



28 February 2012

Manager, SCER Secretariat
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By email EMRWGSecretariat@ret.gov.au

Dear Sir/Madam

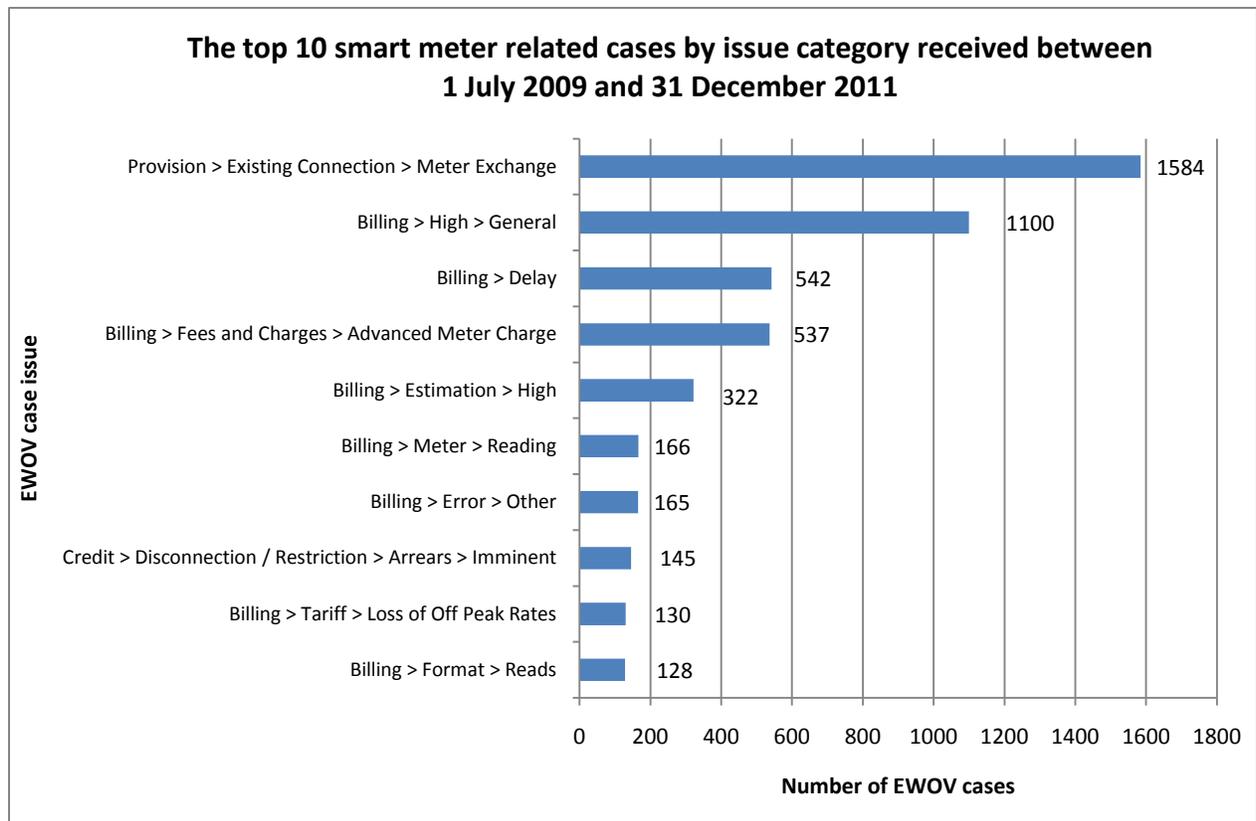
Re: National Smart Meter Protections and Pricing – Draft Policy Paper Two

Thank you for the opportunity to comment on the Standing Council on Energy and Resources (SCER) Draft Policy Paper Two – National Smart Meter Protections and Pricing (the Paper).

The Energy and Water Ombudsman (Victoria) (EWOV)'s contribution to this paper is based on its experience in handling customer complaints. The Victorian State Government legislated in 2009 that electricity distributors replace analogue electricity meters with Advanced Meters (smart meters) in every home and small business in Victoria by the end of 2013. EWOV has received enquiries and complaints about smart meters since July 2009. Our comments are made under each of the same chapter headings in the paper and represent our understanding of the key issues and customer concerns.

From 1 July 2009 to 31 December 2011, EWOV received 6,958 cases concerning smart meters. Complaints to EWOV have increased as the smart meter rollout continues and more Victorian properties receive a new meter. The State Government's 2011 review of the rollout, and the public and media attention on smart meters, have contributed to the number of cases.

EWOV categorises every case it receives with an issue. To help the SCER understand the types of complaints we get about smart meters, the graph below shows the top 10 smart meter related cases by issue category received between 1 July 2009 and 31 December 2011:



Most cases were about a smart meter exchange and higher than expected bills after a smart meter exchange. Complaints about a meter exchange typically involve customers concerned about an imminent installation of a smart meter, or the rollout in general. In these circumstances, EWOV explains why the customer is getting a smart meter, how it works, how to read the meter, and that we cannot investigate the government’s decision to install smart meters. EWOV may refer the customer to the Department of Primary Industries website¹ for further information and provide them with EWOV’s ‘smart meter’ factsheet².

The second highest complaint category is where customers contact us about a higher than expected bill after the installation of a smart meter. Our investigations generally find no problem with the functionality of the smart meter. It is often the case that customers are finding it difficult to reconcile their bills with smart meter usage data and therefore perceive problems with their bill. There is also the possibility that a previous analogue meter may have been operating slowly and under-recording a customer’s electricity use.

¹ See <http://www.dpi.vic.gov.au/energy/environment-and-community/smart-meters>

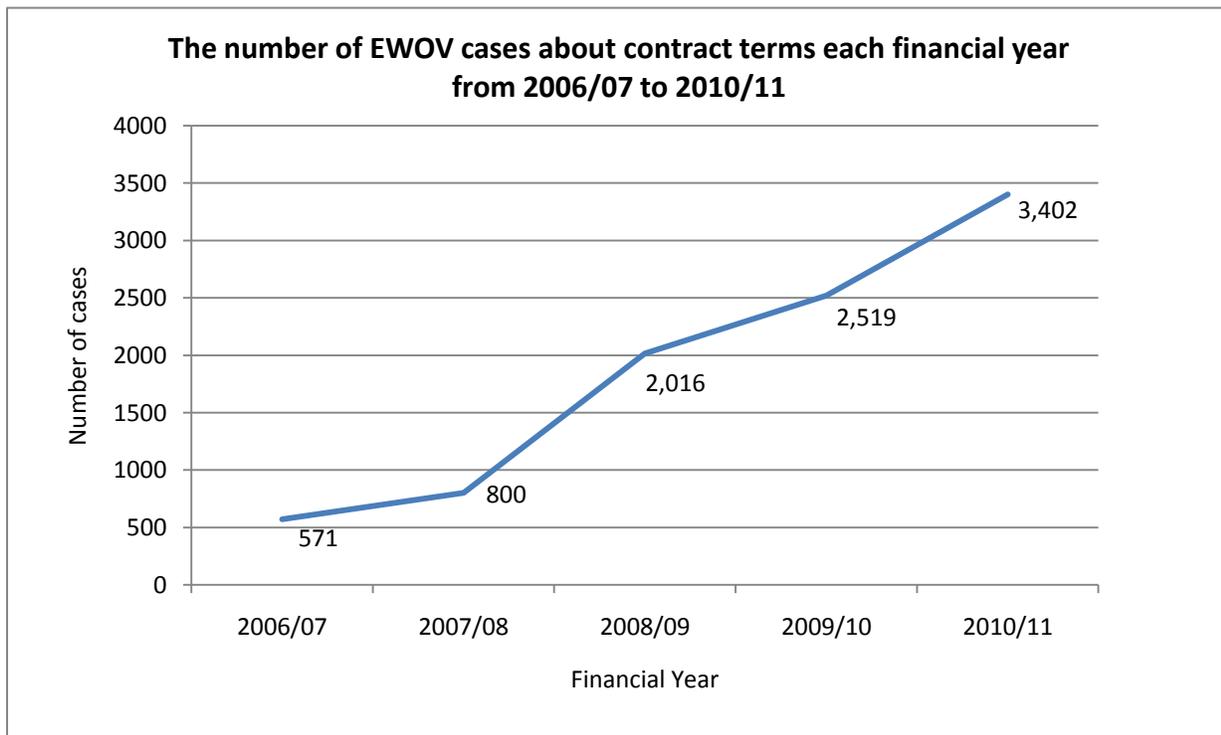
² See <http://www.ewov.com.au/site/documents/fact-sheets/Smart-meters.pdf>

2. NEW PRICING ARRANGEMENTS

Customers need to be able to easily choose and compare offers with the new pricing arrangements available with the smart meter. This will be a significant challenge when choosing Time of Use (TOU) offers and critical peak tariffs and rebates.

EWOV has observed a significant increase in the number of cases where customers contact us about contract terms (often involving exit fees), and we anticipate that these types of complaints will increase with the new pricing arrangements. In the last financial year compared to the 2009/10 financial year, cases about contract terms increased by 35%, from 2,519 to 3,402 cases.

The graph below shows the number of EWOV cases received over the past five financial years from customers questioning the terms of their contract after a recent transfer.



It is likely that TOU pricing will confuse or be misunderstood by some customers, who will later seek to leave the contract, claiming that they did not provide their consent. It is EWOV's view that new pricing arrangements, such as TOU tariffs, will increase customer confusion in the marketplace and raise questions about explicit informed consent. EWOV considers that TOU pricing arrangements should be optional, as it is in Queensland and New South Wales.

Transferring retailers without penalty

EWOV supports a transitional arrangement where exit fees do not apply to TOU contracts. A customer should be free to exit the contract altogether and choose another retailer, or move from the TOU tariff to a standing offer with the same retailer without financial penalty. As an alternative, this option may apply only during the first 12 months of the contract, giving a customer time to compare their new TOU bills with their previous single rate bills.

Supporting informed choice for consumers

The primary problem with comparing TOU offers is that customers must have a broad understanding of how and when they use electricity in their homes. EWOV often finds that this is not true. For example, we receive a significant numbers of complaints from customers who have received a higher than expected bill, and our investigation often finds that the bill is correct. This suggests that customers are unaware of how much electricity their appliances actually use, especially heating and cooling appliances. Also, it is particularly difficult for a customer on a single rate to project their future energy patterns over several different time periods to decide whether a TOU tariff will result in cheaper electricity bills.

Uniform TOU pricing periods and consistency between network pricing and retailer offers will help customers to compare contracts. The combination of a broad off-peak time period and a short peak time period will encourage customers to shift their electricity use to off-peak times. If consumers are not practically able to shift their usage habits to off-peak times then the policy objective of relieving pressure on the electricity network during peak times is lost. The design (or shape) of TOU tariffs can be regulated and standardised to reflect the real peak time usage, usually between 4pm and 7pm weekdays, with a shoulder rate and off-peak rates at other times.

EWOV believes that energy retailers and marketers have a responsibility to provide customers with clear and useful information about changing to a TOU tariff. Marketers and retailers should encourage customers to consider whether a TOU tariff is the best option for the customer by seeking the following information:

- Whether the customer has any dedicated off-peak appliance, such as an electric hot water system or electric slab heating on a time switch. A TOU tariff will affect the off-peak billing of these appliances.
- Whether the customer has electric air conditioning. The use of air conditioning during the middle of a summer day when the TOU tariff rate is at its highest will have a big impact on a customer's bill.

- The type of household occupancy - to help a customer understand the financial impact of TOU tariffs based on the typical usage patterns for particular groups. Household occupancy could fit into the following categories:
 - a single professional living in a unit/townhouse
 - a working couple with no children at home
 - a family with children at home
 - low-income and disadvantaged persons at home during weekdays

The retailers can use the above information to provide a customer with an accurate TOU 'offer summary' for consideration before entering a TOU contract. The 'offer summary' should include examples of low, medium, and high energy usage patterns under a TOU tariff, and a comparative table to show the average cost of using each large appliance (washing machine, clothes dryer, air conditioning split system) during each TOU period (peak, off-peak and shoulder). This should be in a kilowatt/hour and a dollar amount. Also, as English is not the first language of many Victorian energy customers, we urge the SCER to take this into account when drafting the terms of any guidelines.

It is still unlikely however, that customers will have the ability to compare TOU offers between retailers without the assistance of a comprehensive price comparator website that is regularly updated with the latest TOU offers. The AER price comparator website serves this purpose. The AER should require all retailers provide it with new TOU offers within five business days of publication and marketing of the offers³. The price comparator website can then be quickly updated with this information.

EWOV does not know how many customers decide to transfer retailers after using an independent price comparator website, but suspects that it is not the majority of customers. Therefore retailers and marketers should present TOU tariff information in simple and plain English, with all technical terms clearly defined. For easy customer reference and comparison between retailer offers, it is important that retailers are required to use a standardised format, which is straightforward, consistent and contained within a table or other user-friendly design.

The impact of new pricing arrangements on vulnerable consumers

EWOV understands that peak pricing variations discourage peak time usage and alleviate pressures on the electricity network, creating a more reliable supply and price equity to

³ The Essential services Commission (ESC) Guideline 18 requires that retailers provide updated pricing information to the ESC within five business days. See <http://www.esc.vic.gov.au/public/Energy/Regulation+and+Compliance/Codes+and+Guidelines/Guideline+no+19+energy+industry+-+energy+product+disclosure+-+electricity+and+gas/Guideline+no+19++energy+industry+-+energy+price+and+product+disclosure.htm>

customers. While there are benefits to this pricing, we are concerned that TOU tariffs may disproportionately impact customers who may be at home during more expensive peak times, potentially leading to higher bills. These customers may also be unable to shift their use to off-peak times and are more likely to be disadvantaged or low-income earners, such as the unemployed, the elderly, and people with a disability. This will cause further financial difficulty at a time when the issue of customer financial hardship and increasing energy prices is very obvious in the cases EWOV receives⁴.

To address the disproportionate impact of time of use tariffs on these types of customers, EWOV believes that consideration should be given to the following:

- Electricity companies offering customers a choice of tariff, such as continuing on a single flat rate on a permanent basis.
- Introducing a flat rate 'social' tariff for eligible concession card holders, that is less than a retailer's cheapest market offer.
- Appropriate financial hardship programs and payment assistance schemes being made available.
- Government support to allow concession card holders to buy and install an in-house display free of charge to help inform them about how to shift their electricity use to cheaper times of the day.
- An increase in government concessions, grants and/or rebates in response to higher electricity costs.
- A broad public education campaign about how to realise any benefits under TOU tariffs.

EWOV also supports the Essential Services Commission (ESC)'s decision (outlined in the paper) that retailers recommend the most appropriate tariff to a customer in financial hardship and monitor the customer's payments, usage behaviour and circumstances.

3. THIRD PARTY SERVICE PROVIDERS

EWOV considers that the paper identifies several important issues concerning third party providers of electricity products (third party providers) which should be considered in the delivery of smart meters to consumers. However, EWOV has no direct experience in handling complaints about third party providers, as this lies outside of our jurisdiction to investigate.

⁴ It was reported in EWOV's 2010/2011 Annual Report that 8,566 customers raised a credit matter as their main issue of complaint, and a further 6,029 customers raised it as an associated issue. In 2010/2011, there was a 58% increase from 2009/2010 in cases about actual and imminent disconnection or restriction of supply for account arrears. See http://www.ewov.com.au/site/DefaultSite/filesystem/documents/PDF/Annual%20Reports/2011/9052_EWOV_2010_F2-web.pdf.

4. DEMAND MANAGEMENT – SUPPLY CAPACITY CONTROL, 5. DEMAND MANAGEMENT – DIRECT LOAD CONTROL

EWOV will comment jointly on supply capacity control (SCC) and direct load control (DLC) as they involve similar issues.

EWOV supports the SCER's policy position that SCC is prohibited as an alternative to disconnection for credit purposes, and that a customer in financial hardship will not be required to put an appliance on DLC. EWOV does not want to see SCC or DLC used as a proxy for credit control. Further, if energy retailers observe that a customer's electricity is being frequently turned-off via SCC or DLC, then they should contact the customer to see if they need support through a financial hardship program.

EWOV believes that DLC and SCC are effective methods to manage network supply and are an equitable way to get around the current cross-subsidising by the general community of high energy users during peak times. This method of network management is preferred to total supply control and mass disconnection. Nevertheless, customers need to have a broad understanding of how and when they use energy in their homes to receive the associated benefits.

EWOV finds that many customers are misled by marketers. In 2010/11, EWOV received 2,624 cases from customers concerned about the marketing of retail energy contracts – an increase of 141% in the last three years. We believe there is potential for further confusion with newer and more sophisticated energy products and technologies becoming available.

For a customer to give their explicit informed consent to a SCC or DLC contract, it is evident that they need to clearly understand the nature and consequences of the contract and the impact it will have on their household energy use and appliances. As stated above in 'Chapter 2 - New Pricing Arrangements', customer decision making is improved when customers are provided with an 'offer summary' in plain English at the time of sale. This should include the following additional SCC and DLR related information:

- A comparative table to show the advantages and disadvantages of SCC and DLC.
- A highlighted text box on the front page to inform customers that SCC and DLC can lead to appliances being turned-off, such as air conditioning units in summer.
- A warning that SCC and DLC may impact household appliances, potentially causing damage and loss.
- Advice for customers to check insurance cover in situations where damage to appliances is caused by SCC and DLC.
- Advice for customers to check the warranty periods for all household appliances.

- A standardised format, which is straightforward and consistent between retailers, distributors and third parties.

EWOV would like to see a warning system built into SCC and DLC products to notify a customer of an imminent reduction in supply to enable them to take immediate counter measures. With a customer's explicit informed consent, this notice could be delivered via the 'Home Area Network' (HAN), an SMS or an email, and be used again to advise when normal supply has resumed. When a reduction of supply occurs the period of reduction should be as short as possible.

6. CUSTOMER BILLING

EWOV's case handling experience informs us that customers seek transparent and accessible information to help them understand the basis of their bills, and check and manage their electricity consumption. In principle, a customer should be able to reconcile their bills against their meter. If customers are unable to verify their usage, they are more likely to query their bill and lose confidence in the accuracy of the smart meter - this may lead to increased complaints to distributors, retailers, government departments and EWOV.

As discussed in the paper, the ESC adopted a 'threshold approach' to indicating estimated and substituted data on a bill. Under section 4.2(e) of the *Energy Retail Code*, a bill must state whether 'an accumulated total of at least 48 hours of trading intervals are not billed on the basis of smart meter interval data'⁵. This allows a customer to be billed for two days on electricity usage figures that are estimations of what they actually used.

EWOV is not convinced by the arguments for a 'threshold' approach. If the SCER implements a threshold approach, it is implied that customers would not be notified of this on their bills. It is presumed that customers would only be told of any estimated or substituted data should they contact their retailer. There are good reasons why customers should have full disclosure of estimated and substituted data on their electricity bills:

- Full disclosure about the nature of interval meter data will increase long-term customer awareness and understanding of smart meters, their capabilities and their impact on bills.
- A customer's right to know how they are billed should not be compromised by deficient metering assets or billing systems outside of the customer's control.
- Emphasis should be placed on ensuring that technical equipment and systems are working accurately, which is the responsibility of a distributor and retailer respectively.

⁵ See <http://www.esc.vic.gov.au/NR/exeres/087F5E65-5A5D-4EC4-8CDC-CF4C847B92AC.htm>

- A threshold approach will lead to customer enquiries to retailer call centres and complaints to EWOV, as billing readjustments will create confusion if customers are not aware that a portion of their previous billing was estimated.
- Customer confusion caused by a threshold approach has the potential to be heightened when more people have in-home display units, which may show a usage figure quite different from that on the bill.

If bills based on smart meter data show that the volumes of estimated and substituted data are very small, then the AER may wish to reconsider the potential advantages and disadvantages of a 'threshold' approach at a later date.

EWOV suggests that to avoid customer confusion, estimated and substituted data should be universally referred to only as 'estimated data'.

7. CONSUMER ENGAGEMENT

EWOV supports the SCER's objectives for consumer engagement and agrees with the clear need for greater customer awareness about smart meters. This awareness should be informed by unified, consistent communications from both government and industry. The communications activities should begin before a roll-out in the targeted area and involve community consultation through meetings and forums advertised locally. This approach would particularly benefit people in regional and rural areas.

We suggest that when an area is scheduled for a meter exchange, customers are given comprehensive education and information about the following:

- Smart meter capabilities, particularly at the time of installation.
- How to access and interpret information from the different smart meter registers.
- How to buy and use an in-home display.
- How to shift electricity use to cheaper, off-peak times.
- Implications from the end of physical meter reads and the start of remote reads.
- The environmental benefits and potential reduction in greenhouse emissions.
- Why the roll-out has taken place - given that over time the costs of the roll-out will be passed to customers.

This information will better prepare a customer for their new meter. However, it should be provided again at the time of installation.

Customer confusion about smart meters is compounded by mixed media messages and varied government communications activity. EWOV supports the SCER's policy position that governments should have a co-ordinating role in consumer engagement about smart meters.

During the Victorian Government's review of the smart meter rollout, customers were allowed to postpone the smart meter installation until the findings of the Government's review were made. This increased the number of calls to EWOV from customers seeking advice about the rollout. Between 1 July 2009 and 31 December 2011, there were 1,584 cases about the smart meter exchange (see the graph on page 2). This issue is the top customer complaint about smart meters and represents 23% of all EWOV smart meter related cases for this period.

Staged approach to consumer engagement

EWOV agrees with the three staged approach to consumer engagement outlined in the paper to achieve consistent communications from government and industry working together.

Government and regulators can take a lead role in these areas:

- Explaining why the smart rollout has taken place and why the costs will be passed to customers.
- Community information sessions through meetings and forums advertised locally in the targeted area before the rollout begins.
- The AER's development of an independent price comparison website, expected on 1 July 2012.
- Developing a guideline to ensure that customers are provided with clear and easy to understand 'offer summary' statements before entering a contract.
- Energy efficiency advice and explaining how to shift electricity use to cheaper, off-peak times.
- Explaining the environmental benefits of the rollout and potential reduction in greenhouse emissions.

Energy distribution companies should take a lead role in the following areas:

- Producing communications materials about the smart meter rollout and functionality (such as letters, pamphlets, print and media advertising).
- Holding community information sessions through meetings and forums advertised locally in the targeted area before the rollout begins.
- Creating a smart meter telephone 'hotline' for consumers.
- Explaining how to shift electricity use to cheaper, off-peak times.
- Explaining how and where to buy and use an in-home display.

Energy retailers also have the opportunity to take a lead role in customer engagement. Often information is provided to customers during a marketing experience, either by door-to-door marketing or through telephone sales. There is a risk that this information may be intentionally

or inadvertently misleading about the smart meter rollout⁶. To improve the delivery of this information, retailers should adequately train and strictly monitor their sales staff, and regulators should take enforcement action for any non-compliance with the relevant law. This may include action by the ACCC under the Australian Consumer Law.

EWOV also suggests that call centre staff are better equipped to deal with customer queries about smart meters through better training both in processes and in building customer relationships. It is equally important however, that customers get easy access to specialised smart meter staff.

8. CUSTOMERS' ACCESS TO DATA THROUGH THE HOME AREA NETWORK (HAN)

In time, a variety of information will be transferred from retailers and distributors to customers via the HAN on to a web portal or in-home display unit. While in principle EWOV supports HAN messaging for properties with smart meters, we have reservations about providing customers with important information using this channel, especially in time critical circumstances. EWOV believes that there should be a restriction on sending the following information to customers via the HAN, as there is a risk that it may not be timely received:

- Disconnection warning notices.
- Reminder notices.
- Marketing information, unless the customer's explicit informed consent is given.
- Price increases, unless the customer's explicit informed consent is given.
- Changes to contract terms, unless the customer's explicit informed consent is given.

In-home display units for properties with smart meters should be encouraged to empower customers with real time information about their energy use. There are a few products on the market currently costing less than \$100, and it would typically take an electrician about one hour to install the unit⁷. The SCER could also consider the possibility of subsidies to low income groups to help purchase in-home displays.

Customer access to their own usage data via an in-house display unit or web portal should be provided free of charge. There should be no registration fee for HAN connection via a web portal, an in-house display or other device.

⁶ In 2010/11, EWOV identified 113 cases where customers stated that a marketer used information about smart meters to mislead or confuse them.

⁷ See the Clipsal Cent-a-Meter - <http://www.clipsal.com/homeowner/products> and the Efergy Meter - <http://www.efergy.com/>

Further, with a customer's explicit informed consent, the HAN provides an opportunity for the government or regulators to deliver information about energy efficiency and available government assistance.

9. PRIVACY CONSIDERATIONS

As an interested party, EWOV would like to be consulted on the Privacy Impact Assessment as it is developed further, to understand the privacy issues arising from the collection of data from smart meters.

10. INDEPENDENT DISPUTE RESOLUTION FOR CUSTOMERS

The paper considers whether any third party providers of electricity products, such as DLC through the HAN, should be required to become members of the relevant energy Ombudsman scheme. In Victoria, consumers who have problems with third party providers can contact Consumer Affairs Victoria (CAV) and the Australian Competition and Consumer Commission (ACCC), or file an application with the Victorian Civil and Administrative Tribunal (VCAT).

EWOV is a not-for-profit company limited by guarantee, and legally separate from, and independent of, the energy and water companies and government. EWOV's Board is responsible for business affairs and property of the company, including corporate governance and the Ombudsman is responsible for the day-to-day operation of EWOV as an external dispute resolution scheme. Any decision to extend EWOV's jurisdiction to include third party providers would be made by EWOV's Board.

EWOV is not in an informed position to consider extending our jurisdiction to third party providers. If the SCER would like EWOV to consider this matter, we strongly believe that a government funded, independent feasibility study is required for our Board to make an informed and sound decision. There are complex issues involved in extending EWOV's jurisdiction which require careful consideration, including:

- the full number and type of third party providers expected to become new members of EWOV
- the type and characteristics of the customers serviced by the third party providers
- an appropriate and equitable charging model to fund EWOV's services
- a suitable start-up cost for entry into the scheme
- a suitable membership category basis for such entry
- voting rights and company representation
- estimated complaint and enquiry numbers
- the number and type of customer complaints about third party providers handled by CAV, ACCC and VCAT

- the potential impact on the financial and operational stability of EWOV
- the changes in EWOV's policies, processes and systems needed for complaint handling
- the enforcement of EWOV's case handling policies and decisions through a clear regulatory framework
- the human, administrative, training, and other resource impacts on EWOV
- EWOV Charter and Constitution changes
- a communications strategy to inform the customers of third party providers about EWOV.

At this time, EWOV is satisfied that the consumer protections afforded by CAV, ACCC and VCAT are sufficient to help consumers who have problems with third party providers of electricity products, but welcomes any direct discussions with the SCER.

11. METERING INSTALLATIONS AND CUSTOMER IMPACTS

From 1 July 2009 to 31 December 2011, EWOV received 28 cases where a customer's electricity supply was disconnected as a consequence of a safety defect found at the time of installing a smart meter. In the same period, EWOV received 1,584 cases about the smart meter exchange, and many of these complaints were from customers who received a defects notice⁸.

The obligation is on the property owner to fix a defect notice before, and sometimes after, a smart meter is installed. Most low-income and disadvantaged people live in houses that they do not own, such as public housing or private rentals, and therefore would not usually pay for any rectification costs. Property owners should welcome any advice that there is a potential safety problem with the electrical wiring at their property - the concern is the immediate and unexpected expense of fixing the problem, especially when the electricity supply will be disconnected if the defect is not fixed. This then presents itself as a financial cash-flow problem.

The most vulnerable people would be low income groups who own their home, such as pensioners. EWOV welcomes any support from government or industry to help these people with the costs of fixing defects. This may include partial or full payment depending on the extent (or 'level') of the defect, and extended payment terms for the costs of rectification, where the works are undertaken by a distributor or its contractor.

In Victoria, if a concession card holder receives a defect notice, the Department of Human Services may help with paying the rectification costs for 'Level 1' and 'Level 2' defects. Customers should also contact their local distributor to explain their circumstances and see if any other assistance is available.

⁸ EWOV does not have a distinct case issue category about customers having to rectify a defect notice issued when a smart meter is installed.

12. RADIOFREQUENCY EMISSIONS AND SMART METERS

From 1 July 2009 to 31 December 2011, EWOV received 89 cases from customers concerned about radiofrequency issues arising from smart meters. The number of EWOV cases for each issue is set out in the below table:

Smart meter issue	Number of EWOV cases from 1 July 2009 to 31 December 2011
Electromagnetic field (EMF) safety	82
Noise interference	4
Appliance interference	3

The number of cases EWOV has received about EMF safety suggests that Victorians have some widespread concerns about smart meter safety. EWOV believes that there is a role for both industry and government in clearly and effectively communicating the safety standards which apply to radiofrequency emissions and smart meters.

13. REMOTE ENERGISATION/RE-ENERGISATION AND CUSTOMER SAFETY

EWOV would like to see an 'instructions sticker' on or next to all smart meters which explains in clear, plain English:

- how the smart meter works
- how to safely re-energise supply from the 'arm position'
- the importance of turning off all appliances before energisation or de-energisation.

This information should also be provided in an information brochure or letter at the time of the smart meter installation.

14. NATIONAL MINIMUM FUNCTIONALITY AND EMBEDDED GENERATION

EWOV is not aware of any areas where the minimum functionality of smart meters inhibits the use of embedded generation, such as solar photovoltaic systems.

We trust that the above comments are helpful. Should you require further information please contact Justin Stokes, Senior Research and Communications Officer on (03) 8672 4272.

Yours sincerely



Cynthia Gebert
Energy and Water Ombudsman (Victoria)