written in a dark ink and is positioned above the typed name.

Janine Young
Deputy Ombudsman
Energy and Water Ombudsman (Victoria)