



29 November 2024

Essential Services Commission
570 Bourke Street
Melbourne, Victoria
3000

Submitted via email to: energyreform@esc.vic.gov.au

RE: Energy Retailer Code of Practice – Energy Consumer Reforms

About Shell Energy in Australia

Shell Energy delivers business energy solutions and innovation across a portfolio of electricity, gas, environmental products and energy productivity for commercial and industrial customers, while our residential energy retailing business Powershop, acquired in 2022, serves households and small business customers in Australia.

As one of the largest electricity providers to commercial and industrial businesses in Australia¹, Shell Energy offers integrated solutions and market-leading² customer satisfaction, built on industry expertise and personalised service. Our generation assets include 662 megawatts of gas-fired peaking power stations in Western Australia and Queensland, to provide back-up for rising levels of renewable energy, and the 120-megawatt Gangarri solar energy development in Queensland. Shell Energy also operates the 60MW Riverina Storage System 1 in NSW.

Shell Energy Australia Pty Ltd and its subsidiaries trade as Shell Energy, while Powershop Australia Pty Ltd trades as Powershop. Further information about Shell Energy and our operations can be found on our website here.

General Comments

Shell Energy welcomes the opportunity to provide feedback on the Energy Retailer Code of Practice (ERCOP) – Energy Consumer Reforms (the Reforms) consultation currently underway by the Essential Services Commission Victoria (ESCV).

Shell Energy supports the objectives of the Reforms in streamlining processes for consumers to receive support from retailers. Retailers have natural incentives to provide clear information and enable customers to pay their bills, and so we support reducing unnecessary barriers which may hinder this and empowering consumer choice in making decisions which will benefit their individual circumstances.

However, we query whether the ESC should consider the sequencing of the Reforms. The Australian Energy Market Commission (AEMC) has not yet initiated the suite of proposed consumer focused rule change requests submitted by Energy Ministers in July 2024. Shell Energy considers that it is positive to have alignment across jurisdictions. Therefore, we would recommend pausing the first stage of the Reforms until the AEMC proposed rules have been progressed and continue with Stage Two of the ERCOP Review in the meantime.

¹ By load, based on Shell Energy analysis of publicly available data.

² Utility Market Intelligence (UMI) survey of large commercial and industrial electricity customers of major electricity retailers, including ERM Power (now known as Shell Energy) by independent research company NTF Group in 2011-2021.

Shell Energy considers multi-site business customers should be excluded from these Reforms as there is a significant difference between multi-site customers and a standard single-site mass market customer. Multi-site businesses are usually large and sophisticated customers or organisations that generally have a minimum of two sites, often located in different states or jurisdictions; meaning that they are generally subject to a range of jurisdictional obligations across the National Electricity Market, Wholesale Electricity Market, and Victoria.

Multi-site business customers are not mass-market customers; they have sophisticated energy procurement practices often via tender processes that require a streamlined approach, consolidated invoicing, and bespoke account management.

The proposed Reforms are aimed towards providing greater protections for mass-market customers. Seeking to apply ERCOP protections to customers beyond the intended beneficiaries is misdirected, and imposes unnecessary regulatory red tape on these customers, with the unintended effect of increasing multi-site customer frustration and retailer costs.

The current ERCOP and proposed Reforms capture large customers where a site or sites within a multi-site contract are below the large customer threshold. Unlike in other states, our Victorian multi-site customers are restricted from aggregating sites to form a large customer and must instead be treated as individual small sites. This is because the Orders in Council define a 'relevant customer' on the basis of an individual supply point and not on the aggregate of each supply point from which the customer consumes.

We have long called for this peculiarity of the Victorian regime to be addressed and this review is an ideal opportunity to address these inefficiencies which only add red tape and additional cost and complexity to large customer retail provision. Whilst the ESCV has enabled an aggregation of sorts for embedded networks (through the definition of Small Customer in the ERCOP) it has not addressed the issue of multi-site provision. We have previously provided suggested wording to the ESCV³ that would address the issue and we urge the ESCV to consider making these amendments to support the removal of unnecessary red tape and needless costs. In the meantime, we recommend that multi-site business customers are excluded from these Reforms.

Automatic best offer for customers experiencing payment difficulty.

Shell Energy agrees that where a customer has identified themselves as experiencing payment difficulty, they should be moved to a greater level of support from their retailer to ensure their situation is not exacerbated over the long term. Indeed, it is in the retailer's best interest to enable customers to pay their bills and there are already systems in place to assist payment difficulty customers.

Automatic switching to the deemed best offer without customer consent takes away customer agency. Pricing structures are built around more than just the lowest price component and may include other benefits which the customer considers as part of their plan. For instance, some retailers include loyalty points, streaming subscriptions or other benefits which have additional monetary value for the customer.

One point which the ESCV has raised throughout this consultation process is that there is a lack of consumer trust in their retailers. Switching customers without their explicit consent could impact a retailer's relationship with the customer if benefits are discontinued without consent.

Division 4 of the ERCOP provides that small customers are entitled to clear information to be able to consider and compare the features and prices of different energy plans. This provision was specifically enacted so that customers can assess the suitability of each retail contract against their own needs. With automatic switching, the customer is not being presented with the options, and the retailer is essentially deciding what is "best" for the customer, not considering their individual circumstances and removing financial decision making from customers,

³ See: https://www.esc.vic.gov.au/sites/default/files/documents/ERCoP%20%20Shell%20Energy%20Submission_Redacted.pdf

ultimately undermining the ERCOP. Where the goal is to bolster consumer trust in retailers, we query whether taking away consumer choice would be a positive step towards achieving this.

In exploring systemic issues around payment difficulty and hardship support, the Energy and Water Ombudsman Victoria (EWOV) has been actively encouraging providers to adapt their approaches to improve consumer choice. This includes giving consumers more options to tailor their experience to meet their needs or providing material to consumers to facilitate their understanding of what options are available to them.⁴ Shell Energy is aligned with EWOV on this point in that facilitating consumer choice would lead to better outcomes specific to their needs.

Shell Energy would support a mechanism which facilitates further engagement with consumers rather than one which diminishes consumer choice as we do not consider it appropriate for retailers to implement changes to plans which directly impact a customer's finances.

Socialising best offer messaging for customers in payment difficulty opens further dialogue between both parties which assists in facilitating the best outcome for the consumer. This means retailers can provide clear advice on the options available to them, which could include the lowest price offer, while enabling the customer's right to engage with the retailer and also to decide which is the best offer for them. While this approach enables retailers to explore which plan is right for the customer, it also ensures that all other hardship or payment difficulty tools are utilised in providing support for the consumer. This approach would involve direct communication with the customer on switching plans which aligns with the ESCV's position on clear advice, as well as bolstering consumer confidence in their retailer with presentation of options and protections relevant to their circumstances. Shell Energy welcomes the opportunity to explore further options with the ESCV on this point.

Shell Energy would also support the ESCV clearly defining the eligibility criteria for this Reform. Clear parameters around the objectives and criteria of eligible customers in payment difficulty would assist retailers in providing targeted, tailored support.

Also, we reiterate that multi-site customers should be excluded, and note that the current requirements around 'best offer' do not apply to multi-site customers and for the same reasons should not be considered for these Reforms. Indeed, our view is that single-site business customers should also not be considered for automatic switching to best offer arrangements as it is inappropriate for businesses, such as retailers, to be making contract decisions for other businesses.

Improving the ability to switch to the best offer.

The process to switch customers to the best offer is confusing, time-consuming, and complicated. Shell Energy supports an outcomes-based approach where retailers have a natural incentive to streamline the process. This will allow retailers to operate within the current parameters to work with customers in switching them to the best offer to enable greater customer retention.

We do not support additional regulation in this space as the current approach has proven to be complicated and inefficient and further prescriptive regulations will similarly add complexity and compliance cost to the detriment of customers.

Current barriers to streamlining the process to switch a customer to a better offer include the many layers of regulation which must be adhered to. For instance, the current process includes presenting the deemed best offer to the customer, providing clear advice around the different offers available to them, gaining their consent,

⁴ *Annual Report 2024* Energy and Water Ombudsman Victoria [24 October 2024], Pg. 35. Accessed via: [2024 Annual Report | EWOV](#)



providing further information or explanations in switching plans, and explaining the terms and conditions of the new contract before we can switch at a system level.

Further, we understand that the ESCV is seeking feedback on ways to improve incentives for retailers to switch customers onto their best plan. Retailers have natural incentives to do this, namely customer retention. We do not support the ESCV following the Office of Gas and Electricity Markets (OFGEM) decision to ban retailers from offering deals to new customers only, known in the UK as the ban on acquisition-only tariffs (BAT). BAT is a reform that was introduced in April 2022 as a temporary market intervention during the European gas crisis. The BAT has recently been extended by OFGEM for a finite period, but OFGEM has acknowledged the decision to be “a finely balanced one” given a number of consumers and participants favoured its removal⁵. Indeed, out of 61 consumer respondents to the OFGEM consultation, 60 opposed OFGEM’s proposal to keep the BAT post March 2025⁶.

The context of the BAT and the market in which it operates in is entirely different to that of Victoria, and we do not consider it appropriate to place such an extreme mechanism in place here where we are not experiencing significant market volatility, disruption, nor extremely high prices for consumers. It is also noted that OFGEM is extending the policy to “allow further time to better observe the BAT as a standalone measure”⁷.

Unlike in the UK, competition in Victoria is relatively healthy in that there are a variety of plans available to consumers at different price points which enables customer choice. The long-term effects of the ban are also untested, so it would be premature to introduce this or similar controls in Victoria where the issues, market, and context are so dissimilar. Such controls would be detrimental to competition in the electricity market and would likely provide negative long-term outcomes.

Shell Energy (separate to our residential energy business, Powershop for the purpose of this section only) is unique in that we provide tailored services for business customers. Pricing structures for these customers are not typical of mass market customers in that we offer bespoke arrangements to cater for their individual circumstances rather than having a generic ‘best offer’ available for the mass market. The bespoke service involves analysing their usage profile and tailoring a pricing package that is best suited to their needs, which is by definition, the best offer available.

This arrangement is appropriate for this type of customer and the Reforms should not apply where the customer has elected for a commercial arrangement which provides greater benefits than small consumer protections. Indeed, the process and protections at the single-site residential level is inherently different to that of an enterprise, and it is clear that SMEs, multi-site or otherwise, are not the intended targets of the Reforms.

Improving the application of concessions to bills

Shell Energy supports the principle behind this reform as we agree that where customers are eligible for concessions, they should have easy access to them.

When signing up new customers, our process already includes steps to ensure we are asking whether they hold a concession card and clarify eligibility for any rebates. Depending on the customer’s journey, we either obtain concession details of the customer at the time of sign-up, or trigger communications post sign-up for customers who have indicated they have a concession card but are unable to provide details at the time of sign-up.

There is a balance in fine tuning the right amount of information a retailer requests of its customers against overburdening them with information and confirmation requests. In the long-term, there may be a way in which

⁵ Decision: Future of the Ban on Acquisition-only Tariffs (BAT) beyond March 2025, OFGEM pg. 4

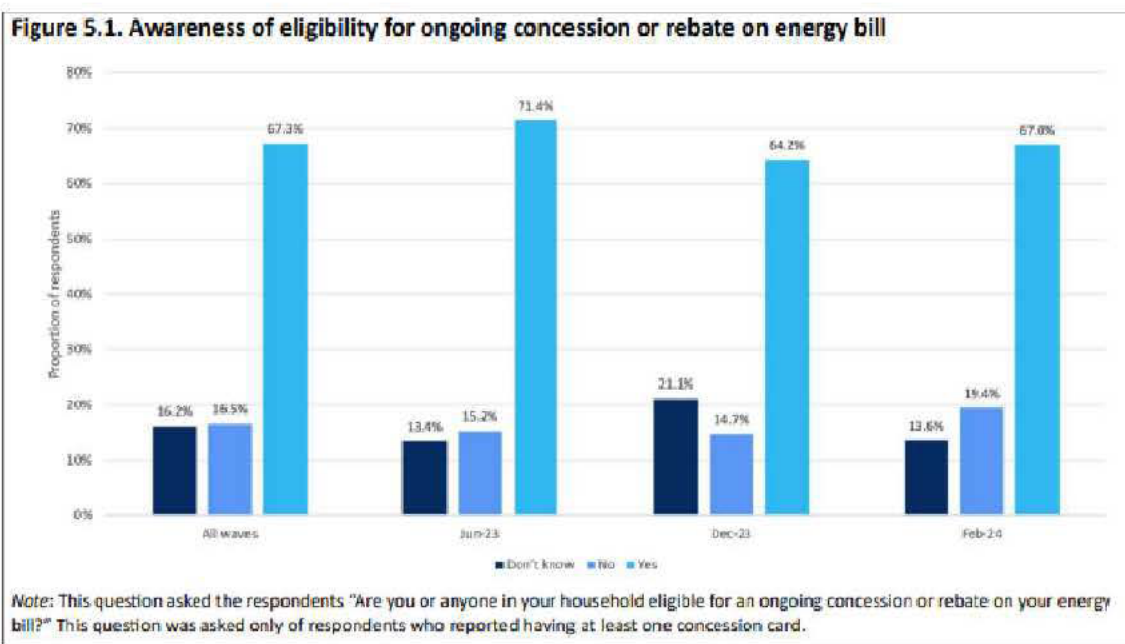
⁶ Ibid page 13

⁷ Ibid page 7

Services Australia can efficiently share this information with retailers. However, this would need significant input from the industry to avoid costly system builds in supporting the flow of information.

While we support this proposal, enabling greater uptake and outcomes for concession card holders requires involvement beyond energy retailers. Concession card discounts are available in other areas including transport, recreation, income support, and some health services and pharmaceuticals, and a whole of government approach to ensuring concession card holders receive the full benefit should be prioritised. We envisage that this would need to be federal and state government designed and span across different jurisdictions and sectors to ensure adequate uptake and awareness. We would encourage the ESCV to advocate for these consumers in other public sector spaces in simplifying and standardising access to concessions.

Further, we consider that there may be a misinterpretation of referenced data within the discussion paper in the section addressing the lack of consumer awareness. The paper states that “only about a third of Australians who have a concession card were aware that they may be eligible for energy bill concessions”⁸. However, upon reviewing the reference material, it states that “just over a third of concession card holders say they are not eligible or do not know whether they are eligible for energy bill concessions”⁹ which indicates that the converse of the statement in the discussion paper is true in that two thirds of eligible consumers are aware. Indeed, the below table, identified as Figure 5.1 in the referenced document, shows that as of February 2024, 67% of respondents who held at least one concession card were aware of their eligibility for an ongoing concession or rebate.



Despite this misinterpretation of data by the ESCV, Shell Energy maintains that the number of ‘yes’ respondents should be higher. We support greater understanding on the availability and uptake of concessions with a wider education program undertaken by federal and state governments and the ESVC in addition to the role energy retailers play through the existing regulations.

⁸ *Energy Consumer Reforms - Discussion Paper* Essential Services Commission Victoria [October 2024]. Pg. 22

⁹ *Insights into energy concession awareness and energy-related behaviours among concession card holders in Australia* Ferdi Botha and Kushneel Prakash (Melbourne Institute Applied Economic & Social Research and Energy Charter) [June 2024]. Pg. 6.

Further, we seek confirmation that one-off government payments such as the Energy Bill Relief Fund are excluded from this issue, given that this is a separate topic to ongoing concessions.

Improving awareness of independent dispute resolution services

Multi-site customers should be excluded from these requirements. Aligning with the Australian Energy Regulator's (AER) Better Bills Guideline (Better Bills) for multi-site customers would not provide positive outcomes for either customer or retailer. Multi-site customers who seek consolidated billing and have not aggregated under Rule 5 of the National Energy Retail Rules have had several issues under Better Bills which should not be repeated in Victoria, such as the inability for retailers to differentiate between the rates and charges section that relate to specific sites, as there is no provision for this under the Tier 2 information requirements. The mandatory presentation of multi-site bills under the Better Bill Guideline has led to customer complaints and a very poor customer experience that is beyond the control of retailers such as Powershop.

In the Business to Customer (B2C) space, Powershop complies with the Better Bills Guideline given that we operate across both Victoria and NEM states. We would support alignment with Better Bills for single-site residential customers in including the EWOV phone number at the top of the bill.

However, we query whether regulatory intervention is required here. For many retailers, implementing bill format changes incurs cost and we question whether customers in Victoria are less aware of the energy ombudsman than consumers in other NEM states that have ombudsman details on their energy bills. The Energy Consumers Australia June 2024 Energy Consumer Sentiment Survey referenced in the discussion paper found 66% of surveyed consumers in Victoria were either not very familiar or not at all familiar with EWOV. The same figure for the other states showed Victoria consumers had one of the best levels of awareness for the energy ombudsman, despite not having the same requirement to include the ombudsman's information on the bill – SA (60%), NSW (69%), ACT (73%), QLD (74%), and TAS (76%)¹⁰.

Since the introduction of the ombudsman front page requirement under Better Bills, we have observed an increase in complaints to the ombudsman where the customer has not attempted to resolve the complaint or query with the retailer first. This has resulted in more calls to the ombudsman in the first instance, who refers the customer back to the retailer. The Energy and Water Ombudsman South Australia (EWOSA) has commented on the implementation of the Better Bills Guideline, stating that it has "resulted in a significant increase in the number of customers contacting the [EWOSA] Scheme in error, to the highest volume on record. Our staff often have to refer the caller back to the energy company when this occurs"¹¹.

More analysis should be undertaken as to whether the Better Bills requirement is directing customers to the best 'first point of call'. Leading customers to call the ombudsman in the first instance, rather than the retailer, wastes the customer's time and is costly for the industry as the workload of the ombudsman schemes grows to support this call service (and ultimately increases the costs for all customers).

We would not support the ESCV departing from the Better Bills requirements to include further details, such as a hyperlink to a webpage, at the top of the bill as this would contradict alignment and be costly to implement. If the ESCV did want further information on EWOV included in the bill, Shell Energy would encourage including this further down so as to reduce conflicts with the AER's requirements.

¹⁰ Energy Consumer Sentiment Survey: June 2024 Energy Consumers Australia. Data accessed via: [ecss-jun-24-topline-data.xlsx](#)

¹¹ Annual Report 2023 – 24 Energy and Water Ombudsman SA. Pg. 10. Accessed via:

<https://ewosa.com.au/assets/volumes/general-downloads/annual-reports/EWOSAAnnualReport2023-24.pdf>.



Shell Energy welcomes the opportunity to further discuss this submission. For any questions or queries relating to the content of this document, please contact Shelby Macfarlane-Hill at

[REDACTED]

Yours sincerely

Libby Hawker
General Manager – Regulatory Affairs and Compliance