

Compliance and enforcement priorities in energy for 2024–25

25 June 2024



Acknowledgement

We acknowledge the Traditional Owners of the lands and waterways on which we work and live.

We acknowledge all Aboriginal and Torres Strait Islander communities and pay our respects to Elders past and present.

As the First Peoples of this land, belonging to the world's oldest living cultures, we recognise and value their knowledge, and ongoing role in shaping and enriching the story of Victoria.

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Overview

The Essential Services Commission (the commission)'s statutory compliance and enforcement roles are vital to achieving outcomes in regulating the Victorian energy market. The commission uses its compliance and enforcement powers in the public interest. We act to protect consumers – especially those experiencing vulnerability – to ensure non-compliant businesses do not gain customers unfairly, and to enhance trust in the relevant market or sector.

The commission is responsible for regulating the Victorian energy industry. Only Victorian energy licence and exemption holders are authorised to engage in certain regulated activities such as the generation, transmission, distribution and sale of electricity and gas.

The commission's role

Our role as the Victorian energy regulator is to:

- issue licences and set licence conditions
- register exemption holders
- set customer protections and standards of conduct through codes of practice
- issue guidelines and provide education to encourage and assist voluntary compliance
- monitor compliance with the energy legislation and rules
- take compliance or enforcement action in relation to non-compliance.

Holding regulated businesses to account

The commission's efforts to hold regulated energy businesses to account and uphold the rights and protections of all Victorian energy consumers, including those experiencing vulnerability, incorporate actions that seek to:

- promote voluntary compliance by industry
- prevent harm and improve outcomes for energy consumers
- build community and consumer confidence in the Victorian energy market
- deter future contraventions of legislative or regulatory requirements in the public interest.

Compliance and enforcement policy

Our [compliance and enforcement policy](#) outlines our approach to compliance and enforcement, and describes how we use our investigative and enforcement powers. The commission also sets annual energy compliance and enforcement priorities that reflect specific areas of focus for regulated energy businesses to deliver better outcomes for Victorian energy consumers.

These priorities provide a useful framework to communicate our regulatory work to industry and consumers, but they do not limit us. The commission takes action where we identify harm associated with significant non-compliance with energy laws.

This report summarises the outcomes achieved under our 2023–24 energy compliance and enforcement priorities (section 1) and our priorities for 2024–25 (section 2).

Outcomes: compliance and enforcement priorities for 2023–24

We published our [energy compliance and enforcement priorities for 2023-24](#) on 27 July 2023.

These priorities saw the commission's 2023–24 energy work focus on:

- the Payment Difficulty Framework
- wrongful disconnection of customers
- helping customers navigate the energy market
- protecting customers experiencing vulnerability.

Payment Difficulty Framework

The commission's Payment Difficulty Framework requires energy retailers to provide assistance to customers who are anticipating or experiencing difficulty paying their energy bills.

Cost-of-living pressures are impacting Victorian customers, who are in turn accessing assistance from their energy retailers at the highest levels since the Payment Difficulty Framework commenced in 2019. We continue to monitor retailers' conduct and take enforcement action when consumers are not provided with their minimum entitlements to assistance under the rules.

Civil penalty proceedings

The commission commenced its first [civil penalty proceedings](#) in the Supreme Court of Victoria against energy retailers Origin Energy Electricity Limited, Origin Energy (Vic) Pty Limited and Origin Energy Retail Limited (together, Origin) in December 2023. The commission's claim alleged multiple failures by Origin to meet its obligations under the Payment Difficulty Framework, which protects consumers experiencing vulnerability.

Origin's alleged breaches affected more than 30,000 customers between 2019 and 2023, and include the failure to:

- continue the provision of payment assistance
- provide clear and unambiguous information about customer entitlements to payment assistance.

The commission is seeking civil penalties and other remedies including declarations, contravention orders, injunctions, adverse publicity orders and other relief under the *Essential Services Commission Act 2001*.

Wrongful disconnections

The Victorian Parliament passed new laws in 2021 to increase penalties for wrongful disconnections and to criminalise conduct relating to wrongful disconnections. This signals the seriousness of wrongful disconnections and the importance on ensuring energy supply is treated as an essential service and retailers only disconnect customers as a last resort. The commission has continued to monitor compliance regarding energy disconnections and takes enforcement action where appropriate.

Enforcement action

The commission issued [penalty notices](#) totalling \$73,968 to AGL Sales Pty Limited (AGL) for allegedly:

- arranging for the wrongful disconnection of a customer who had arrears less than the \$300 minimum threshold in September 2023
- failing to report the wrongful disconnection to the commission within the required reporting timeframes.

The commission also commenced its second [civil penalty proceedings](#) in the Supreme Court of Victoria against energy retailers Origin Energy Electricity Limited and Origin Energy (Vic) Pty Limited (together, Origin) in February 2024. The alleged contraventions of Victoria's energy rules include disconnecting customers who were receiving payment assistance without providing clear and unambiguous information about their entitlements to payment assistance. The commission is seeking civil penalties and other remedies, including adverse publicity orders.

Compliance reviews

[Compliance reviews](#) are a key part of the commission's proactive compliance program to promote the long-term interests of Victorian energy consumers. They provide an impartial and objective assessment of how energy businesses are complying with certain rules. Energy businesses' obligations include those in legislation, the commission's codes of practice and licence conditions.

The commission finalised [compliance reviews of three retailers](#) relating to disconnection processes in 2023–24. The reviews required Powershop Australia Pty Limited (Powershop), Simply Energy¹ and EnergyAustralia Pty Ltd (EnergyAustralia) to engage independent reviewers approved by the commission. The retailers were required to demonstrate and provide evidence of compliance with Victoria's energy disconnection rules.

¹ Ipower Pty Limited and Ipower 2 Pty Limited trading in partnership as Simply Energy. Note: Simply Energy changed its name to ENGIE in May 2024.

Review findings and remediation plans

The independent reviewers found that overall, Powershop, Simply Energy and EnergyAustralia had a combination of preventative, detective and corrective controls in place. These are designed to help avoid wrongful disconnection of Victorian consumers from their electricity or gas supply. All three retailers have established internal and external reporting processes to identify potential disconnection issues and report them.

The reviews identified three key areas for improvements:

- **Templates and automated processes:** Retailers should improve their governance of processes, procedures and templates related to energy disconnections. Improvements in these areas should help increase the accuracy of information and decrease the rate of wrongful disconnections.
- **Record-keeping:** Retailers should ensure they are capturing and storing training records appropriately.
- **Timely reporting of potential or actual breaches:** Retailers must report potential or actual breaches within the required timeframes, including when they first became aware of potential or actual breach.

Each retailer agreed to a remediation plan to address the findings of their independent reviews. The retailers reported their progress in implementing the remediation plans to the commission.

Helping customers navigate the energy market

This priority aims to help consumers confidently engage with the energy market. This includes receiving clear and unambiguous information to make informed decisions about energy plans and not being subjected to high-pressure sales tactics via telemarketing and door-to-door sales.

Court enforceable undertaking

In August 2023, the commission accepted a [court enforceable undertaking](#) from 1st Energy Pty Ltd (1st Energy) following allegations that it failed to comply with a statewide ban on door-to-door energy sales that came into effect in December 2021. 1st Energy allegedly signed up 81 energy customers on new energy contracts as a result of unsolicited approaches at their homes by representatives of a third-party sales agency.

1st Energy is required to implement comprehensive quality assurance and compliance monitoring of its policies and processes relating to sales channels partners. 1st Energy must also introduce regular training to cover unsolicited sales prohibitions and practices and appoint an independent person to audit its compliance.

Enforcing best offer messaging

Two energy retailers paid over a \$1,000,000 in combined penalties for allegedly failing to provide customers with accurate deemed best offer messages in 2023–24:

- Red Energy Pty Limited (Red Energy) paid [penalty notices](#) totalling \$254,436 in September 2023. Red Energy allegedly failed to determine the deemed best offer for small customers in accordance with the requirements and allegedly failed to provide a deemed best offer message to customers within the required timeframes.
- AGL Sales Pty Limited (AGL) paid [penalty notices](#) totalling \$799,656 in October 2023. AGL allegedly did not carry out the deemed best offer check by calculating the deemed best offer in line with the prescribed formula.

Best offer guideline for retailers

The commission released the [best offer guideline](#) in November 2023 as part of a proactive compliance program. The guideline sets out the commission's expectations for what best offer messages must say and how they should appear on bills, bill summaries and bill change alerts. The guideline aims to promote voluntary compliance by Victorian energy retailers and includes better practice examples.

Civil penalty proceedings

December 2023

The commission initiated its first [civil penalty proceedings](#) in the Supreme Court of Victoria against energy retailers Sumo Power Pty Ltd and Sumo Gas Pty Ltd (together, Sumo). The commission alleged that between 31 December 2021 and 12 August 2022, Sumo engaged in unlawful door-to-door marketing of energy contracts to at least 5,941 Victorian consumers. The commission further alleged that Sumo signed up several customers to energy plans without obtaining their 'explicit informed consent' as required under the rules. The commission is seeking civil penalties and other remedies including declarations, contravention orders, injunctions, adverse publicity orders and other relief under the *Essential Services Commission Act 2001*.

February 2024

The commission initiated its second [civil penalty proceedings](#) in the Supreme Court of Victoria against energy retailers Origin Energy Electricity Limited and Origin Energy (Vic) Pty Limited (together, Origin). The commission alleged that Origin repeatedly failed to meet its obligations under the energy rules, including failing to give customers best offer information or providing incorrect best offer information. The commission is seeking civil penalties and other remedies including declarations, contravention orders, injunctions, adverse publicity orders and other relief under the *Essential Services Commission Act 2001*.

March 2024

The commission's second [civil penalty proceedings](#) initiated against Sumo alleged it failed to meet its best offer message obligations. The alleged conduct occurred between February 2022 and August 2023 and affected more than 60,000 Victorian electricity and gas customer accounts. The commission is seeking civil penalties and other remedies including declarations, contravention orders, injunctions, adverse publicity orders and other relief under the *Essential Services Commission Act 2001*.

April 2024

The commission accepted a [court enforceable undertaking](#) from ReAmped Energy Pty Ltd (ReAmped Energy) following various alleged failures related to best offer obligations that affected 3,149 customers. These alleged contraventions included not providing customers with deemed best offer messages within required timeframes and providing customers with a positive best offer message when they were not on their deemed best offer at the time.

June 2024

Following the court enforceable undertaking, ReAmped Energy also paid \$369,840 in [penalty notices](#) for alleged failures related to best offer obligations that affected 3,149 customers between 1 August 2022 and 30 June 2023.

ReAmped Energy allegedly failed to meet its best offer obligations to customers when it:

- did not identify the customer's best offer (including by failing to have regard to the Victorian Default Offer)
- incorrectly calculated the best offer
- did not provide a best offer message in the required timeframes.

Protecting customers experiencing vulnerability

Protecting customers experiencing vulnerability is an enduring priority for the commission, particularly those who are affected by family violence or rely on energy for life support. We take any misconduct very seriously.

Civil penalty proceedings

December 2023

The commission initiated its first [proceedings](#) in the Supreme Court of Victoria against energy retailers Origin Energy Electricity Limited, Origin Energy (Vic) Pty Limited and Origin Energy Retail Limited (together, Origin). The alleged life-support breaches affected 11 customers who either used life support equipment or had a person at their premises who did. The alleged breaches

include Origin's failure to adequately record, update or maintain information on the Life Support Register and provide relevant information to energy distributors. These alleged failures put life-support customers at increased risk from power interruptions.

Penalty notices

December 2023

CitiPower Pty Ltd paid \$406,824 in [penalty notices](#) for allegedly failing to notify 43 customers of two planned interruptions between January and March 2023. This included one customer who was registered as requiring life-support equipment.

February 2024

Origin Energy Electricity Limited and Origin Energy (Vic) Pty Ltd (together, Origin) paid \$295,872 in [penalty notices](#) for eight alleged contraventions of Victoria's energy laws. Origin allegedly referred six customers affected by family violence to a debt recovery agency without considering the potential impact of debt recovery on those customers.

Court enforceable undertakings

March 2024

The commission accepted a [court enforceable undertaking](#) from Jemena Electricity Networks (Vic) Ltd for allegedly failing to notify 49 customers, including one life-support customer, of a planned power interruption. In accepting the enforceable undertaking, Jemena has committed to improve its processes and provide regular progress reports to the commission.

April 2024

The commission accepted a [court enforceable undertaking](#) from AusNet Electricity Services Pty Ltd (AusNet) following Ausnet's failure to provide adequate power outage information and customer communication channels to its customers after the February 2024 Victorian storms. Approximately 255,000 AusNet customers were left without power after the storms on 13 February 2024. AusNet's outage tracker webpage did not have the technical capacity to withstand the amount of traffic to it following the storm. The webpage crashed and was not fully restored until 21 February, more than a week later and following the completion of works by AusNet to resort it.

Under the terms of the undertaking, AusNet has agreed to issue an additional \$2 million to its previously announced Energy Resilience Community Fund, bringing its total commitment to \$12 million. The additional \$2 million will go directly to the Brotherhood of St Laurence, St Vincent de Paul and Financial Counselling Australia to further support consumers experiencing vulnerability.

Priorities for energy compliance and enforcement 2024–25

The commission's annual energy compliance and enforcement priorities promote transparency and competition in the Victorian energy market for the long-term interests of consumers.

Our 2024–25 priorities are:

- the Payment Difficulty Framework
- disconnections for non-payment
- protecting customers experiencing vulnerability
- statutory land access powers
- consumer protections during widespread unplanned outages and emergency management
- gas connection abolishment.

The commission will continue to build community and consumer trust in the energy market by promoting and enforcing compliance in these areas. Beyond our priorities, the commission takes action where we identify harm associated with significant non-compliance with energy laws.

See our [compliance and enforcement policy](#) for more details about our approach.

Payment Difficulty Framework

Victoria's Payment Difficulty Framework requires energy retailers to help customers who may be anticipating or experiencing difficulty paying their bills. The framework also ensures that disconnecting a residential customer for not paying a bill is a measure of last resort.

This remains a key priority for the commission with cost-of-living pressures impacting many in our community. We will continue to monitor retailer conduct to make sure customers are being provided practical assistance to manage their energy usage and bills and take enforcement action when consumer protections are not upheld.

Key protections

The commission is retaining this priority and focusing on key protections such as retailers' obligation to provide customers with all their entitlements to assistance, including:

- assistance with accessing concessions and applying for the Utility Relief Grant Scheme
- payment arrangements that meet the minimum standards.

Disconnections for non-payment

The commission will focus on disconnections for non-payment in recognition of current cost-of-living impacts on Victorians and the essential nature of electricity and gas services. Customers should only ever be disconnected for non-payment by an energy retailer as a last resort. We will continue to monitor compliance in this space and take appropriate and proportionate enforcement action where needed.

Protecting customers' access to energy supply

To reduce risks of harm to customers, we have created clear rules that energy businesses must follow before they disconnect a residential or small business customer's energy supply.

Disconnection because of non-payment should only happen when all other options have been explored with the customer. Disconnection generally cannot be used by a retailer as a debt collection tool. Retailers must offer residential customers who are in arrears information about the Payment Difficulty Framework and how to access that assistance.

Protecting customers experiencing vulnerability

As part of our three-year [Getting to fair strategy](#), we continue to undertake activities that help to break down barriers consumers can face when accessing and engaging with essential services.

Electricity and gas are essential services that keep our community safe and productive. Protecting customers experiencing, or at risk of experiencing, vulnerability is an enduring priority for the commission. Our definition of consumer vulnerability identifies barriers – rather than characteristics of the individual – as the biggest contributing factor in minimising access and engagement with essential services.

In 2024–25, we will focus on conduct by energy businesses that gives rise to actual or potential serious consumer harm. Specifically, we will be focusing on retailers' obligations to take family violence into account as a potential cause of payment difficulty and ensuring that disconnection of residential customers for non-payment is a last resort.

Statutory land access powers

Compliance with the new Land Access Code of Practice, which came into effect on 1 March 2024, is a priority in 2024–25. The new code regulates the rules and processes that transmission companies must follow when accessing, or seeking to access, private land using statutory powers under the *Electricity Industry Act 2000*.² The Land Access Code of Practice also regulates the information that licensed electricity transmission companies must provide to affected parties and other parties interested in land prior to entering into access agreements or accessing private land using statutory powers.

We consider it critical for transmission companies to minimise the impact of statutory land access and improve consultation with affected parties, including landowners, occupiers and other parties interested in the land.

We will monitor and promote compliance with the Land Access Code of Practice by electricity transmission businesses.

Consumer protections during widespread unplanned outages and emergency management

In recent years, Victorians have experienced repeated major weather events. These have resulted in sustained and widespread energy supply disruptions. During widespread outages, distributors must provide reliable and timely information to consumers about the supply outage and the estimated time of supply restoration.

Emergency response plans

Electricity distributors are required to develop emergency response plans designed to deal with a range of emergency situations, including extreme weather events. The commission expects electricity distributors to have the systems, processes and measures in place to effectively manage emergencies and provide information to customers.

We will monitor and promote compliance by distributors in providing reliable and timely information about outages and supply restoration timeframes, and take enforcement action where appropriate.

² The Land Access Code of Practice does not apply to operation and maintenance activities for existing transmission assets, voluntary access agreements, land that is not private land, or where land is accessed in accordance with an existing easement.

Gas connection abolishment

New rules in the Gas Distribution Code of Practice will require gas distributors to use their best endeavours to abolish a gas connection within 20 business days of receiving a retailer's written direction to do so. The new version of the code of practice comes into effect on 1 October 2024.

We anticipate that over time, more Victorians will seek to permanently disconnect from the gas network and electrify their homes. We will focus on education and promoting compliance with the new rules.

This priority is a first step in helping to streamline the process to permanently disconnect from the gas for consumers.

Further information

- [Compliance and enforcement priorities for energy for 2024-25.](#)
- [Compliance and enforcement policy.](#)
- [Electricity and gas market performance and reporting.](#)