



1 May 2015

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

By email: [energyhardshippreview@esc.vic.gov.au](mailto:energyhardshippreview@esc.vic.gov.au)

Dear Sir/Madam

**Re: *Inquiry into the Financial Hardship Arrangements of Energy Retailers – Our Approach***

Thank you for the opportunity to comment on the Essential Services Commission's (ESC) *Inquiry into the Financial Hardship Arrangements of Energy Retailers – Our Approach* paper.

As an industry-based external dispute resolution scheme, the Energy and Water Ombudsman (Victoria) (EWOV) provides alternative dispute resolution services to Victorian energy and water customers by receiving, investigating and facilitating the resolution of complaints. Our comments in this submission are based on our experience handling complaints about financial hardship and disconnection, which are requiring an increasing share of EWOV resources. We are concerned by these trends and so welcome this inquiry and its focus on retailer hardship practices and the associated regulatory framework.

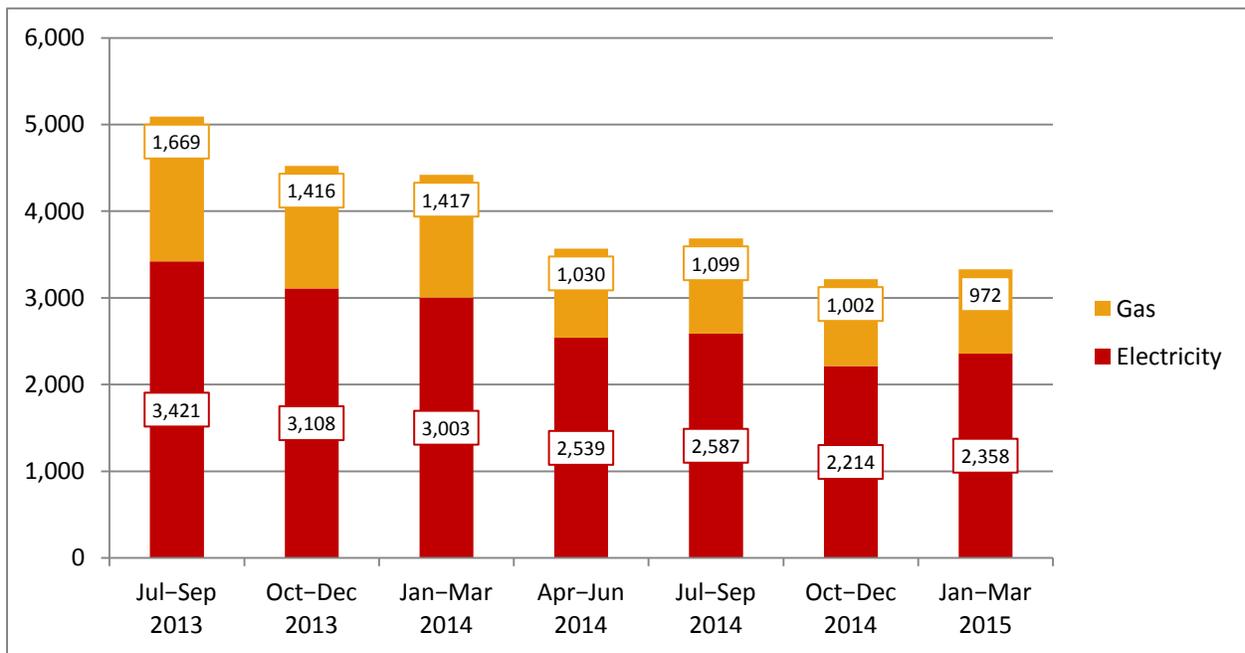
In response to complaint trends and growing public and policy interest in energy affordability and financial hardship issues, we have recently increased analysis and reporting on these themes, introducing a new [Quarterly EWOV Affordability Report](#) and, in March 2015, releasing the research report [A closer look at affordability: An Ombudsman's perspective on energy and water hardship in Victoria](#) (attached as an appendix). The latter sets out EWOV's assessment of how energy retailer financial hardship programs are operating and identifies five key areas for improvement to pre-disconnection practices, hardship programs and the more general support for customers experiencing payment difficulty or hardship. The report also includes recommendations directed at both energy retailers (and water companies) and government and regulators. This submission should be read together with *A closer look at affordability*, which details EWOV's position on several of the specific issues identified in the inquiry's Terms of Reference and *Our Approach* consultation questions.

Our comments in this submission relate to the inquiry’s Terms of Reference and the consultation questions included in the *Our Approach* paper, and as such, they focus on retailer practices and the regulatory framework. EWOV acknowledges, however, that an effective response to the broader energy affordability issue also requires the action from other stakeholders and involves other government programs and policy areas, such as energy efficiency programs and social policy.

**EWOV credit case trends**

EWOV categorises as “credit” cases those that have to do with unpaid bills and the action taken to collect arrears; essentially, the capacity of customers to pay bills and stay on supply. The credit category includes the sub-issues of payment difficulties, collection and disconnection. EWOV credit cases have risen substantially over recent years. Specifically, energy credit cases increased by 211% over the five-year period from 2009-10 to 2013-14. Energy credit cases remain at much higher levels than in 2009-10, even though they have decreased and stabilised in recent quarters (**Figure 1**).

**Figure 1. EWOV electricity and gas credit cases, July–September 2013 to January–March 2015**



**Figure 1** shows energy credit cases peaking in the July–September quarter of 2013, during which we received just over 5,000 such cases. After this peak, cases decreased over the following three quarters, remaining fairly stable since the April–June 2014 quarter. In the most recent quarter, January–March 2015, we received 3,330 cases primarily about an energy credit issue.

Although energy credit cases are now at only 65% of July–September 2013 levels, affordability issues are nevertheless consuming an increasing proportion of EWOV’s resources. The percentage of total EWOV cases primarily about a credit issue rose from 14% in 2009-10 to 21% in 2013-14. More recent quarterly data shows that this trend is continuing (**Table 1**).

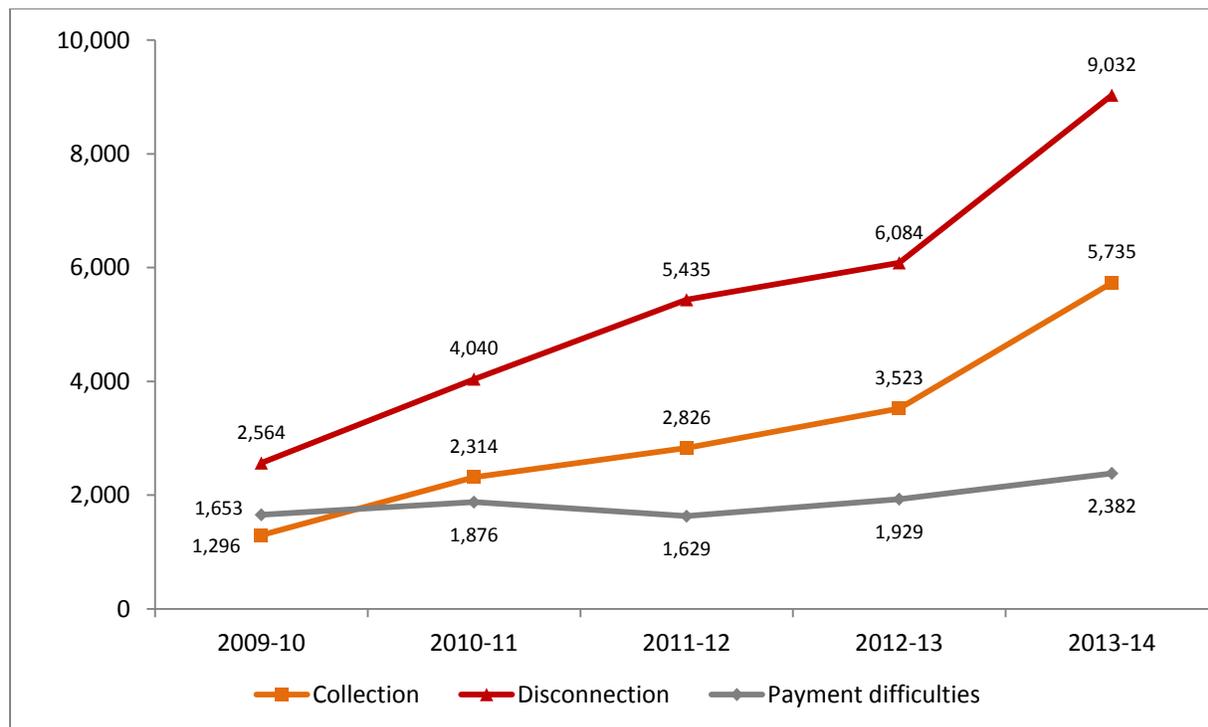
**Table 1. Credit cases as a proportion of total EWOV cases, January–March 2014 to January–March 2015**

	Jan–Mar 2014	Apr–Jun 2014	Jul–Sep 2014	Oct–Dec 2014	Jan–Mar 2015
<b>Credit cases</b>	4,519	3,724	3,799	3,310	3,430
<b>Total cases</b>	19,688	15,499	16,132	12,925	11,285
<b>%</b>	23%	24%	24%	26%	30%

In January–March 2015, one in three EWOV cases was about a credit issue – a marked increase over the previous quarter, during which 26% of cases concerned credit.

As credit cases have increased over recent years, we have also seen shifts in the types of credit cases we most commonly receive. **Figure 2** shows five-year energy case trends for the three credit sub-issues of collection, disconnection and payment difficulties.

**Figure 2. Energy credit cases by sub-issue, 2009-10 to 2013-14**



As **Figure 2** shows, the most dramatic increase was in collection cases, which grew 343% over the period. Disconnection cases (imminent and actual), also increased markedly, up 252%. Payment difficulties cases also increased, but not as rapidly – up only 44% between 2009-10 and 2013-14. As credit cases have increased over the period, then, the proportion concerning the arguably more serious issues of disconnection and collection has increased, which is a worrying trend.

### ***EWOV's approach to hardship cases***

As noted above, our comments in this submission are based on our alternative dispute resolution experience. We receive, investigate and resolve large numbers of complaints about financial hardship, where customers have difficulty paying for the electricity and gas that they are using. Often, these customers have accumulated large debts; they may also have had their electricity and/or gas supply disconnected, or have been warned that this is about to occur.

EWOV approaches all complaints with the objective of achieving a fair and reasonable outcome. Our consideration of what is “fair and reasonable” in a particular case encompasses law and regulations, but is not limited to them. Taking laws and regulations into account as minimum standards, EWOV conciliators also consider, for example, good energy industry practice, other industry practice, and what the “person in the street” would think to be fair.

In financial hardship complaints, sustainability is another crucial resolution objective. To resolve these complaints sustainably, EWOV may ask retailers to consider offering assistance that helps to bridge gaps between the customer’s capacity to pay and their energy use, and/or assistance that is staged to meet intermediate goals or in anticipation of changed future circumstances. For example, we may ask a retailer to consider helping to repair or replace damaged or inefficient appliances; place some or all debt temporarily on hold; offer an incentivised payment plan; or accept a subsidised payment plan (i.e. one that does not match consumption) for a specified period.

### ***Retailers' hardship policies and practices***

The ESC’s *Approach Paper* identifies eight financial hardship best practice themes: early identification, resource efficiency help, information provision, staff training, partnerships, a sensitive and flexible approach, program review, and organisation-wide support. These themes are broadly aligned with EWOV’s perspective on how retailers can best assist customers in financial hardship, as detailed in *A closer look at affordability*. Good communication and customer engagement is essential, both at the contact centre level and within hardship teams. While creating and maintaining engagement with customers in financial hardship can be challenging, a flexible approach and helpful, empathetic manner are most likely to be successful. In turn, this requires trained and knowledgeable staff.

Hardship programs should be accessible: retailers should not impose barriers to entry which delay assistance and can exacerbate problems. Once customers are participating, hardship programs work most effectively when the assistance offered is tailored to individual circumstances.

EWOV's view is that the core objective of any hardship program should be achieving a sustainable arrangement that enables the customer to remain on supply while managing their consumption and meeting their financial obligations. Energy efficiency assistance can help customers to bring their consumption into line with what they can afford to pay and is often a crucial component of hardship support. Achieving a sustainable outcome can also require a flexible and staged approach with, for example, initial goals, periodic review, and the capacity for changed or increased support where circumstances change or the initial approach is not working.

In our work on financial hardship cases, we do see examples of good practice where, either before or as a result of EWOV's involvement, retailers have provided assistance that meets the expectations outlined above. However, our general observation is that energy retailers could do more to assist customers experiencing financial hardship. In *A closer look at affordability*, we highlighted the need for fundamental changes to industry practice as part of an overall response to energy affordability issues. In particular, we made ten recommendations for improvement to retailers' hardship programs, as well as to their pre-disconnection processes and approach to negotiating affordable payment plans (either within formal hardship programs or at an earlier stage). The recommendations are that companies:

1. Focus internal and external communications towards early customer engagement and the active provision of hardship support.
2. Train contact centre staff to develop better relationships with customers and cultivate a broader understanding of affordability issues.
3. Focus on individual customer circumstances to provide more tailored and sustainable financial hardship support.
4. Provide sustainable payment plans based on a fair and appropriate assessment of a customer's "capacity to pay".
5. Remove any barriers to entry into hardship programs, such as asking customers to first see an external financial counsellor or show a "willingness to pay" before the provision of hardship support.
6. Refresh energy efficiency programs, with a view to providing more onsite home energy audits.
7. Review company procedures and processes to ensure that customers have easy access to hardship programs and information about the support available.

8. Provide customers with the required level of hardship support before disconnecting or restricting their supply and therefore reduce the high proportion of Wrongful Disconnection Payments which are made.
9. Stop putting unreasonable conditions on the reconnection of energy supplies, such as requiring a significant payment of arrears, and instead assess the disconnected customer's "capacity to pay" and negotiate a sustainable payment plan.
10. Engage early with customers by providing financial hardship support and information before referring account arrears to debt collection.

### ***Regulatory framework***

An appropriate regulatory framework setting out, monitoring, reporting on and enforcing minimum standards is a crucial component of an effective overarching approach to energy financial hardship and disconnection issues. EWOV's case handling experience suggests that this framework is not currently working optimally.

EWOV's Wrongful Disconnection Payment (WDP) data provide one clear indication of this. Where a retailer has disconnected a customer's energy supply without complying with the terms and conditions of the customer's contract, they are required to make a payment to the customer. Not all customers who experience supply disconnection approach EWOV; however, where they do, we open a WDP assessment to determine whether the WDP is payable.

EWOV WDP assessments have been increasing each year, reflecting the increase in EWOV disconnection cases. In 2013-14, we completed 2,396 WDP assessments. In 71% of these, either the retailer either agreed with EWOV's assessment that a WDP was payable (36%), or agreed to make an equivalent payment to the customer without admitting any breach (35%). Of the 872 cases in which we assessed the WDP to be payable due to a breach, 322 (or 37%) involved breach of one or more hardship-related provisions of the *Energy Retail Code* (Version 10). A *closer look at affordability* includes a detailed breakdown of the particular breaches.

Because EWOV's WDP data relates only to those disconnections where a customer contacts us with a complaint, it does not allow us to draw conclusions about the proportion of disconnections that do not comply with *Energy Retail Code* provisions. However, the data does show that non-compliant disconnections are not uncommon. EWOV's experience with WDP assessments also indicates that retailers do not routinely self-assess their disconnections for compliance.

Similarly, in working with retailers on hardship and disconnection cases, EWOV conciliators sometimes find that while the *Energy Retail Code* identifies a range of hardship support mechanisms which can be very effective when they are used – such as home audits, appliance replacement, and ensuring that the customer is on the most appropriate tariff – retailers do not always have the mechanisms in place for these to actually be offered to customers. As noted above, we have recommended a renewed focus on energy efficiency programs, including onsite home energy audits. There may be scope for change to the regulatory framework which encourages or supports retailers to achieve this.

We hope the above comments are helpful. Should you require further information or have any queries, please contact Caitlin Whiteman, Senior Research and Communications Officer, on 03 8672 4273 or at [caitlin.whiteman@ewov.com.au](mailto:caitlin.whiteman@ewov.com.au).

Yours sincerely

A handwritten signature in black ink, appearing to read 'Cynthia Gebert', followed by a long horizontal flourish.

**Cynthia Gebert**  
**Energy and Water Ombudsman (Victoria)**