



12 March 2014

The Essential Services Commission
Level 37, 2 Lonsdale Street
Melbourne VIC 3000

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

Dear Sir/Madam

Re: Macquarie Bank Limited Victorian Electricity Retail Licence Application

Thank you for the opportunity to comment on Macquarie Bank Limited (Macquarie Bank)'s Victorian Electricity Retail Licence Application prepared for the Essential Services Commission (ESC) (Licence Application).

The Energy and Water Ombudsman (Victoria) (EWOV) is an industry-based external dispute resolution scheme that helps Victorian energy and water consumers by receiving, investigating and facilitating the resolution of their complaints. EWOV's interest in responding to the Licence Application is based on our experience in handling customer complaints.

In summary, EWOV's view is that all Victoria energy customers should have access to a recognised External Dispute Resolution (EDR) scheme, regardless of their size. The only scheme recognised in Victoria is EWOV and therefore, EWOV recommends that Macquarie Bank's licence is only approved if it becomes a member of the EWOV scheme. Further explanation of EWOV's view is outlined below.

Macquarie Bank's Licence Application

EWOV notes in the submitted Licence Application that Macquarie Bank does not intend to pursue membership of EWOV¹. The Licence Application advises that it is not necessary for Macquarie Bank to become a member of the EWOV scheme because we are designed to protect the interests of small market customers. Macquarie Bank explains that it intends to

¹ Page 16 of Macquarie's Licence Application <http://www.esc.vic.gov.au/getattachment/2b99e09a-8166-472d-8045-8808329a4b48/Licence-Application-Macquarie-Bank-Limited.pdf>

contract with large market customers who can negotiate and agree to an appropriate dispute resolution procedure directly with Macquarie Bank.

EWOV notes that it is a condition of every electricity, gas or water licence issued in Victoria by the Essential Services Commission (ESC), that the licensee enters into an approved customer dispute resolution scheme². EWOV is the only ESC-approved energy and water Ombudsman scheme in Victoria and we remain concerned that if Macquarie Bank's application is approved, and the company is not required membership of our scheme, its customers will not have access to an independent and external dispute resolution process- this requirement is made very clear under the Electricity and Gas Industry Acts. EWOV's purpose is to ensure all Victorians have equal access to free, informal and expeditious external dispute resolution services to help resolve concerns with their energy and water companies.

EWOV's current jurisdiction

While EWOV mostly assists small market customers resolve their disputes with their energy companies, we also investigate complaints that are raised by large market customers. Complaints are registered based on our jurisdiction, as set out in our Charter³, regardless of the customer's size. The Ombudsman does have the discretionary power to decline to investigate a complaint if in the opinion of the Ombudsman it is more appropriately or effectively dealt with by another other body⁴. This can occur for some large customers where EWOV believes that the complaint would be able to be better resolved between the customer and the energy retailer directly⁵ or via another forum, such as through the Small Business Commissioner.

As noted above, EWOV already receives and investigates customer complaints involving large customers and their energy retailers. Our case handling experience indicates that even large market customers experience difficulty resolving disputes with their energy providers. Some common complaints received from these customers include issues about the demand or network tariff, contract terms and conditions, or billing and payment issues.

EWOV would expect Macquarie Bank to have an established and effective internal dispute resolution (IDR) process in place. However, as a member of EWOV's scheme, we would be able to offer both Macquarie Bank and its customers an alternative should its IDR processes fail.

EWOV currently has a number of members that have a business model with interests solely in having large businesses as customers and we work with these companies to ensure

² Section 28 of the Electricity Industry Act 2000 and section 36 of the Gas Industry Act 2001.

³Section 4 page 4 of the EWOV Charter: http://ewov.com.au/_data/assets/pdf_file/0017/4517/EWOV-Charter_30May2006.pdf

⁴Section 6.3 page 7 of the EWOV Charter.

⁵Given the resources available to that customer.

collaboration. For example, when ERM Power entered the market in 2012, and became a member of EWOV's scheme, as per its licence requirements, EWOV liaised with it to discuss in practice how our office would receive and investigate complaints from large customers. EWOV would naturally extend the same offer to Macquarie Bank upon membership to the EWOV scheme.

We trust that these comments are useful. Should you require further information or have any queries, please contact Belinda Sandilands, Senior Research and Communications Advisor on (03) 8672 4282.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Cynthia Gebert', with a stylized flourish at the end.

Cynthia Gebert
Energy and Water Ombudsman (Victoria)