

10 April 2019

Family violence resources review
Essential Services Commission
Level 37, 2 Lonsdale Street
Melbourne VIC 3000

By email: energy.submissions@esc.vic.gov.au

Dear ESC,

Re: Energy Retail Code Changes to Support Family Violence Provisions for Retailers - Draft Decision

Thank you for the opportunity to comment on the Essential Services Commission's (ESC) *Energy Retail Code Changes to Support Family Violence Provisions for Retailers – Draft Decision (Draft Decision)*.

The Energy and Water Ombudsman (Victoria) (EWOV) is an industry-based external dispute resolution scheme that helps Victorian energy or water customers by receiving, investigating and resolving complaints about their company. Under EWOV's Charter, we resolve complaints on a 'fair and reasonable' basis and aim to reduce the occurrence of complaints¹. We are guided by the principles in the Commonwealth Government's Benchmarks for Industry-based Customer Dispute Resolution². It is in this context that our comments are made.

EWOV is strongly supportive of the policy intent expressed in the Draft Decision:

"...to provide customers affected by family violence with an entitlement to safe, supportive and flexible assistance from their energy retailer in managing their personal and financial security".³

To that end, the Draft Decision is a response to recommendation 109 of the Victorian Royal Commission into Family Violence (**Royal Commission**) which requested that:

"The Victorian Government work with the Essential Services Commission [within 12 months] to:

- *amend the Energy Retail Code and Customer Service Code—Urban Water Businesses to:*

¹ See Clause 5.1 of EWOV's Charter: <https://www.ewov.com.au/files/ewov-charter.pdf>

² See EWOV's website: <https://www.ewov.com.au/about/who-we-are/our-principles>

³ Essential Services Commission, *Energy Retail Code Changes to Support Family Violence Provisions for Retailers – Draft Decision*, 19 March 2019, p. 3. Available at: <https://www.esc.vic.gov.au/electricity-and-gas/electricity-and-gas-inquiries-studies-and-reviews/family-violence-resources-review-2018>

- list minimum eligibility criteria for access to hardship programs
- include family violence as an explicit eligibility criterion
- develop industry guidelines for energy and water retailers to require comprehensive and ongoing training of customer service staff to help them identify customers experiencing family violence and financial hardship
 - publicise the availability of dispute resolution mechanisms for people affected by family violence.⁴

To meet the requirements of recommendation 109 of the Royal Commission, assistance for customers affected by family violence must be expressed as a clear customer entitlement - and the ESC's proposal to include a new Part 3A will achieve that purpose. Importantly, customers' experience of family violence will also need to be taken into account under the *Payment Difficulty Framework*.

The requirement to have a family violence policy (and update that policy regularly) will aid retailers in their efforts to meet prescribed minimum standards of conduct, and the better practice guide the ESC has proposed should encourage retailers to deliver above minimum standards where possible.

The Victorian Royal Commission into Family Violence was a landmark event in Victoria's efforts to grapple with the social issue of family violence in Victoria, and aligns with national efforts (as well as state-based efforts in other jurisdictions).

At a national level, the *Third Action Plan 2016–19*⁵ under the *National Plan to Reduce Violence against Women and Children* outlines what governments, communities, businesses and individuals can do to reduce violence against women. It acknowledges that the current evidence base and data collections need to be strengthened to fill knowledge gaps and support effective policy and service provision decisions.⁶

EWOV is mindful of its role as an external dispute resolution body to ensure that the proposed entitlements for those affected by family violence flow through to those for whom they are intended.

We will work with our staff to raise awareness of the new entitlements before they are implemented on 1 January 2020, and following implementation will capture data regarding the application of the entitlement to complaints we receive. Currently, we do capture some data regarding family violence but it is largely anecdotal and ad hoc. Enshrining family violence entitlements in the Energy Retail Code

⁴ Royal Commission into Family Violence, *Summary and recommendations*, March 2016, p. 75. Available at: <http://www.rcfv.com.au/MediaLibraries/RCFamilyViolence/Reports/Final/RCFV-Summary.pdf>

⁵ COAG, *Third Action Plan 2016 – 2019 of the National Plan to Reduce Violence against Women and their Children 2010 – 2022*, 2016. Available at: https://www.dss.gov.au/sites/default/files/documents/10_2016/third_action_plan.pdf

⁶ Australian Institute of Health and Welfare, *Family, domestic and sexual violence in Australia*, 2018, p. 4. Available at: <https://www.aihw.gov.au/getmedia/d1a8d479-a39a-48c1-bbe2-4b27c7a321e0/aihw-fdv-02.pdf.aspx?inline=true>

(ERC) should improve this situation greatly, and will enable us to more effectively capture relevant data and contribute to the evidence base needed to enhance policy and service provision decisions. Effective training of our staff will be central to that process.

On that note, we would urge the ESC to strongly emphasise the need for retailers to prioritise staff training in the lead up to implementation of the new entitlements. Recent experience with the *Payment Difficulty Framework* has shown that effective reform implementation can be hindered if training is not thorough, or undertaken early enough.

The Draft Decision does make it very clear that thorough staff training is central to achieving the desired cultural change that the new entitlements represent - and that a lack of organisational awareness of family violence issues can create dangerous situations for victim-survivors, enabling perpetrators to weaponise processes and systems against them.

EWOV is conscious of these risks and supports the policy intent expressed in the Draft Decision. At the same time, we are unclear on the specific wording of the proposed new section 106F(1)(c).

Under the clause, retailers must:

...ensure that training is provided to any person (including employees, agents and contractors) acting on its behalf who:

...

(c) is responsible for systems and processes that guide interactions with customers.

We seek clarification whether staff responsible for developing policies will also be captured by this clause. Our interpretation of the Draft Decision is that they would be, and if that is correct perhaps the clause could explicitly state that staff responsible for *systems, policies and processes* (emphasis added), must receive that training? This would help ensure that both front-line staff and regulatory staff receive the necessary training to engender organisation-wide awareness of family violence issues.

We trust these comments are useful. Should you like any further information or have any queries, please contact Zac Gillam, Senior Policy and Stakeholder Engagement Officer, on [REDACTED].

Yours sincerely



Cynthia Gebert
Energy and Water Ombudsman (Victoria)