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Essential Services Commission  
Level 8, 570 Bourke Street  
Melbourne Victoria 3000

26 November 2021

Submitted via: <https://engage.vic.gov.au/energy-payment-difficulty-Framework-implementation-review>

### **Payment Difficulty Framework – Tango Energy Response to Review Questions**

Tango Energy appreciates the opportunity to comment on the energy payment difficulty Framework implementation review and provide responses to the Essential Services Commission's (ESC) review questions.

Tango Energy is the wholly owned subsidiary retail arm of Pacific Hydro Australia (PHA). PHA was founded in 1992, and is a leading owner, operator and developer of renewable energy assets. It operates a high quality, diversified portfolio of wind, hydro and solar assets with an installed capacity of 665 MW; it also has a development pipeline of substantial projects totaling over 1100 MW of potential capacity, as well as over 300 MW of energy storage solutions. We are a relatively new and growing retailer with approximately 130,000 small and large customers as of November 2021, with our customer base predominantly in Victoria.

Please find our responses to selected review questions below.

***How are the entitlements under the Framework communicated to customers (from a single retailer, and across the sector)? From your experience, are the ways they are communicated clear and consistent?***

We consider that the Payment Difficulty Framework ("the Framework") has clear, albeit voluminous requirements contained in the Energy Retail Code ("the Code") about the prescriptive steps that a retailer must take. This may suggest that the volume of obligations in the Code may be confusing to other stakeholders. We also consider that the Framework, and the broader environment in which the Framework operates, suffer from a lack of consistent messaging across different energy stakeholders about the operation of the Framework.

In our opinion, statements made in respect of retailers' responsibilities, for example, "COVID-19 reminded us of the important role energy retailers have in supporting the health

*and wellbeing of people during crisis*"<sup>1</sup> may confuse customers without detailed knowledge of the energy supply chain about an energy retailer's role, and may give rise to the misconception that it is the **sole** responsibility of retailers to look after the well-being of customers, ignoring the active roles and responsibilities that Government agencies, consumer bodies and other service providers (e.g. providers of other essential services, supermarkets, etc.) and stakeholders also play in respect of supporting customers in payment difficulty. There also appears to be inadequate consideration of the limitations of a private sector participant in a competitive retail market for energy services; for example, an energy retailer cannot provide a customer experiencing payment difficulty with financial advice, and it would not be appropriate for a private sector participant in any industry to provide a customer with social relationship advice that would improve their wellbeing. In addition, there are prescriptive requirements for communications between retailers and customers in the Code and accompanying Guidance Notes<sup>2</sup>. Together, these factors have the practical effect of impacting the ability of retailers to communicate in a clear and empathetic manner to customers and may lead to confusion from customers about the role of an energy retailer.

In addition, when combined with the significant amount of effort already being made by ESC and other non-industry stakeholders (e.g. consumer bodies) to provide information about consumer entitlements, the voluminous requirements for retailers to provide information not only add costs, but may also end up confusing customers who need a simple, clear and concise message.

We recommend that if it is desirable for the ESC, Energy and Water Ombudsman of Victoria (EWOV) and consumer advocacy bodies to continue to take a lead role in communicating entitlements, an alternative could be to minimise the amount of mandated communication on retailer collateral (through a simplification of clause 80 of the Code, and its accompanying Guidance Note), instead allowing retailers to provide links to a Government operated website which has the "single source of truth" about entitlements. This is not Tango Energy's preferred outcome; we elaborate on the reasons further in our responses to the review question, "*Are there other strategies or approaches retailers have considered (within or outside the Framework) that can better help customers and achieve the Framework's objectives? If so, what are these strategies or approaches?*"

### ***How much do you think customers are aware of, or understand, their entitlements?***

As mentioned in our previous submission to the ESC<sup>3</sup>, in Tango Energy's opinion the biggest challenge faced in providing customers with information about their entitlements, is getting customers to engage meaningfully. In our experience, we find that once customers

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<sup>1</sup> <https://piac.asn.au/2021/06/22/community-and-industry-collaborate-for-better-outcomes-for-people-experiencing-vulnerability/>

<sup>2</sup> <https://www.esc.vic.gov.au/electricity-and-gas/codes-guidelines-and-policies/energy-retail-code/guidance-note-2-2020-clear-and-unambiguous-information-or-advice-residential-customers-anticipating>

<sup>3</sup> <https://www.esc.vic.gov.au/sites/default/files/documents/PDFREV~2.PDF>

engage in a meaningful manner, it is easy to provide customers with information about entitlements relevant to them.

***How helpful and practical has the payment difficulty assistance provided to customers been?***

Customers find the assistance provided by Tango Energy helpful once they engage meaningfully, as Tango Energy can exercise flexibility to provide options most suited to the customer within the constraints of the Framework. Examples of verbatim comments made by customers in 2020, during the peak of the pandemic, are provided below:

*“THANKYOU SO SO MUCH for your constant assistance we really do appreciate your constant help and concern.”*

*“Thank you for your compassionate response; your attitude is in stark contrast to most of our creditors who could not care less about our circumstances.”*

*“Thank you so very much [agent name redacted] for your hard work. My family appreciates it very much”*

*“Thank you so much for the wonderful support that Tango Energy is giving us.*

*Over the last 10 months or so we have lurched from one crisis to another largely due to uncaring, ruthless creditors who have no consideration or respect for their struggling clients.*

*It is so refreshing to be dealing with a company such as Tango Energy that clearly does have the consideration and respect for its clients that they deserve; clearly Tango Energy is head and shoulders above the great majority of modern businesses.*

*[Vendor name withheld] for instance suspended our account with them for non-payment of invoices. Now we get 90% of our bookings through [Vendor name withheld] and they know it and yet their strategy to force us to pay all of what we owed them, over \$6,000, was to cut off 90% of our revenue. I do not think I have to say any more.*

*So, thanks again, and I will ensure that there are always sufficient funds to cover the direct debits as we are now facing a good two and a half months.”*

*“FYI: Just spoke to [Customer name withheld], who wanted it passed on that he thinks Tango Energy is the best, unreal etc. etc. company he has ever dealt with, no bill shock, customer service awesome.”*

*“Thankyou so much for your wonderful help. Staff are so friendly, kind and understanding. So happy im with Tango.”*

***Have you observed a change in customer satisfaction of their engagement with retailers about their entitlements? If so, to what extent and why?***

As highlighted in our response to the previous review question, customer satisfaction in relation to engagement with retailers about entitlements is generally higher once customers have engaged meaningfully with Tango Energy.

***Have you observed a change in customer engagement from diverse and hard-to-reach customers about their entitlements?***

In our experience, we do not have issues reaching diverse and hard-to-reach customers as there are multiple tools such as translation services available. In practical application, we find that customer engagement is most difficult from customers who are not provided with incentives to engage despite the best efforts of Tango Energy. Customers in this segment are aware that a complaint to EWOV is likely to result in EWOV making a retailer accept waiving part of the arrears as a “proposed settlement”. This customer group is also aware that where they are disconnected as a last resort, the starting assumption of the regulator and EWOV will always be one of retailer fault.

***Have you, as a consumer representative, energy retailer, or other stakeholder, encountered any barriers or difficulties during the implementation of the Framework?***

In our experience, engaging customers requires a level of trust. The biggest challenge in engaging customers has been overcoming the negative perceptions created with customers about retailer behaviour by non-industry stakeholders. This is exacerbated by the adversarial, technical compliance approach taken to prescriptive aspects of the Framework, as opposed to a collaborative approach that could be taken between industry, regulators, and consumer advocates. These factors act to create barriers for retailers to meaningfully engage with customers.

As highlighted in examples provided above, once customers engage with Tango Energy, it is then possible to listen and understand the customer's situation so that practical and suitable options can be offered to the customer. Customers often express surprise at how willing and reasonable Tango Energy staff are in addressing their circumstances, going against the preconceived negative perceptions previously formed.

In addition, application of the Framework's objectives has been hindered by regulatory mandates over 2020 and 2021 requiring retailers to effectively stop or significantly limit debt collection activities. These have resulted in customer debt and arrears building up, directly impacting the objective of the Framework of having "customers avoid getting into arrears with their retailer".

***Are there areas of the Framework that you found confusing or unclear?***

The ESC notes that the Framework's objectives are that<sup>4</sup>:

- customers are supported to pay their ongoing energy use, repay their arrears and lower their energy costs
- customers are only disconnected for non-payment as a last resort and
- customers avoid getting into arrears with their retailer.

We consider that the application of the Framework as discussed above hinders the Framework from meeting its objectives, particularly customers avoiding getting into arrears with their retailer. It appears unclear to us how the current application of the Framework will resolve this issue.

***Are there other strategies or approaches retailers have considered (within or outside the Framework) that can better help customers and achieve the Framework's objectives? If so, what are these strategies or approaches?***

We consider it is important to clarify roles, responsibilities, and communication strategies across the broader environment in which the Framework operates. As discussed above, an issue from the perceived confusion about entitlements is due to the number of different actors and agencies providing communications about the Framework, leading to confusion as to what the roles of the ESC, EWOV and consumer bodies are within the Framework.

The confusion arises from the two following scenarios. In the first scenario, is the retailer intended to lead application of the Framework, with the ESC performing enforcement activities when things go wrong and retailers do not follow the intent of the Framework, while EWOV acts as an impartial dispute resolution body, and consumer bodies speak up for customers where things go wrong or represent customers where they are unable to

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<sup>4</sup> <https://engage.vic.gov.au/energy-payment-difficulty-framework-implementation-review>

effectively represent themselves? Or in the second scenario, is the ESC, based on the counsel of consumer bodies, leading the application of the Framework, with EWOV acting as a consumer advocate, and retailers being merely responsible for implementation of the Framework and responsible for taking on the delivery risk?

Our understanding is that the intent of the Framework when designed in 2017 was for the first scenario, but in application and communications it seems to be suggested that the application of the Framework shows characteristics of the second scenario. We consider the distinction between the two models important, because if the second model is a desired policy outcome, an option that should be considered is for the ESC, EWOV and relevant Government bodies to take primary responsibility for communicating entitlements, while minimising the prescriptive regulatory requirements for communication of entitlements. Application of the second model may also require a more holistic review of the regulatory framework, such as an increased role of an independent, impartial dispute resolution body such as the Victorian Civil and Administrative Tribunal (VCAT). The second model is not Tango Energy's preferred option. We consider that the outcome that would lead to the best outcome for customers overall is the first scenario and it is more aligned with what the Framework originally intended, with the Framework being supported by a collaborative approach between all parties involved, and reflected in education and enforcement activities undertaken by the ESC.

Overall, we consider that clarification of responsibilities is needed in the context of how the Framework is supposed to operate, and it is necessary for these to be reflected in day-to-day communication undertaken by all parties. In addition to the clarification of roles and responsibilities, and clarification of entitlements to customers, we consider that obligations should be placed on customers to engage meaningfully to access the support offered by the Framework.

***Are there other problems faced by energy customers that may not be covered by the payment difficulty Framework?***

It is important to note that money used for the payment of the energy bill forms part of a consumer's income, which is used to pay for other items and bills, and essential services such as water and council rates. The manner in which these rates can be recovered (e.g. by placing a lien on a customer's property) may suggest to customers, and subsequently policymakers, that energy is a subordinated essential service in comparison to these other services.

Therefore, we suggest that the wider regulatory Framework needs to take into account the higher risks (for example, through price-setting mechanisms) taken on by the energy retail market as a whole to reflect a sustainable level of credit risk for the continued operation of competitive energy retail markets, so that retailers can drive lower market price outcomes for customers and provide support to customers who cannot pay, in a sustainable manner.

We look forward to working with the ESC in a balanced and constructive manner to achieve balanced outcomes for the sector, and for customers who are genuinely in payment





difficulty. If you would like to discuss the submission, please contact me at the details provided with the submission.

Sincerely,

Shawn Tan  
Assurance and Compliance Manager  
Tango Energy Pty Ltd