



10 September 2014

Marcus Crudden
Acting Director, Water
Essential Services Commission
Level 37, 2 Lonsdale Street
MELBOURNE VIC 3000

By email: water@esc.vic.gov.au

Dear Mr Crudden

Re: ESC Proposed Amendment to the Hardship Related Guaranteed Service Level — Minimum 'reasonable endeavours' Checklist

Thank you for the opportunity to comment on the Essential Services Commission (ESC)'s *Proposed Amendment to the Hardship Related Guaranteed Service Level — Minimum 'reasonable endeavours' Checklist* (the Proposed Amendment).

The Energy and Water Ombudsman (Victoria) (EWOV) is an industry-based external dispute resolution scheme, which provides alternative dispute resolution services to Victorian energy and water customers by receiving, investigating and facilitating the resolution of complaints.

EWOV's comments are based on our experience in handling water affordability and restriction cases and assessing whether the Hardship Related Guaranteed Service Level (GSL) is payable. This submission provides EWOV case data and case analysis, and explains EWOV's view that the 20 business day timeframe in the Proposed Amendment should consistently apply to all customers so that they are contacted within a reasonable time before the restriction of their water supply.

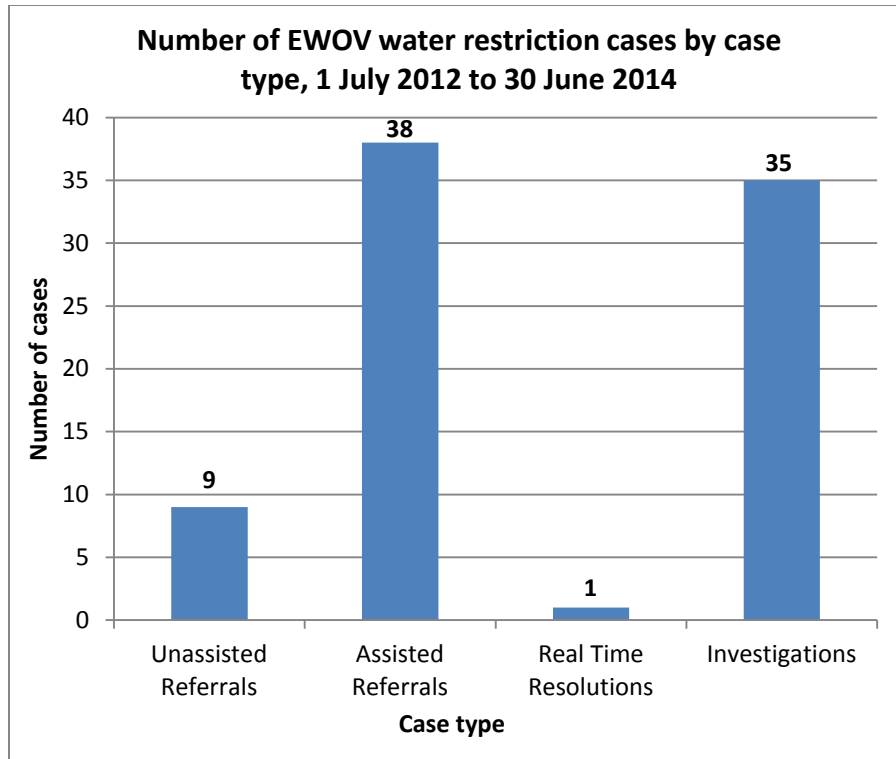
EWOV's case handling experience

In the two-year period since the GSL was introduced to all water corporations, from 1 July 2012 to 30 June 2014, EWOV received 83 cases where customers had their water supply restricted due to unpaid bills. The chart below shows the breakdown of these water restriction cases by EWOV case type.

Energy and Water Ombudsman
(Victoria) Limited
ABN 57 070 516 175
GPO Box 469
Melbourne VIC 3001

Administration
Melbourne VIC 3000
Telephone 03 8672 4460
Facsimile 03 8672 4461

Enquiries and Complaints
Freecall 1800 500 509
Freefax 1800 500 549
TIS 131 450
NRS 133 677
Email ewovinfo@ewov.com.au
Web www.ewov.com.au



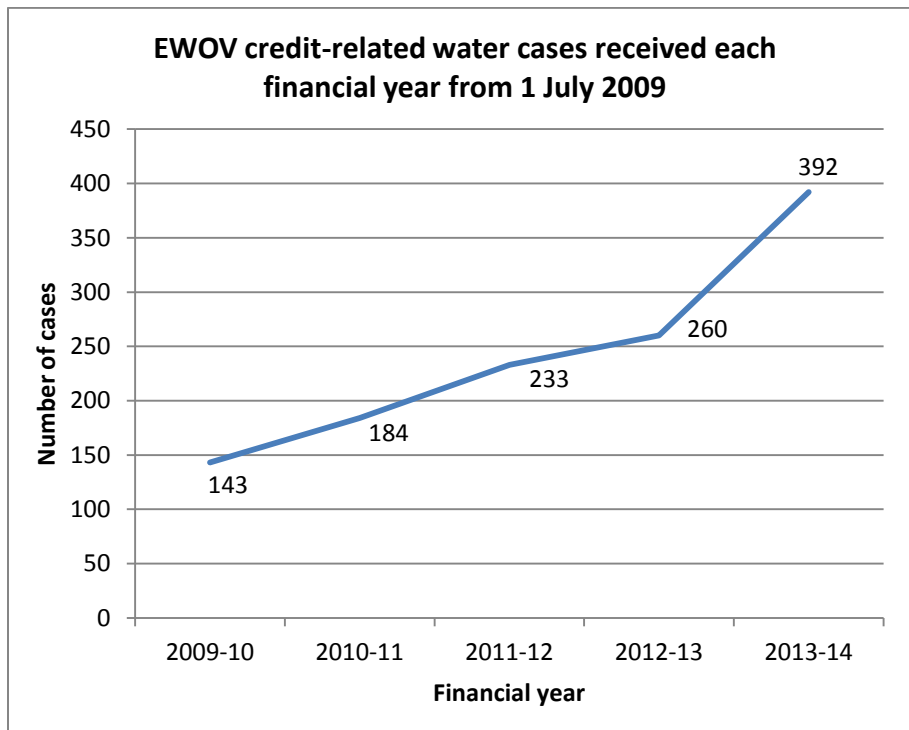
In analysing the 83 water restriction cases, we found that:

- 35 cases (42%) went to an EWOV Investigation where we assessed the GSL, with the following outcomes:
 - the GSL was payable in eight cases
 - the GSL was voluntarily paid by the water corporation without an admission of liability in 10 cases¹
 - the GSL was not payable in 13 cases as the water corporation had followed the correct procedure in restricting the customer's supply
 - the GSL did not apply in four cases.
- In eight of the 38 Assisted Referrals (21%) the customer came back to EWOV because their complaint was not resolved with their water corporation after we had escalated the complaint to a higher level contact at the corporation. EWOV then opened an Investigation.

¹ EWOV takes a resolution-focused approach to complaint handling rather than enforcing regulatory compliance, which means that the GSL can be voluntarily paid by a water corporation without EWOV investigating all the steps taken in the Checklist.

- In nine cases, the customer had not contacted their water corporation and so EWOV provided advice, asked the customer to contact their corporation and raised an Unassisted Referral.
- Customer account arrears when EWOV opened an Investigation varied from \$248 to \$7,082, with \$2,228 being the average account arrears across the 35 Investigations.

The graph below shows the number of EWOV credit-related water cases² received each financial year from 1 July 2009.



The number of credit-related water cases increased by 51% in the last financial year — from 260 cases in 2012/13 to 392 cases in 2013/14. The EWOV credit case category is about the capacity of customers to pay their bills and stay on supply, so to have 392 water customers in 2013/14 contacting us for help with a credit issue is an indication of the growing issue of water affordability, despite the introduction of the water GSL.

The number of credit-related water cases grew from 143 cases in 2009/10 to 392 cases in 2013/14 – an increase of 174% over four years. As a comparison, EWOV’s overall cases grew by 99% over the same period.

² Credit cases to EWOV include restriction of supply, payment difficulties and debt collection cases.

The Proposed Amendment

EWOV welcomes the change to Step 4(a) and Step 5 of the Minimum 'reasonable endeavours' Checklist (Checklist) to include a 20 business day timeframe within which a water corporation should attempt to contact a customer before restricting their water supply.

This Proposed Amendment addresses the scenario where a water corporation is having difficulty contacting a customer about the imminent supply restriction. It requires the water corporation to make a further attempt to contact the customer and within 20 business days before the supply restriction. EWOV believes this is a reasonable amount of time. Any longer timeframe would lack immediacy for a customer and the supply restriction could be unexpected.

Consistency for all water customers

The Checklist is essentially procedural, so it should protect all customers in the same way by setting out a suitable process to be followed for water restrictions and ensuring that affordability issues are addressed. EWOV believes that the 20 business day timeframe in the Checklist should consistently apply to all customers before their water supply is restricted, including those who have had two or more previous interactions with their water corporation.

The same 20 business day timeframe rationale should be considered at Step 4 of the Checklist, particularly when Step 5 of the Checklist can take place on the day of the water restriction – as explicitly stated in the Checklist notes.

Once a water corporation has contacted a customer twice under Step 4, there is no similar requirement to contact them again within 20 business days of the restriction. Based on EWOV's case handling experience, we can envisage a scenario where a water corporation makes two successful contacts at Step 4, no payment plan is agreed or maintained with the customer, and then the water corporation restricts the customer's water supply some time later, perhaps after several weeks or months.

The approach with energy disconnections

The addition of a 20 business day timeframe at Step 4 would align the Checklist's underlying procedural principles with the 'reasonable endeavours' requirements under the harmonised *Energy Retail Code (version 11)*³ – all Victorian customers should be contacted within a month before the disconnection of their energy supply. EWOV believes that the same procedural principles should apply for all water restrictions.

³ See <http://www.esc.vic.gov.au/getattachment/8b714a10-87c5-4178-b82a-3627186b5c4c/Energy-Retail-Code-version-11.pdf>.

Currently, there are two Energy Retail Codes operating in Victoria, each with slightly different approaches to ‘reasonable endeavours’ to contact a customer before an energy disconnection. They are as follows:

- *Energy Retail Code (version 10a)*⁴ — Clause 13.2(a)(ii) states that energy retailers must make ‘reasonable endeavours’ to contact customers *without sufficient income* before an energy disconnection and Appendix A(2)(i) of the *Operating Procedure Compensation for Wrongful Disconnection*⁵ explains that the contact must be within a month before disconnection.
- *Energy Retail Code (version 11)*⁶ — Clause 111(1)(e) states that energy retailers must make ‘reasonable endeavours’ to contact *all* customers before an energy disconnection and Appendix A(2)(g) of the updated *Operating Procedure Compensation for Wrongful Disconnection*⁷ explains that the contact must be within a month before disconnection.

The new *Energy Retail Code (version 11)* comes into full effect on 13 October 2014 and harmonises Victorian energy codes and guidelines, to the extent possible, with the National Energy Customer Framework (NECF)⁸.

Taking into account potential inconsistencies in the Checklist and the increase in EWOV water affordability cases, we would welcome the ESC’s review of the Proposed Amendment to also include the 20 business day timeframe at Step 4 of the Checklist.

We trust that these comments are useful. Should you require further information or have any queries, please contact Justin Stokes, Senior Research and Communications Advisor on (03) 8672 4272.

Yours sincerely



Cynthia Gebert
Energy and Water Ombudsman (Victoria)

⁴ See <http://www.esc.vic.gov.au/Energy/Compliance/Energy-Retail-Code>.

⁵ See <http://www.esc.vic.gov.au/getattachment/22ce8803-a056-42be-8cbc-4f9ed44c7359/Final-Operating-Procedure-Wrongful-Disconnection-C.pdf>.

⁶ See <http://www.esc.vic.gov.au/getattachment/8b714a10-87c5-4178-b82a-3627186b5c4c/Energy-Retail-Code-version-11.pdf>.

⁷ See <http://www.esc.vic.gov.au/getattachment/22ce8803-a056-42be-8cbc-4f9ed44c7359/Final-Operating-Procedure-Wrongful-Disconnection-C.pdf>.

⁸ See <http://www.esc.vic.gov.au/energy/harmonisation-of-energy-retail-codes-and-guideline>.