

Approval of a customer dispute resolution scheme for the purposes of the General Exemption Order 2017

Energy and Water Ombudsman (Victoria) Limited

19 March 2018

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Executive summary

The commission has approved Energy and Water Ombudsman (Victoria) (EWOV) Limited as a customer dispute resolution scheme for the purposes of the General Exemption Order 2017 (the Order). The Order is a legislative instrument made under section 17 of the Electricity Industry Act 2000 (the Industry Act) that determines which activities are exempt from the requirement to hold an electricity licence and outlines the conditions that must be met for the exemption to apply.

Under clause 11(1) of the Order, it is a condition for persons with retail or distribution licence exemptions to enter into a customer dispute resolution scheme approved by the commission.

This condition comes into effect on 1 July 2018.¹

Clause 11(2) of the Order provides that in approving a customer dispute resolution scheme, the commission must have regard to the matters set out in section 28(2) of the Industry Act, with any necessary changes. This includes the objectives of the commission under the Industry Act and the Essential Services Commission Act 2001 (the Commission Act).

On 12 December 2017, EWOV applied to the commission to be approved as a customer dispute resolution scheme for the purposes of the Order. EWOV's application details how it believes it meets the criteria the commission must consider when approving a customer dispute resolution scheme.

The commission published a notice on its website on 29 January 2018 and in The Age newspaper on 30 January 2018. We invited submissions relevant to the application, that is, within the scope of the matters we are required to consider under the Industry Act, by 5.00 pm Friday 16 February 2018. Three submissions were received.

Taking into consideration EWOV's application, the submissions received and the matters required under the Electricity Industry Act 2000, the commission is satisfied that EWOV has the capacity for its scheme to:

- be accessible to the customers of exempt persons and have no cost barrier for customers to use the scheme
- be independent of the members of the scheme
- be fair and be seen to be fair

¹ Clause 2(2) of the General Exemption Order 2017.

- publish decisions and information about complaints received so as to be accountable to the members of the scheme and their customers
- undertake regular reviews of its performance to ensure it is efficient and effective.

The commission is also satisfied that approving EWOV as a dispute resolution scheme for the purposes of the Order is consistent with the commission's objectives under the Industry Act and the Commission Act.

Commission decision

The commission decided that in accordance with clause 11 of the General Exemption Order 2017, and section 28(2) of the Electricity Industry Act 2000, the Energy and Water Ombudsman (Victoria) Limited be approved as a customer dispute resolution scheme for exempt persons.

Introduction

Customers of electricity providers exempt from the requirement to hold a licence in Victoria do not currently have access to a free external dispute resolution scheme.

Exempt persons are persons who are exempt from a requirement to obtain an electricity licence to undertake the generation of electricity for supply or sale, transmission, distribution or supply, or sale of electricity in Victoria. The exemptions are made by legislative instrument known as an order-in-council, which is made under section 17 of the Electricity Industry Act 2000.

In 2015, the Victorian Government announced a review of the regulatory framework governing electricity licence exemptions. In August 2017, the government announced it would implement a new regulatory framework for exempt electricity providers.²

The General Exemption Order 2017, published on November 2017, outlines the type of persons and activities that may be exempt from the requirement to obtain a licence. It outlines conditions that must continue to be met for the benefit of exemption to apply.

One of these conditions is that exempt persons with a retail or distribution exemption must become a member of a customer dispute resolution scheme approved by the commission.³

This condition creates stronger protections for electricity customers of exempt persons by providing access to an external and independent dispute resolution body, as is currently the case for customers of licensed entities.

² Victorian Government, Department of Environment, Land, Water and Planning, 2017, Review of the Victorian Electricity Licence Exemptions Framework – Final Position Paper, August 2017.

³ Clause 11(1) of the General Exemption Order 2017.

The application

On 12 December 2017, Energy and Water Ombudsman (Victoria) Limited applied to the commission to be approved as a customer dispute resolution scheme for the purposes of the General Exemption Order 2017.

The applicant

EWOV, a company limited by guarantee, is separate from and independent of its members and government.

The EWOV scheme operates as an independent, industry-funded ombudsman.

It is the commission approved customer dispute resolution scheme for the licensed energy industries (transmission, distribution, and retail), water industry and liquefied petroleum gas (LPG).

Consideration of the application

Matters the commission must consider

Clause 11(2) of the Order specifies that in approving a customer dispute resolution scheme, the commission must have regard to the matters set out in section 28(2) of the Industry Act, with any necessary changes. The matters are as follows:

- a) The commission's objectives under the Electricity Industry Act 2000 and under the Essential Services Commission Act 2001.
- b) **Accessibility:** the scheme needs to be accessible to the exempt person's customers and there must be no cost barriers to their customers using the scheme.
- c) **Independence:** the scheme must be independent of the members of the scheme.
- d) **Fairness:** the scheme needs to be fair and be seen to be fair.
- e) **Accountability:** the scheme must publish decisions and information about complaints it receives in order to be accountable to its members and the customers of the members.
- f) **Efficiency and effectiveness:** the scheme needs to undertake regular reviews of its performance to ensure it is efficient and effective.

EWOV's application

In its application, EWOV addressed each of the matters in section 28(2) of the Industry Act. It also noted additional steps EWOV is taking to ensure it is able to transition to an expanded customer dispute resolution scheme. These include:

- a review of its funding model to ensure proportional and fair membership fees for exempt persons
- a review of its charter and constitution to expand membership to include exempt persons
- revising the member application and approval process
- enhancing its operational capability (systems, processes, and personnel).

The commission's objectives

In approving the scheme, the commission must consider its objectives under the Electricity Industry Act 2000 and Essential Services Commission Act 2001.

In performing its functions and exercising its powers, the commission's objective is to promote the long-term interests of Victorian consumers.⁴

In seeking to achieve this objective, the commission must have regard to matters including:

- efficiency in the industry and incentives for long-term investment
- financial viability of the industry
- the degree of and scope for competition within the industry, including offsetting market power and information asymmetry
- the benefits and costs of regulation (including the gains from competition and efficiency) for consumers (including low income and vulnerable consumers) and regulated entities.

Efficiency in the industry and incentives for long-term investment

In its application, EWOV noted that while its primary purpose is to resolve complaints, it is also required to work to reduce the occurrence of complaints.⁵ This is an objective under EWOV's constitution.⁶ Its user-pays fee recovery principle creates a financial incentive for members to develop better complaint handling. Through its reporting, EWOV is able to identify and share information on systemic issues, complaint volumes and specific trends. Its purpose to reduce the occurrence of complaints creates efficiency in the industry by improving customer service and service delivery and lowering the costs associated with customer disputes.

The commission considers that these policies and processes are conducive to creating efficiency by incentivising improved customer service and service delivery that leads to a reduced occurrence of complaints.

Financial viability of the industry

In its application, EWOV did not consider its scheme would affect the financial viability of exempt persons. However, EWOV did note that it was aware that some exempt persons were concerned that the cost of membership may affect their financial viability.

Based on the information provided to the commission, we do not consider EWOV's membership costs for exempt persons are onerous or likely to affect the financial viability of exempt persons. We consider the costs to be reasonable and proportionate. For example, exempt persons with 100 to 500 customers will pay a start-up fee of \$960 and an annual membership fee of \$350 per

⁴ Section 8(1) of the Essential Services Commission Act 2001.

⁵ Energy and Water Ombudsman (Victoria), 2017, *Request to vary approval as a customer dispute resolution scheme*, 12 December 2017, p.3.

⁶ Section 3 of Constitution of the Energy and Water Ombudsman (Victoria) Limited.

annum. In contrast, energy companies with 500,000 customers or more pay an annual membership fee of \$20,000. (Table 1 and 2 provide further detail on membership costs).

We also note that EWOV's membership costs were informed by a review undertaken by KPMG. EWOV commissioned the review to ensure membership costs for exempt persons provided for a fair and equitable basis for cost recovery. In undertaking the review, KPMG consulted a range of stakeholders, including exempt persons.

Table 1: Fixed membership costs for exempt persons (referred to by EWOV as 'embedded network members').

Size of exempt persons (based on customer numbers)	Fixed annual fee (total)	Start-up fee (total)
Very small new embedded network members (<100 customers)	\$100	\$270
Small new embedded network members (100 to 500 customers)	\$350	\$960
Larger new embedded network members (501 to 5,000 customers)	\$1,000	\$2,700

In accordance with EWOV's constitution, the fee structure for EWOV embedded network members is subject to change as determined by EWOV's board.

The fixed annual membership costs for licensed members have not changed. By way of comparison, these are included in table 2.

Table 2: Current fixed annual costs for existing scheme participants (based on customer numbers).

Electricity participants and gas participants who hold a licence	Water participants	LPG participants	Amount
Less than 50,000	Less than 40,000	Less than 5,000	\$2,000
50,000 – 199,000	40,000 – 59,999	5,000-24,999	\$5,000
200,000 – 499,000	60,000-199,999	N/A	\$10,000
500,000 or more	200,000 or more	25,000 or more	\$20,000

Competition, market power and information asymmetry

In its application, EWOV stated:

A free, fair, independent and efficient dispute resolution scheme, which can assist Victorian customers with most energy related complaints, is a key consumer protection mechanism that supports customer confidence and participation in the energy market by reducing information and power asymmetries.⁷

It further notes, this is in the long-term interests of all Victorian consumers, and is especially important for customers who are facing payment difficulties.

The commission agrees that access to a free and independent dispute resolution scheme is in the long-term interests of Victorian consumers because it reduces information and power asymmetries by supporting customer confidence and participation in the energy market.

Customers of exempt persons often have significant barriers discouraging them from effective participation in the energy market because the configuration of most electricity networks owned and operated by exempt persons is such that meters are not compatible with the market systems of the national electricity grid. Although customers have the right to change to a compatible meter, obtaining one is often not worthwhile because of the associated costs. These practical barriers mean that customers of exempt persons may effectively be prevented from choosing a different retailer.

⁷ Energy and Water Ombudsman (Victoria), op. cit., p.1.

Accordingly, the commission considers that EWOV's procedures, which facilitate customers' accessibility to dispute resolution arrangements, will reduce information and power asymmetries for customers of exempt persons. This is important for customers who previously felt they were unable to participate or had difficulty accessing independent dispute resolution services.

The commission is confident that EWOV is capable of providing free, independent, efficient and fair decision-making procedures and dispute resolution services for customers of exempt persons because it has demonstrated these principles through its current commission approved customer dispute resolution scheme for the licensed energy industries, water industry and LPG industry.

EWOV is taking additional steps to ensure it is able to transition to an expanded customer dispute resolution scheme. These steps include:

- a review of its charter and constitution to expand membership to include exempt persons
- revising the member application and approval process
- enhancing its operation capability (systems, processes, and personnel).

Benefits and costs of regulation

The requirement for exempt persons to become members of a dispute resolution scheme was established by the government under the General Exemption Order 2017 following extensive consultation.

The commission is satisfied that EWOV's board has developed a service model that ensures costs of service are efficient and fair.

Promoting the long-term interests of Victorian consumers

Promoting the long-term interests of Victorian consumers is the primary objective of the commission. One of our objectives under the Industry Act is also to promote protections for customers, including in relation to assisting customers who are facing payment difficulties. EWOV noted in its application that providing access to a free, fair, independent and efficient dispute resolution scheme promotes the long-term interests of Victorian consumers. It supports participation in the energy market by mitigating power and information asymmetries and it reduces customer confusion and frustration about how to access assistance when needed. This is important for all customers, but particularly important for vulnerable customers and those facing payment difficulties.

The commission considers that mitigating power and information asymmetries is particularly important where barriers discourage customers of exempt persons from effective participation in the energy market. EWOV is free for customers to use and provides a range of services enhancing its accessibility, such as a free telephone service, and the ability for customers to use various

Consideration of the application

means to raise a complaint (telephone, email, website, fax, and in person). EWOV has trained staff and procedures to facilitate efficient and effective energy-related dispute resolution.

The EWOV scheme will provide customers of exempt persons with an accessible alternative to the court and tribunal systems. It will support confidence and participation in the energy market for customers who previously felt they were unable to participate or had difficulty in accessing recourse regarding disputes.

Accessibility

The commission must consider the need to ensure that the scheme is accessible to the customers of the exempt person and that there are no cost barriers to those customers using the scheme.

In its application, EWOV stated that it complies with the national benchmarks for industry-based customer dispute resolution (known as the CDR Benchmarks).⁸ The CDR Benchmarks were established in 1997 to provide a non-regulatory standard for industry-based dispute resolution. The CDR Benchmarks were reviewed and updated by the federal government in February 2015. The benchmarks' objectives encourage best practice in such dispute resolution services. The CDR Benchmarks are now referenced in legislation and regulation for the telecommunication and finance sectors and have been voluntarily adopted by many other industry dispute resolution schemes in Australia and New Zealand.⁹

Accessibility is one of the benchmarks and is also a requirement under clause 5.1 of EWOV's charter. The underlying principle of this benchmark is that:

*The office makes itself readily available to customers by promoting knowledge of its services, being easy to use and having no cost barriers.*¹⁰

On page 4 of its application, EWOV demonstrated that the scheme promotes knowledge of its services in a variety of ways. These include:

- distributing a range of publications designed to be easy to read and to convey accurate and straightforward information
- maintaining strong networks with the community sector and financial counsellors, especially those working with vulnerable and low income customers

⁸ Energy and Water Ombudsman (Victoria), op. cit., p 2.

⁹ Australian Government, The Treasury 2015a, *Benchmarks for Industry-based Customer Dispute Resolution: Principles and Purposes*, February, 2015, p.3.

¹⁰ Australian Government, The Treasury 2015a, op. cit., p.7.

- an easy to navigate website with information resources
- social media presence
- regular visits to metropolitan, regional and rural community groups.

To ensure that the scheme is easy to use with no cost barriers (it is free to customers), EWOV has a straightforward and informal process for raising complaints that makes it easy for customers to use the scheme. These include:

- a free-call phone number
- email, website, in writing, by fax or in person
- accessibility for customers with special needs, including use of the National Relay Service for hearing or speech impaired customers, a free Telephone Interpreter Service, a call back service for customers calling from mobile phones or with restricted phone services, and the ability to raise complaints through a third-party representative.¹¹

On page 5 of its application, EWOV stated that its staff have specialist knowledge of the industry and regulations and codes governing it. This supports the scheme's accessibility because it ensures that customers communicate with knowledgeable staff that can assist and investigate their complaints consistently, efficiently, and effectively. EWOV further noted that it will provide its staff with training for embedded network-related issues should its application be approved by the commission.

EWOV highlighted that its processes are non-adversarial and therefore more accessible for customers than those of courts and tribunals, which can also be costly. As required by section 5.1 of its charter, EWOV resolves complaints in a fair and reasonable manner, having regard to the law, industry codes, contracts and good industry practice.¹²

The commission considers that EWOV's procedures make it accessible to the customers of scheme members and there are no cost barriers to those customers using the scheme.

¹¹ Energy and Water Ombudsman (Victoria), op. cit., p.5.

¹² Energy and Water Ombudsman (Victoria), op. cit., p.5.

Independence

The commission must consider the need to ensure that the scheme is independent of the members of the scheme. The underlying principle behind the benchmark of independence is:

The decision-making process and administration of the office are independent from participating organisations.¹³

EWOV's governance model ensures its independence despite being an industry-funded scheme. Its governing board, EWOV Limited's Board of Directors has an independent chair and equal numbers of industry and consumer directors. The board appoints the ombudsman who is responsible for the operation of the scheme.

To maintain independence, EWOV's policies and procedures require procedural fairness and consistency with all cases. Both parties are given a fair opportunity to explain their perspectives, and staff can only collect relevant, substantiated information.

EWOV has a quality, capability and improvement team whose role is to ensure quality and integrity of staff and their handling of cases.¹⁴

Fairness

The commission must consider the need for the scheme to be fair and be seen to be fair.

EWOV's jurisdiction, function and procedures are established in the scheme's charter and EWOV Limited's constitution. Section 5.3(b) of EWOV's charter requires it to have procedures for handling complaints in a fair and reasonable manner.

In its application, EWOV stated that:

A key measure of fairness is whether the parties feel the process is fair. 81% of customers surveyed ... in 2016/17 felt their complaint was handled fairly. The EWOV scheme received similarly strong responses from its scheme participants: an overall rating of 7 out of 10 for the perceived fairness of EWOV.¹⁵

¹³ Australian Government, The Treasury 2015a, op. cit., p.7.

¹⁴ Energy and Water Ombudsman (Victoria), op. cit., p.7.

¹⁵ Energy and Water Ombudsman (Victoria), op. cit., p.7.

The principle of fairness refers to the procedures and decision-making of the dispute resolution scheme. This principle, the associated key practices, and EWOV's procedures that demonstrate application of this principle by the scheme are discussed below.

Accountability

The commission must consider the need to ensure that the scheme will publish decisions and information about complaints received by the scheme so as to be accountable to the members of the scheme and the customers of the scheme's members.

The CDR Benchmarks explain the purpose of the principle of accountability is:

To ensure public confidence in the office and allow assessment and improvements of its performance and that of participating organisations.¹⁶

EWOV demonstrates accountability to its members and customers of the scheme's members by publishing a range of reports, including seven position statements that detail its general approach to resolution (though each complaint is considered on a case-by-case basis) which are made available to all stakeholders.¹⁷

The commission considers that publishing reports on its performance, information about complaints and the customer experience, and trends and systemic issues, ensures that EWOV publicly accounts for its operations to its members, the community, government, and the commission. Publishing position statements and case studies also demonstrates consistency and fairness in decision-making.

EWOV also provides its members with a monthly report about their cases that have been received.

Efficiency and effectiveness

The commission must consider the need for the scheme to undertake regular reviews of its performance to ensure that its operation is efficient and effective.

Efficiency

On page 7 of its application, EWOV noted that it has a team dedicated to regular review of case data and complaint handling to ensure accuracy, quality, and integrity. EWOV tracks complaints for its public reporting and also for internal operational purposes. Its program of keeping track of

¹⁶ Australian Government, The Treasury 2015a, op. cit., p.8.

¹⁷ Energy and Water Ombudsman (Victoria), op. cit., p.8.

complaints, quality assurance to make sure complaints are dealt with consistently and appropriately, and regular review of its performance ensures EWOV is able to account for its efficiency and identify trends and needs.

Effectiveness

The underlying principle of effectiveness is best maintained through external, independent review of the scheme's performance.

In its application, EWOV noted that regular independent reviews of all aspects of the scheme have been undertaken by various consulting firms.

Since 1996, 21 external independent reviews have been completed of different elements of EWOV's operations, including EWOV's charging model, governance and case handling policies and procedures. EWOV's processes are regularly checked by regarded external agencies for independence and operation efficiency, most recently in 2013.¹⁸

The commission considers that independent reviews of its performance promote stakeholder confidence in the scheme and ensure it is effective in achieving its objectives.

¹⁸ Energy and Water Ombudsman (Victoria), op. cit., p.9.

Stakeholder feedback

The commission published a notice in The Age newspaper on 30 January 2018 and invited submissions relevant to the application. Stakeholders were asked to provide feedback regarding matters that the commission must have regard to under the Electricity Industry Act 2000 in approving a customer dispute resolution scheme.

Three stakeholders provided submissions in response. Two submissions were from industry bodies, and one came from a licensed retailer (and as such, an existing member of EWOV). A list of stakeholders that made submissions is provided in appendix A.

Response to EWOV's application

The Shopping Centre Council of Australia directly supported the application and stated:

With regard to the issues that the ESC needs to take into consideration under section 28 of the Electricity Industry Act 2000, based on the information provided to us by EWOV to date, and the information noted in their application, we have no major areas of concern ... In light of the above, we support EWOV's application to the ESC to vary its existing dispute resolution role to include relevant non-licensed electricity providers, under the GEO.¹⁹

AGL Energy (AGL) stated that it supports:

A framework that allows customers to access support and information for their energy disputes and consider EWOV's application the first step in the process. AGL continues to be a supporter of ensuring that all customers, irrespective of how they take up energy supply should have access to the same level of customer protections, including access to suitable dispute resolution pathway which includes Ombudsmen services as well as tribunals, fair trading services etc.²⁰

However, AGL expressed its view that extending EWOV's scope should be balanced with the changing and integrated way customers receive their energy, and therefore should ensure the costs and voting rights of members reflect their performance and market share.

¹⁹ Shopping Centre Council of Australia, 2018, *Submission to the Energy and Water Ombudsman (Victoria) (EWOV) application to provide a dispute resolute service for non-licensed electricity providers*, February, p.1.

²⁰ AGL Energy, 2018, *AGL Submission regarding EWOV application to act as a customer dispute resolution scheme for non-licensed electricity providers*, 20 February, p.1.

AGL suggested that the commission consider limiting the scope of energy-related disputes that could be investigated by EWOV.

The commission does not consider it necessary to make a decision on limiting the scope of the dispute resolution applicant's jurisdiction as this is determined by the regulatory framework. As is the case with dispute resolution for licensed electricity providers, EWOV can only investigate energy-related activities within its jurisdiction which is outlined in its charter and for the purposes of exempt persons, the exemption conditions outlined in the General Exemption Order 2017. Specifically, the relevant provisions exempt persons are required to comply with will be derived from the Energy Retail Code and the Electricity Distribution Code.

The Victorian Caravan Parks Association emphasised that it is opposed to the obligation for exempt persons to become members of a dispute resolution scheme approved by the commission. It requested the commission consider reasons as to why the requirement should not be necessary for caravan parks, including the existing protections afforded to residents under the Residential Tenancies Act and the ability of residents to take their dispute to VCAT.²¹

The requirement for exempt persons, including persons selling metered electricity, and persons supplying metered or unmetered electricity in all caravan parks, to enter into a customer dispute resolution scheme is a condition of exemption set in the General Exemption Order 2017.

Funding model in relation to accessibility and fairness

In its submission, AGL cautioned against a funding policy that would result in larger members subsidising smaller members, and costs of membership being unfairly passed onto customers. AGL nonetheless supported the funding review criteria outlined by EWOV in its application. However, it would like more details about the proposed funding model before it is satisfied that EWOV will maintain equitable and fair cost recovery.²²

The funding model for exempt persons is the membership cost structure contained in tables 1 and 2. This was informed by the KPMG review commissioned by EWOV to ensure membership costs were fair and equitable for all members (exempt persons and existing members). EWOV conducts regular independent reviews to improve efficiency and effectiveness and therefore the commission is confident that EWOV has strong internal processes to ensure prices remain equitable and fair.

²¹ Victorian Caravan Parks Association, 2018, *Submission to the EWOV application to vary its existing dispute resolution role to include non-licensed electricity providers*, 4 February, p.2-3.

²² AGL Energy, op. cit., p.1.

The Victorian Caravan Parks Association stated:

... it to be manifestly unfair that the entire costs of participation in the dispute resolution scheme proposed as a variation on the existing EWOV scheme should be borne entirely by the park owners. The proposal outlines in Pages 5-6 (of EWOV's application) that the scheme is free to consumers.²³

One of the matters the commission must consider in approving a customer dispute resolution scheme is for the scheme to be accessible to the customers of the scheme members, and that there are no cost barriers to those customers in using the scheme.

This is a principle supported by the CDR Benchmarks which clarify that accessibility, including no cost barriers, refers to access on an equitable basis for the customer.²⁴ That is, all customers of scheme members have equitable, free access in so far as there are no application fees or other charges required from a customer before a complaint is investigated by the ombudsman, or at any other stage in the process.²⁵

The commission considers that EWOV has demonstrated that it meets the benchmark of accessibility, particularly with respect to the key practice of there being no application fee or other fee or charge required to be paid by the customer before a complaint is dealt with or at any stage of the process.²⁶

With respect to the matter of fairness, which the commission is required to consider in approving a customer dispute resolution scheme, the Victorian Caravan Parks Association stated:

We hold this requirement for compulsory membership of EWOV or any other dispute resolution scheme to be unfair.

In approving the customer dispute resolution scheme for the purposes the General Exemption Order 2017, the commission is not able to consider whether stakeholders consider the legislative requirement to become members of the scheme to be fair. The matter which the commission must have regard to – that is the need for the scheme to be fair and be seen to be fair – refers to the procedures and decision-making of the applicant.

²³ Victorian Caravan Parks Association, 2018, *Submission to the EWOV application to vary its existing dispute resolution role to include non-licensed electricity providers*, 4 February, p.3.

²⁴ Australian Government, The Treasury, 2015a, op. cit., p. 1.

²⁵ Australian Government, The Treasury, 2015b, *Key Practices for Industry-based Customer Dispute Resolution*, February 2015, p.7-9.

²⁶ *ibid.*, p.9.

Stakeholder feedback

The CDR Benchmarks define the principle of fairness as:

The procedures and decision-making of the office are fair and seen to be fair.²⁷

The purpose of this principle being:

To ensure that the office performs its functions in a manner that is fair and seen to be fair.²⁸

The CDR Benchmarks outline the key practices identified with the principle of fairness. These include:

- basing final determinations on what is fair and reasonable, having regard to good industry practice, relevant industry codes of practice and the law
- procedural fairness
- encouraging and demanding relevant information
- confidentiality
- review of decisions and determinations for consistency and compliance.²⁹

Section 1.5 of EWOV's charter states that when handling complaints or making procedures for handling complaints, the scheme will consider relevant laws, licences, industry code, benchmarks published by the Australian Government about dispute resolution schemes, and what is fair and reasonable.

In its application, EWOV noted that:

... procedural fairness and consistency in case handling is of the utmost (sic) importance... resolutions are achieved through:

- allowing both parties a fair opportunity to explain their perspectives
- ensuring EWOV staff are free from bias
- collecting only relevant information and substantiation.³⁰

On page 7 of its application, EWOV stated that it has a team dedicated to maintaining quality and integrity through regular checks of complaint handling. The program has oversight from management to ensure compliance with case handling policy and procedures.

²⁷ *ibid.*, p. 15.

²⁸ *ibid.*

²⁹ *ibid.*, p.15-16.

³⁰ Energy and Water Ombudsman (Victoria), *op. cit.*, p.6.

EWOV's procedures, as described above, reflect the key practices identified with the principles of fairness. The commission considers that in its application, EWOV has demonstrated that its scheme meets the benchmark of fairness, including the key practices associated with that principle.

Decision

The commission is satisfied that Energy and Water Ombudsman (Victoria) Limited meets the matters set out in section 28(2) of the Electricity Industry Act 2000 which the commission must have regard to in approving a customer dispute resolution scheme.

The commission is satisfied that approving EWOV as a dispute resolution scheme for the purposes of the General Exemption Order 2017 is consistent with its objectives under the Electricity Industry Act 2000 and the Essential Services Commission Act 2001.

The commission is satisfied, based on EWOV's application, that EWOV:

- is accessible to the scheme members' customers and there are no cost barriers to those customers using the scheme
- is independent of the members of the scheme
- is fair and seen to be fair
- will publish decisions and information about complaints received by the scheme so as to be accountable to the members of the scheme and the customers of the scheme members and
- undertakes regular reviews of its performance to ensure that its operation is efficient and effective.

The commission decided that in accordance with clause 11 of the General Exemption Order 2017 and section 28(2) of the Electricity Industry Act 2000, Energy and Water Ombudsman (Victoria) Limited be approved as a customer dispute resolution scheme for the purposes of the General Exemption Order 2017.

THE COMMON SEAL

of THE ESSENTIAL)

SERVICES COMMISSION)

was affixed pursuant to the)

authority of the Commission)

on 19 March 2018)

.....

Dr Ron Ben-David

Chairperson

Appendix A

Stakeholder submissions

AGL Energy

Shopping Centre Council of Australia

Victorian Caravan Parks Association