ESSENTIAL SERVICES COMMISSION

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DISCONNECTIONS AND CAPACITY TO PAY REPORT ON ENERGY RETAILERS' PERFORMANCE

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Preface

There has been considerable recent public interest in and comment on the extent of customer disconnections from electricity and gas supply in Victoria, the reasons for these disconnections and the impact that disconnection may have on customers who are experiencing financial hardship and difficulty in paying energy bills by the due date.

This special purpose report is intended to inform and contribute to this important public discussion by:

- Describing the Commission's existing consumer protection arrangements under the Energy Retail Code (the code) for energy customers who are experiencing financial hardship and its current approach to auditing and reporting publicly on the compliance of energy retailers with the requirements of the code in relation to hardship and disconnection;

- Presenting gas and electricity industry-wide data on Victoria's experience with disconnections, instalment plans and affordability complaints;

- Identifying some limitations of the Commission's performance monitoring data in assessing the retailers' compliance with the requirements of the code in relation to hardship and disconnection and particularly in relation to assessing the "capacity to pay" of different customers who do not pay their energy bills on time or after reminder notices;

- Describing the actions the Commission has taken and proposes to take in the coming months to strengthen its performance monitoring in this area and to assess in consultation with stakeholders the options for developing and implementing best practice hardship policies under the regulatory framework administered by the Commission.

The data and charts presented in the report on disconnections, affordability complaints and use of instalment plans, are based on the audited performance data that has been reported to the Commission by the energy retailers since 1997.

The information used in the report has been taken from the Commission's more general energy retail performance monitoring report, which is to be published in late October.

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Executive Summary

There has been considerable public comment recently concerning trends in energy disconnections and affordability complaints and whether these trends indicate that energy retailers are failing to comply with their obligations under the Energy Retail Code (the code). There has also been more general discussion about the accessibility and affordability of energy services for customers who are experiencing financial hardship and the role that should be played by the regulatory regime and energy retailers in responding more effectively to their needs.

The Commission collects and publishes audited data on a range of indicators of the performance of the energy retail businesses as part of its broader energy market consumer protection and licence compliance monitoring. This data covers the performance of retailers in relation to disconnection, use of instalment plans and affordability complaints. The current performance indicators have some limitations in identifying clearly the extent to which customers who are experiencing financial hardship have been disconnected from supply. This is discussed further below and in Chapter 5.

Nevertheless, the industry-wide performance data reported in Chapter 4 and summarised below does place this important issue into perspective and assists in focusing attention on to the nature and extent of the problem of financial hardship and measures to address it more effectively.

In summary, the current and trend data on energy disconnections in Victoria shows the following:

Electricity

- Victoria has amongst the lowest rate of disconnections in Australia and, since the mid-1990s, the absolute numbers of domestic customers disconnected has consistently been less than 1% of Victoria's 2.5 million electricity customers.

- Overall electricity disconnections have gradually increased from levels reported in 1999 (at 0.36% of customers being the lowest disconnection rates experienced over the last 20 years) to rates comparable to those achieved by the previous State Electricity Commission of Victoria (0.7% in 2003 and 0.92% in the first six months of 2004).

- There were 14,211 actual electricity disconnections in 2003 compared to up to 2 million disconnection warning notices issued by retailers in the same year. There were 12,800 disconnections in the first eight months of 2004.

- The rate of reconnection in the same name at the same address as a proportion of customers' disconnected has steadily decreased since 1999. Of the 14,211 electricity disconnections, 6,744 were reconnected in the same name at the same address in 2003, and this rate will remain constant for 2004 notwithstanding the increase in total disconnections in 2004.

- There is no consistent pattern of disconnections between retailers over the last four years (some have shown increases, others decreases) and the overall increasing trend in the first six months of 2004 is primarily attributable to increased disconnections on the part of AGLV.
- While the number of disconnection enquiries and complaints handled by the Energy and Water Ombudsman (Victoria) (EWOV) for 2003 and 2004 has increased, the rate of complaints as a proportion of the customers actually disconnected has remained constant at approximately 1%.

Gas

- The rate of gas disconnections has historically been higher than for electricity disconnections. It commenced trending downwards in 2000 with a substantial increase occurring in 2004.
- Sharp increases in gas disconnections during 2004 reflect reportedly unsustainably low disconnection rates during 2002 and 2003 due to distribution business system problems.
- The actual number of disconnections in 2004 is projected to be approximately 17,200 or 1.16% of Victoria's 1.5 million gas customers, which will return the rate of disconnections to that reached by the Gas & Fuel Corporation during the 1990s.
- The data does not demonstrate any consistent pattern in gas disconnections for any retailer during the period 1999 – 2003. All retailers have increased the rate of disconnections in 2004.
- The number of disconnection enquiries and complaints handled by EWOV for 2003 and 2004 has increased. However, the higher rates of gas disconnections in 2004 have not been reflected in higher rates of complaints handled by EWOV as a proportion of total disconnections.

Neither the Commission's performance data on disconnections, instalment plans and affordability complaints, nor the results of its independent audits of retailer compliance with the code, provide evidence of systematic disconnection of financially vulnerable customers by energy retailers. On the contrary, the Commission's independent audits confirm that energy retailers had a high level of compliance with their Code obligations.

For example:

- The Commission's most recent audits found that all retailers have systems and processes in place to meet their Code obligations with respect to disconnection and assistance for vulnerable customers and were assessed as being implemented effectively.
- Large numbers of financially vulnerable customers are being identified through those arrangements and offered instalment plans to manage their outstanding

debts. In 2003, 181,200 energy customers were on energy budget instalment plans, an increase from 134,000 in 1999.

While the Commission is satisfied, from its ongoing examination of the audit results and the performance data that there has not been systematic non-compliance with the code by retailers, that conclusion should not be taken as suggesting that customers who are in financial hardship are never disconnected or that there is no room for further improvements in the current arrangements. Given the numbers of customers, the complexity of the hardship issue and difficult assessments involved, it is likely that some vulnerable customers will fall through the retailers' hardship policy assessment processes from time-to-time. Where this does occur, EWOV plays an important, and with greater customer awareness, an increasing role in mediating their complaints with retailers. For example, in 2003, 198 electricity and 98 gas customers made complaints to EWOV about imminent or actual disconnection. All of these complaints were resolved through consultation with the retailer and none progressed to dispute or determination.

The Commission has also noted recent reports based on the casework of EWOV and some community support agencies of an increase in the number of financially vulnerable customers who have been disconnected without being identified and assisted through the retailers' hardship policies and processes. In the light of those reports, the Commission is undertaking further independent audits of retailers' performance in November 2004, which will focus specifically on the key code obligations of retailers to assist customers in financial difficulty. In particular, the audits will examine in more detail how retailers assess customers' capacity in making judgements about disconnection, rather than offering support by means of instalment plans. The results of these audits will be reported in January 2005. These compliance audit arrangements are detailed in Chapter 3.

In seeking to use the current performance data to analyse the extent to which inappropriate disconnection of customers in hardship may have been occurring, the Commission has recognized that its principal performance indicators on disconnection and hardship (disconnection and reconnection in the same name at the same address) have limitations in being able to unambiguously identify the extent to which customers in hardship are continuing to be disconnected. This is because the reported data on disconnection and reconnection in the same name is likely to include both customers in hardship who have fallen through the retailers' hardship assessment processes and customers who have the capacity to pay but do not do so. In recognition of this ambiguity, the Commission has developed more detailed performance indicators in relation to disconnection of customers in financial hardship, against which the retailers will be required to report from 1 January 2005. These arrangements, which are detailed in Chapter 5, cross-reference disconnection/ reconnection data with indicators of financial disadvantage to more accurately identify the incidence of inappropriate disconnections.

The current public discussion about financial hardship and retailer compliance with the regulations has highlighted a fundamental issue on which there is disagreement between stakeholders; namely how "capacity to pay" should be assessed for purposes of identifying customers who should receive assistance in managing their energy bills. The code is not prescriptive on how this assessment is to be undertaken and, at this time, there is no consensus amongst the stakeholders on what constitutes "a capacity to pay", how it should be assessed and how differences of view between retailers and customers on this issue should be reconciled. The regulations do not include an objective test for assessing capacity to pay and it is doubtful whether such a test could be developed or would be appropriate. A number of consumer representatives argue against codifying such a test in regulations.

For these reasons, in conjunction with the work to improve performance indicators and compliance monitoring, the Commission is giving priority to improving the way the regulatory framework and energy retailers respond to the needs of financially vulnerable customers. In pursuing this work in the coming months, the Commission will consult with industry and community stakeholders and co-operate with the work of other community initiatives to address more effectively the needs of financially vulnerable customers in relation to access to and affordability of utility services.

Of particular relevance here, is the work of the Committee for Melbourne's Utility Debt Prevention Project, a co-operative initiative involving community and welfare organisations, utility businesses, regulatory agencies and government. A recent report on the work of the Debt Prevention Project[1] has confirmed the generally accepted view that poverty and financial hardship are complex social phenomena with numerous causes and consequences going beyond the accessibility and affordability of essential utility services. It has concluded from its work to date that:

> *"It would certainly not be appropriate to apply a formula-driven approach based on household characteristics to determine whether assistance or leniency should be available."*[2]

The Committee for Melbourne Project has highlighted the importance of targeting utility hardship programs to those households in poverty and financial hardship with the greatest need, and of developing a range of approaches to identify and provide effective support to those with a broader range of financial problems. It has also concluded that the most effective model for addressing community financial hardship issues is likely to involve co-operation between retailers, consumer organisations, regulators and government agencies and other relevant stakeholders in developing more comprehensive and integrated measures of support and assistance.

Effective responses to financial hardship in the community will, therefore, need to involve a complex balancing of roles and responsibilities between utilities, government agencies, regulators and community agencies. The work undertaken by the ESC and the Debt Prevention Project demonstrates that by itself, effective consumer protection within the framework of economic regulation of utility businesses is not able to guarantee that acceptable social outcomes occur for members of the community who are in poverty and chronic financial difficulties. The regulatory framework and the responses of retailers can, however, be more effective in ensuring that customers who are in financial hardship are recognised through appropriate processes and given access to advice and support that allows

[1] Committee for Melbourne, Utility Debt Prevention Project, Report by the Debt Spiral Study Reference Group, 15 July 2004.

[2] Ibid, p15.

them to remain connected while they deal with their utility bills in a more manageable and affordable way.

In this context, utility businesses are well placed to play a role that goes beyond simply demonstrating compliance with the formal obligations imposed by regulatory codes. This arises because together they have an essential and continuing customer relationship with the overwhelming majority of households in the State. As a result, they are in ongoing contact with the community as a whole in relation to energy supply and billing arrangements. Utility billing and payment experience can provide an early signal of customers who are experiencing financial difficulties. It also represents an obvious reference point from which referral can occur for financial advice and assistance through internal retailer processes or external advisory and support agencies.

The Commission will continue to actively support and be involved in the Committee for Melbourne Project. It also believes that future development of the regulatory framework is best focused on requiring the utility businesses to implement well-designed hardship policies and processes, which improve their effectiveness in identifying customers who are in financial difficulties and in providing them with effective support and assistance.

To this end, after consultation with relevant stakeholders on the objectives and features of best practice hardship policies, the Commission intends to establish a licence obligation for retailers to design and implement hardship policies that conform to objectives and best practice principles that will be specified in the licence.

In progressing this work program, the Commission intends to draw on both the Yarra Valley Water and the Committee for Melbourne hardship models, as well as other examples of best practice in this area drawn to its attention during the consultation process. It will also consider and build on the existing voluntary hardship policies of the Victorian energy retail businesses.

During the consultation process consideration will be given to issues such as:

- Options for the development of sensitive and effective customer assessment and streaming arrangements which are capable of identify customers who are in financial hardship and of advising them of their rights and obligations;

- Approaches for encouraging vulnerable customers to be more proactive in seeking assistance from retailers when they have financial problems;

- Appropriate means of assessing customers’ ‘capacity to pay’ as the basis for determining their eligibility for hardship policy assistance; and

- The range of support options, advice and referrals that should be made available to customers in hardship through the retailers’ hardship policy processes.

While establishing a regulatory obligation to adopt best practice hardship policies may be an important initial step, giving effect to a well specified hardship policy and procedures also requires considerable work on the part of retailers in developing appropriate corporate cultures, credit management systems and attitudes and customer inquiry and referral systems.

In progressing this work, it will be important to remain focused on the extent and nature of any remaining shortcomings in the current arrangements for assisting customers in financial hardship and on developing effective measures for addressing them. The Commission will be seeking the active participation and co-operation of welfare and consumer organisations, energy retailers and other stakeholders in undertaking its further work program to that end.

1. Introduction

The Essential Services Commission (the Commission) is releasing this special purpose report "Disconnections and Capacity to Pay" to inform and contribute to the recent public discussion on the extent of customer disconnections from electricity and gas supply in Victoria and the impact that disconnection may have on customers who are experiencing financial hardship. The data and analysis in the report is drawn from the Commission's more comprehensive Energy Retail Businesses Comparative Performance Report for the Calendar Year 2003, which also incorporates disconnection statistics for the six months to June 2004. The latter report will be published in late October 2004.

1.1. Role of the Essential Services Commission

The Commission is Victoria's independent economic regulator of prescribed essential utility services supplied by the electricity, gas, ports, grain handling and rail freight industries. The Commission's statutory objective is to protect the long-term interests of Victorian consumers with regard to the price, quality and reliability of essential services. In seeking to achieve this primary objective, the Commission must have regard to a number of facilitating objectives which include, inter alia, facilitating efficiency and financial viability of regulated industries, promoting effective competition where it is feasible and ensuring that users and consumers (including low-income or vulnerable customers) benefit from the gains from competition and efficiency.

As part of its regulatory functions, the Commission has an important consumer protection role which it performs by:

- Regulating the prices and service standards of utility services provided under monopoly conditions;
- Promoting effective competition in contestable markets such as retail energy supply;
- Issuing enforceable codes of conduct and guidelines which establish minimum contract rights and terms and conditions for customers and supply obligations to be met by retailers; and
- Monitoring and reporting publicly on retailers' compliance with these licence obligations.

1.2. Structure of the Report

The report describes the Commission's energy market consumer protection arrangements, including in relation to customers in vulnerable financial situations, and its processes for auditing and reporting publicly on retailers' compliance with their regulatory obligations.

It also presents data and analysis obtained from the Commission's regular performance audits and reporting of retailers' compliance with specified performance indicators. The report goes on to describe the Commission's current and proposed work program to extend and improve its compliance monitoring and reporting regime. Finally, the report describes a work project the Commission will commence shortly to extend and improve the response of the regulatory framework and energy retailers to the needs of vulnerable energy customers.

The report is structured as follows:

- Chapter 1 describes the purpose of this special report on disconnections.
- Chapter 2 provides an overview of Victoria's customer protection framework and the specific obligations in relation to disconnection and customer payment difficulties established by the Energy Retail Code.
- Chapter 3 describes the Commission's approach to auditing and monitoring Retail Code compliance by retailers and to reporting publicly on their performance against a range of indicators.
- Chapter 4 presents data and analysis on the performance indicators relating to disconnection, affordability complaints and the use of debt repayment plans. The Chapter also presents Energy and Water Ombudsman (Victoria) (EWOV) complaints data on disconnection and affordability.
- Chapter 5 identifies some limitations of the Commission's current performance data on disconnection, particularly in relation to distinguishing between customers in hardship and those who have the capacity to pay their bills but do not do so. The Chapter then describes the Commission's current and proposed work to extend and improve its compliance data in relation to disconnection and hardship.
- Chapter 6 examines the broader issue of financial hardship in the context of utility services and considers options for improving the effectiveness of the regulatory framework in addressing the needs of customers experiencing financial hardship.

2. Customer Protection Framework and the Retail Code Obligations

Victoria has one of the most comprehensive customer protection frameworks for small energy consumers in Australia, comprising both the regulatory safety net arrangements established by the Commission and certain budget funded policy measures. The regulatory energy safety net administered by the Commission provides minimum service protections for all Victorian domestic and small business customers, and includes specific protections for domestic customers experiencing financial difficulties in paying their accounts. The budget funded policy measures include energy concessions and grants administered by the Department of Human Services, which are specifically targeted to low income and vulnerable domestic customers, and the Network Tariff Rebate, which reduces the energy bills of non-metropolitan energy consumers.

The Energy and Water Ombudsman (Victoria) also provides an accessible, low cost, independent dispute resolution facility for energy and water customers.

2.1. Regulatory Energy Safety Net

The Commission is required under legislation to issue electricity and gas retail licences, which impose certain conditions and requirements on licensees, including requirements that all licensees comply with codes and guidelines issued by the Commission. The Commission initially issued electricity and gas energy retail codes, which prescribed minimum terms and conditions of retail energy supply for small electricity customers.

In preparing for the introduction of competitive retail energy supply for small energy customers from 1 January 2001, the Victorian Government expressly provided certain statutory protections that were to apply for small customers entering contractual arrangements in the energy retail market. Specifically, the legislation required that at least four “fundamental” protections be contained in all relevant customer energy contracts, including market contracts.[3] The legislation also enables the Commission to determine any other appropriate protections to apply for small consumers.[4]

The Commission has undertaken two reviews since 2000 on the minimum terms and conditions to apply to small customers in the competitive market, in consultation with consumer representatives, retailers, EWOV and other key stakeholders. These reviews have culminated in the development and publication of the Energy Retail Code, to take effect from 1 January 2005.

While recognising the need to facilitate competition and to allow some retailer flexibility and capacity to innovate in the competitive retail energy market, the Commission has also sought through the Retail Code to enhance the minimum standards of protections available for small customers, and particularly those who are the most disadvantaged and vulnerable. In this regard, the Commission has been conscious that energy services are essential to daily life in

[3] Under sections 36 (1) (a) of the Electricity Industry Act and 43 (1) (a) of the Gas Industry Act 2001, these fundamental protections relate to disconnection of supply, access to information, confidentiality of records and access to meters.
[4] Under sections 36 (1) (b) of the Electricity Industry Act and 43 (1) (b) of the Gas Industry Act 2001.

today's society and that the terms and conditions of retail supply should recognise this essentiality, including for those experiencing financial hardship.

For this reason the Victorian licence requirements contain certain fundamental protections including, in particular:

- **Energy Retail Code**

  This code replaces the existing Electricity Retail Code and the Gas Retail Code and sets minimum standards for billing cycles, credit management, disconnection, contractual terms and explicit informed consent to contractual arrangements. This code increases the existing obligations on retailers with respect to disconnection in a dual fuel environment and amounts to be recovered on late billing.

- **Credit Management Guideline**

  Victoria is the only jurisdiction where industry-specific regulation applies to credit management. This guideline places requirements on retailers in relation to the rules they can apply in requiring a refundable advance and sets higher standards than those applied under the credit reporting requirements of the Federal Privacy Act. The decreasing trend in the use of refundable advances can in some part be attributed to this regulation.

2.2. Vulnerable Customer Protections

A key element of the regulatory framework is to require retailers to make every effort to ensure that customers who are in financial difficulties are not disconnected from supply and that they are offered assistance in managing their debts by means of affordable repayment plans. The Retail Code obligations require retailers to identify customers experiencing financial difficulties and to take extra steps in assisting these customers, including:

- Providing appropriate debt management advice and assistance to households;
- Referring customers to other available sources of assistance and seeking assistance from those sources if appropriate;
- Implementing Government's community service obligations; and
- Providing energy efficiency information, as a strategy to reduce high bills.

The current regulatory framework obliges retailers to assess a customer's capacity to pay in offering affordable instalment plans and before disconnection is considered as a last resort. In particular, retailers are required not to disconnect customers in financial difficulties before they have taken a number of additional steps. Retailers are obliged by the regulations to contact these customers, ascertain if they are experiencing financial difficulties, and, after assessment of their capacity to pay, to assist them by offering affordable instalment plans to enable them to maintain supply while managing their debts in accordance with their capacity to pay. The provisions contained in the code are detailed in Appendix 2.

As detailed in Appendix 3, the Commission notes that the local retailers have stated that they exceed the code obligations in their efforts to avoid disconnecting customers in hardship. The Commission's proposals for reviewing and improving the existing hardship policies and practices are outlined in Chapter 6.

The Commission has implemented a comprehensive performance monitoring and public reporting framework to underpin its regulatory safety net. Chapter 3 details the elements of this framework and outcomes.

3. Performance Reporting

The Commission has a comprehensive performance monitoring, reporting and audit regime to monitor trends in retailer performance, and their compliance with the regulatory obligations. Periodically, it takes regulatory action to remedy retailer's code compliance or customer service performance or to review and revise the regulatory framework, as required.

3.1. Performance Reporting

Since 1997, the Commission[5] has published annual performance reports on energy retail services and the affordability of retail supply to customers. The comparative reports have enabled the Commission to monitor the businesses' performance using both year-to-year comparisons and trend analysis over a period of time, as a basis for assessing the need for regulatory responses.[6]

Two categories of retail performance indicators are currently reported to the Commission that form the basis of the comparative reports: access and affordability, and customer service. While access and affordability is primarily a function of the price of energy services, it is also affected by a range of other matters relating to the credit management and disconnection policies of retailers. This includes the use of refundable advances (or security deposits), the availability of payment plans to assist customers having difficulty paying their bills, and procedures to be followed prior to disconnection and reconnection of customers for non-payment of bills.[7]

Data on customer service performance is currently reported to the Commission quarterly and annually by the retail businesses, and the EWOV reports complaints data on disconnection practices and other retail service matters.[8]

The capacity for customers in financial hardship to pay their bills using the payment options available from the business (thus avoiding disconnection for non-payment) is an important determinant of their continuing access to supply. The Commission monitors access to payment options and Utility Relief Grants, which is emergency funding assistance available to customers who are experiencing difficulties in paying their bills.[9] It also monitors disconnections and reconnections in the same name at the same address. These indicators are broadly related and provide an overview of the trends in affordability of the retailers' services to customers experiencing payment difficulties.

[5] Until 2002 the Office of the Regulator-General.

[6] The reports continue to predominantly examine the performance of the three local electricity and gas retail businesses – AGLE and AGLV, Origin Energy, and TXU. From 1 July 2003, the Commission extended monitoring of the performance of the local retailers to cover all Victoria's electricity retailers. Of the additional retailers, only three actively sell electricity and gas to small business and domestic customers in Victoria - Country Energy, EnergyAustralia and Powerdirect. Their data is incorporated in the overall figures shown in the report, but the numbers are incidental to the analysis.

[7] The Department of Human Services provides information on the proportion of households receiving the Winter Energy Concession, the Service to Property Charge Concession and/or a Utility Relief Grant. The retailers administer these concessions and grants on behalf of the department

[8] The EWOV publishes annual statistics by financial year in its Annual Report. For its own reporting purposes the EWOV classifies complaints differently to the Commission. However for the purposes of this report and to facilitate comparison with the retail businesses, the Ombudsman has similarly categorised the types of consultations, complaints and disputes it received in 2003 and 2004.

[9] Customers applying for grants must meet the criteria specified by the Department for Human Services.

However, as explained in Chapter 5, disconnections and reconnections in the same name is an ambiguous measure of the extent of disconnection of financially vulnerable customers and the Commission is taking steps to introduce more meaningful measures. In 2003, it took steps to tighten the performance monitoring framework. Chapter 5 details this and other work the Commission has undertaken to improve the monitoring and reporting requirements on retailers, particularly with respect to low income and vulnerable customers.

3.2. 2003 Performance Audit Results

In early 2003 the Commission required the three local electricity and gas retailers (AGL, Origin Energy and TXU) to undertake audits of their compliance with regulatory obligations imposed through their licences. Amongst other obligations, the audits covered affordability and timeliness of services. The audit scope, which was developed in consultation with consumer and retailer stakeholders, addressed specific regulatory obligations designed to protect customers with payment difficulties and avoid disconnections.

In particular, the audit required assessment of the policies, procedures and systems in place to:

- Identify and assist customers who are having difficulties in paying their bills;
- Assess a customer's capacity to pay and ensure that instalment plans are consistent with capacity to pay;
- Ensure instalment plans are regularly monitored to ensure they are fair and reasonable in addressing payment difficulties a customer may face while on the plan;
- Ensure debt collection agencies comply with the broad obligations of the retail code and with the guidelines on debt collection issued by the Australian Competition and Consumer Commission concerning section 60 of the Trade Practices Act 1974 (Cth);
- Ensure retailers do not disconnect a customer who is without sufficient income until all provisions in the code are complied with; and
- Ensure that retailers do not disconnect a customer in circumstances proscribed under the codes, but if a customer is incorrectly disconnected ensure that the processes in place result in supply being rapidly restored.

Both TXU and AGL received high compliance ratings for having policies and procedures in place to meet their licence obligations. Origin Energy's audit results will be published in October, noting similar compliance assessment.[10] Further, the retailers reported that they each have a 'hardship policy', which formally codifies their internal practices and processes to ensure they meet the licence requirements. The precise details do vary, and while they largely follow the code obligations, there are some processes over and above the requirements, for example, providing additional warnings and notifications before disconnection

[10] Similarly to TXU and AGL (as detailed in the published report at esc.www.vic.gov.au), Origin Energy's audit showed that there are improvements required in its performance data systems, which are being addressed.

3.3. Further Compliance Audit in 2004

Notwithstanding the audit findings, some community groups have advised the Commission that, based on trends in their case work, they believe the retailers may not be complying with their code obligations in undertaking certain disconnection activity and that the Commission needs to go beyond its annual auditing program to ensure compliance with the retail code in this respect. In particular, some consumer groups state that customers continue to be disconnected who do not have the capacity to pay or are not sufficiently assisted by retailers with affordable payment options to avoid disconnection. In their view, call centre staff are either not sufficiently trained or sensitive to customers' needs. Alternatively, they suggest that the practice of some retailers is to require customers to enter payment arrangements that exceed their capacity to pay. These comments have been based on reported increases in the number of cases coming to financial counsellors and other community organisations, which involve disconnection of energy customers who are in financial hardship.

The Commission agrees that further compliance monitoring action is warranted in the light of the recent trend in disconnection data, the experiences being reported by financial counsellors and the level of public comment that has resulted. The Commission advised the three local retailers in July that it intended to undertake further independent audits of their compliance with these code obligations in more detail in order to better understand their impact on customers who are experiencing financial hardship, particularly at the point of proposed disconnection action. The audits will be undertaken in November 2004 and the results available early in 2005.

The audit results will assist to inform the Commission as to the reasons for and impact of the increased incidence of disconnections by some retailers in 2003 and 2004 and whether there are indications of systemic non-compliance with the retail code obligations in relation to providing assistance to customers experiencing financial difficulty. Chapter 5 describes in further detail the actions being taken by the Commission to extend and improve its monitoring of compliance with the Retail Code obligations in relation to financially vulnerable customers.

4. Disconnection and Affordability Monitoring Results

This Chapter examines in some detail the performance indicators reported by the retailers and EWOV and provides:

- The overall rate of disconnections and reconnections in the same name between 1984-2004, which allows comparison between the performance of the previously government-owned and privately-owned energy utilities on these key indicators;

- Disconnections and reconnections in the same name data for the individual businesses for the period 1999-2004[11], which shows comparative changes in their performance on a year-to-year basis and enables trend analysis over a period of time; and

- Affordability, including payment plans, and complaints data for the period 1999–2003, which provides a broader understanding of the degree to which retailers are assisting customers and the level of customer complaint on affordability issues.

As noted above, the trends in the rate of disconnections and reconnections in the same name are of particular public interest, primarily because of concern on the part of consumer representatives that variations in these indicators are reflective of a changed approach by retailers to disconnection of customers who are experiencing payment difficulties.

As noted in Chapter 3, the measurement of disconnections and reconnections in the same name, has limitations as an indicator of the rate of disconnection of customers who are experiencing financial hardship. This is because these measures are likely to include both customers who can pay their bills but do not, as well as some financially vulnerable customers who should be given assistance to remain connected under the requirements of the Retail Code. As discussed in Chapter 5, the Commission has taken steps to improve its performance monitoring data in this area to obtain a better understanding of these issues.

The following general points are made to place the disconnection and affordability data reported in this Chapter into context with the size and performance of the Victorian energy retail market as a whole. There are approximately 2.1 million electricity and 1.2 million gas customers in Victoria and the retailers report that, in any one billing cycle, payment reminder notices can be sent to up to 1.26 million electricity customers and, of these, up to 540,000 customers may not pay their account until they receive a disconnection notice.[12] By way of comparison, in 2003, the retailers reported 14,211 electricity disconnections overall, with 6,744 customers reconnected in the same name.

The data underpinning the graphs and text below are presented in detail in Appendix 4.

[11] For the purposes of this report the 2004 data on disconnections and reconnections in the same name is annualised – based on 8 month's data to August. The annualised rates are calculated by projecting the partial year's volume over the full year, and calculating the percentage of disconnections that would occur if the rate was maintained over the year.
[12] Final Decision: Review of the Retail Code, p14.

4.1. Overview of the Disconnection and Affordability Data

The following overview summarises the main points and trends that arise from the data reported to the Commission by retailers in relation to disconnection, use of instalment plans and affordability complaints.

4.1.1. Electricity

- Overall disconnections have gradually increased from levels reported in 1999, being the lowest disconnection rates experienced over the last 20 years, to rates comparable to the average rates experienced under the SECV.

Disconnections under the SECV 1984-1994		
Average 1984-1994	**Highest 1994**	**Lowest 1985**
1.02%	1.92%	.63%

Disconnections since 1995 – All retailers		
Average 1995-2004	**Highest 2003**[13]	**Lowest 1999**
0.75%	.7%	.36%

- There were 14,211 actual disconnections in 2003 compared with up to 2 million disconnection warning notices issued by retailers in the same year.
- In 1999 of 6,790 disconnections, 54% or 3,666 were reconnected in the same name.
- In 2003 of 14,211 disconnections, 47% or 6,744 were reconnected in the same name.
- The number of customers on instalment plans has consistently increased. In 1999, 62,400 customers or 3.38% of the customer base were on instalment plans. In 2003, 98,495 or 4.92% were on instalment plans.
- The data does not demonstrate any consistent trends over time for retailers or correlation between disconnections, affordability and EWOV complaints, as outlined in the table below.

2003 Retailer Performance					
Performance Indicator	**AGLV**	**AGLE**	**Origin (PC)**	**Origin (CP)**	**TXU**
Disconnection % of total customers	.94	1.5	.52	.81	.24
Reconnections % of total customers	.29	.58	.40	.43	.16
Instalment Plans % of total customers	6.22	4.44	3.94	1.55	6.42
EWOV Complaints % of customers disconnected	1.0	.7	.5	2.6	3.6

[13] The annualised rate for domestic customers the 8-months to August 2004 is .92%.

- Only AGLE demonstrated a consistent upward trend in disconnections over the period 1999-2003, but will decrease its rate in 2004 on projected figures. AGLV's rate of disconnections since 1999 has not been consistent, but on current trends, its 2004 rate will be the highest of all retailers.
- Both AGLE and AGLV have consistently shown a high rate of customers on budget instalment plans since 1999, with TXU having the highest rate in recent years.
- Neither TXU nor Origin Energy has demonstrated any predictable disconnection patterns since 1999. Origin Energy will reduce the disconnections for former CitiPower customers in 2004 and stabilise the rate for former Powercor customers. Based on projected figures, TXU will increase its rate to that achieved in the late 1990s.

4.1.2. Gas

- Overall disconnections have returned to rates consistent with those achieved by the Gas and Fuel Corporation during the 1990s.
- Sharp increases during 2004 reflect reportedly unsustainably low disconnection rates during 2002 and 2003 due to distribution business system problems.

Disconnections under Gas & Fuel Corporation		
Average 1984-1994	**Highest 1993**	**Lowest 1984**
.90%	1.33%	.6%

Disconnections since 1995 – All retailers		
Average 1995-2004	**Highest 2004[14]**	**Lowest 2003**
1.02%	1.16%	.28%

- As shown in the tables below, all retailers have maintained relatively high rates of instalment plans, which have remained constant at around 5% of all customers since 1999. In 2003, 82,700 customers were on budget plans.
- The higher rates of gas disconnections in 2004 have not been reflected in increased complaints to EWOV for any retailer.

2003 Retailer Performance			
Performance Indicator	**AGLV**	**Origin**	**TXU**
Disconnection % of total customers	.33	.26	.24
Instalment Plans % of total customers	6.74	4.97	4.88
EWOV Complaints % of customers disconnected	1.9	3.2	2.0

[14] The annualised rate for the 8-months to August 2004.

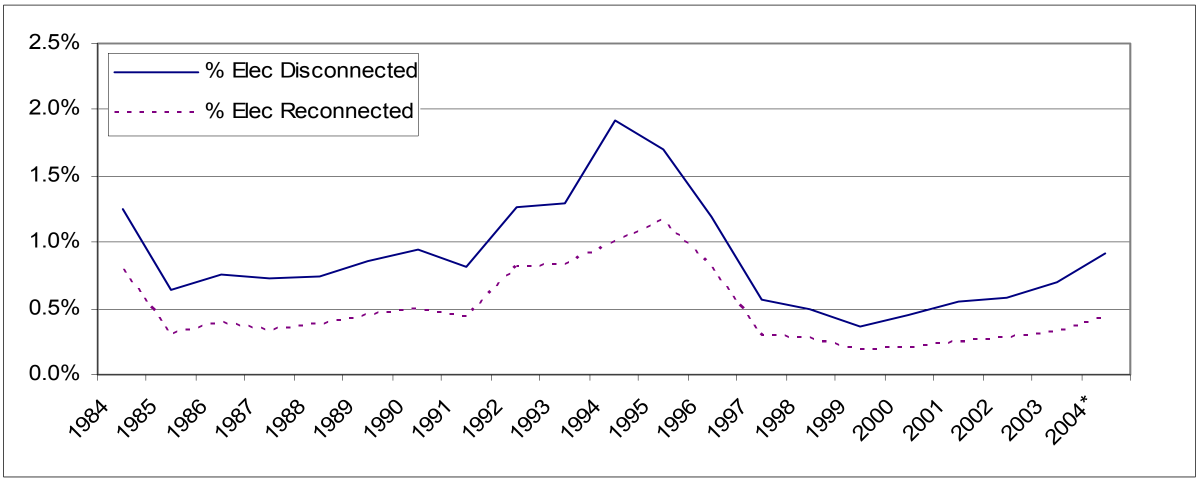
2004 Retailer Performance			
Performance Indicator	**AGLV**	**Origin**	**TXU**
Disconnection % of total customers[15]	1.89	1.01	.58
EWOV Complaints % of customers disconnected[16]	.7	1.5	1.8

- The data shows that there was no consistent pattern in gas disconnections for any retailer in the period 1999 – 2003, but the highest decrease was by Origin Energy.
- Neither AGLV nor TXU showed any discernible pattern in disconnections during the period 1999-2003, other than to considerably decrease the rate of disconnections between 2002 and 2003.
- AGLV shows the highest rate of increase in 2004.

In preparing this report, the Commission sought comments from all retailers on the increase in the rate of disconnections that has been evident in the first six months of 2004. The comments are summarized in Appendix 2.

4.2. Overall Trends in Electricity

Graph 1 All retailers – electricity disconnections and reconnections in the same name, 1984-2004



For the period 1984 – 1994, electricity disconnections by the State Electricity Commission of Victoria (SECV) averaged 1.02% of customers per annum. The lowest rate of disconnections was in 1985 (0.63% of customers), rising progressively to 1.92% in 1994.

[15] Annualised data for the full 2004 year, based on the January – August 2004 data.
[16] Data for the period January – June 2004 only.

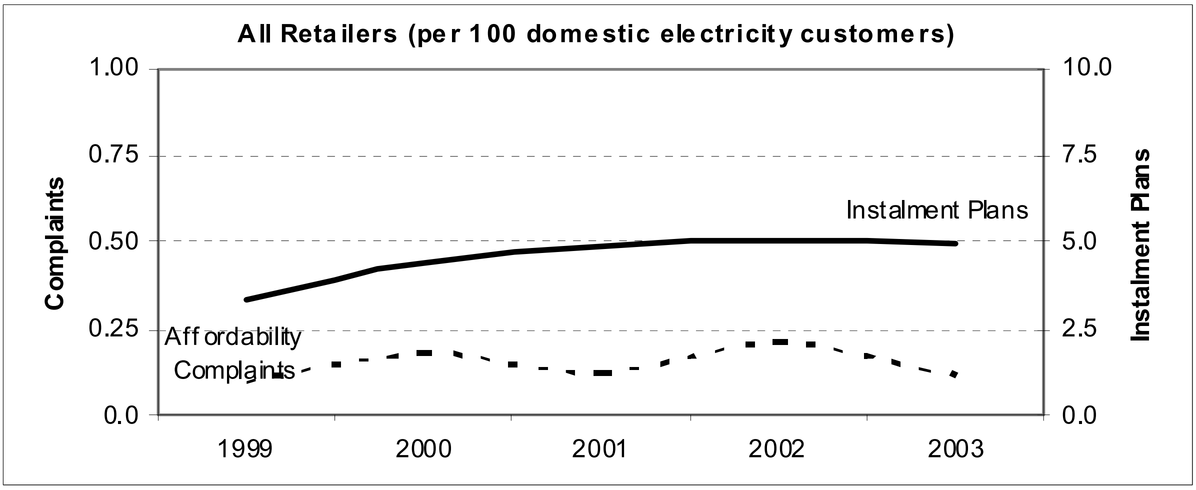
Electricity disconnections commenced trending downwards in 1994, and there has been a steady increase in the rate of electricity disconnections since 1999 (from 0.37% to 0.71% of customers in 2003). The actual number of customers disconnected has risen from 6,790 to 14,211 over this period, out of a total of 2.1 million Victorian domestic electricity customers.

For the period January – August 2004, 0.46% of customers (9,095) were disconnected overall. If this rate of disconnections continues, the rate of disconnections for 2004 will be 0.97% of customers (19,194), primarily due to increased disconnection activity by AGLV.

While increasing, the rate of reconnections in the same name is not rising at the same rate as the recent rise in disconnections. In 1999, 54% of electricity customers disconnected were reconnected in the same name; in 2003 this proportion had decreased to 47%. If the January – June 2004 rate continues for a full year, the rate of reconnections in the same name will stabilise at 47% of electricity customers disconnected.

The projected rate of reconnections in the same name in 2004 is 0.46% of customers (9,070), which compares to the rates achieved by the SECV in the mid-to-late 1980s.

Graph 2 All retailers – instalment plans and affordability complaints, 1999-2003

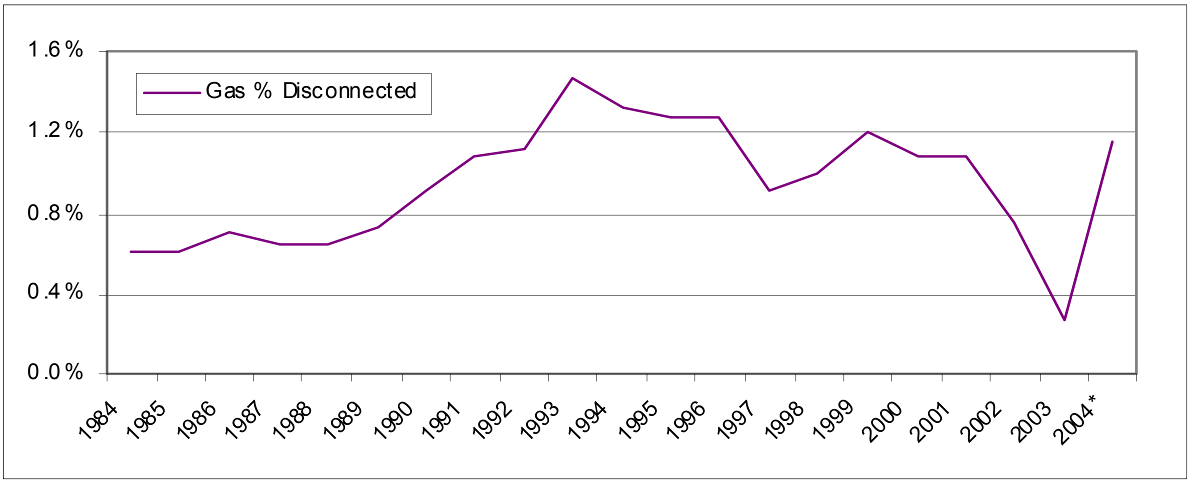


Affordability complaints reported by all retailers decreased between 2002 and 2003 (from 4,734 to 2,516 electricity customer complaints). All retailers reported a decrease in affordability complaints.

Customers on budget instalment plans have increased from 3.38% of customers in 1999 (62,040) to 4.92% in 2003 (98,495). Refundable advances were applied to 0.01% of domestic customers in 2003 (251) reducing from 0.02% in 1999 (443).

4.3. Overall Trends in Gas

Graph 3 All retailers – gas disconnections, 1984-2004

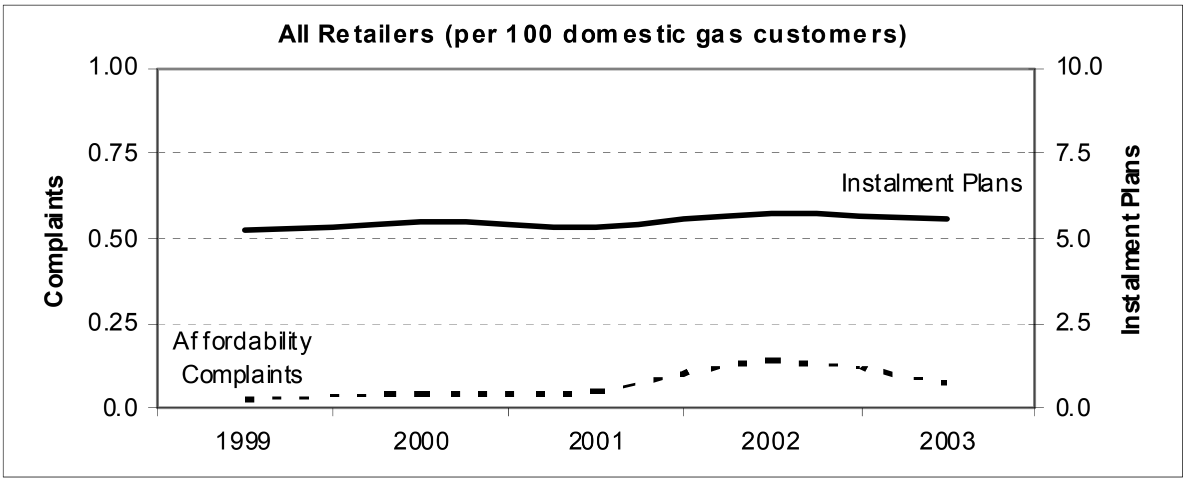


Gas disconnections steadily increased from 1984 - 1994 (from 0.60% to 1.33% of customers) under the Gas and Fuel Corporation and averaged a disconnection rate of 0.90% per annum over the period. The lowest rate of disconnections was in 1984. From 1995, the rate of disconnections fluctuated between 1.28% and 1.08% until 2002, when it decreased to 0.77% of customers (11,370).

In 2003, the rate reduced to the lowest rate since 1984, that is 0.28% or 4,149 disconnections. The retailers foreshadowed that this rate was not sustainable, attributing the minimal disconnection activity to the opening of the competitive market and systems-related problems with the distribution businesses.

As a result, for the first eight months of 2004, the increase in the rate of disconnections of gas customers has been more dramatic. If the pattern of disconnections experienced in this period continues, the rate of disconnections for 2004 will be at 1.16% of customers (17,218), primarily due to increased disconnection activity by AGLV and, at a lower rate of increase, by Origin Energy. This will return the rate of disconnections to that experienced during the late 1990s.

Graph 4 All retailers – instalment plans and complaints, 1999-2003



Budget instalment plans for gas retail customers have remained constant for the period 1999 - 2003, but the rate of use is slightly higher than for electricity customers (at 5.54% or 82,701 plans). Affordability complaints have decreased to a reported 1,169, and refundable advances are also at a low 0.01% of customers, down from 0.03% in 1999 (429 to 154).

4.4. Trends by Individual Energy Businesses

This section presents data and analysis on disconnections, reconnections in the same name, instalment plans, and affordability complaints by individual gas and electricity businesses. The Commission reports predominantly on the three local retailers, which despite approximately 20% transfers in the competitive market, still collectively retain between 97-99% of the total number of customers.[17]

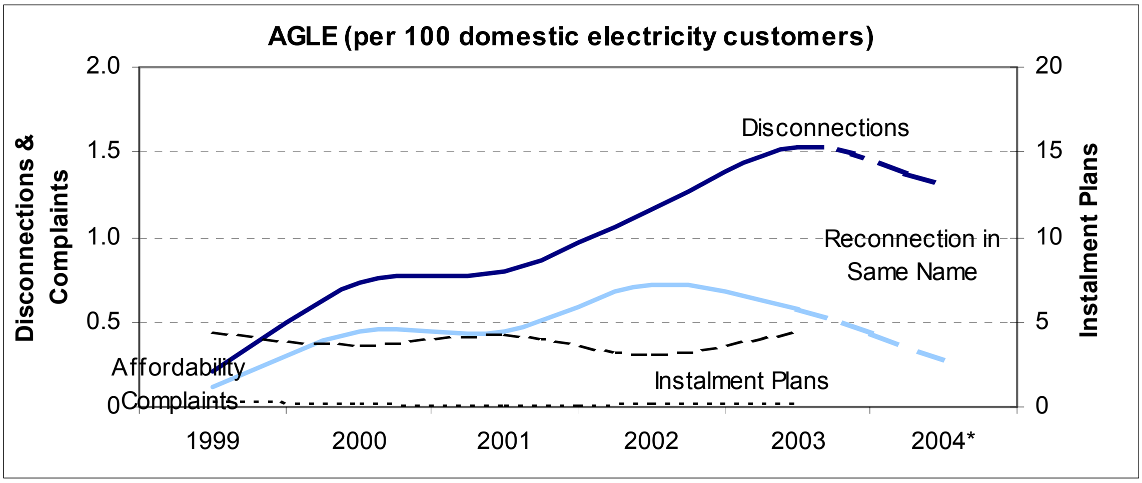
4.4.1. AGLE and AGLV

AGLE Electricity

AGLE retails electricity to customers in the northern and south-western metropolitan suburbs.

[17] Final Report: Special Investigation – Review of Effectiveness of Retail Competition and Consumer Safety Net in Gas and Electricity, June 2004, p24.

Graph 5 All indicators – AGLE electricity



For the period 1999 – 2003, AGLE progressively increased its rate of disconnections (to 1.53% of customers or 3732 disconnections) and rate of reconnections from to 2002. However, the rate of reconnections in the same name decreased in 2003 to 0.58% of customers (1406). If the rate of disconnections experienced in January – August 2004 continues, AGLE will decrease disconnections for this period to 1.31% of customers (3,202). Reconnections in the same name will decrease to 0.28% of total customers (674) or 21% of customers disconnected.

While the trend for these indicators is improving, the Commission will review AGLE's performance in this area in the context of the forthcoming audit to be undertaken in November 2004.

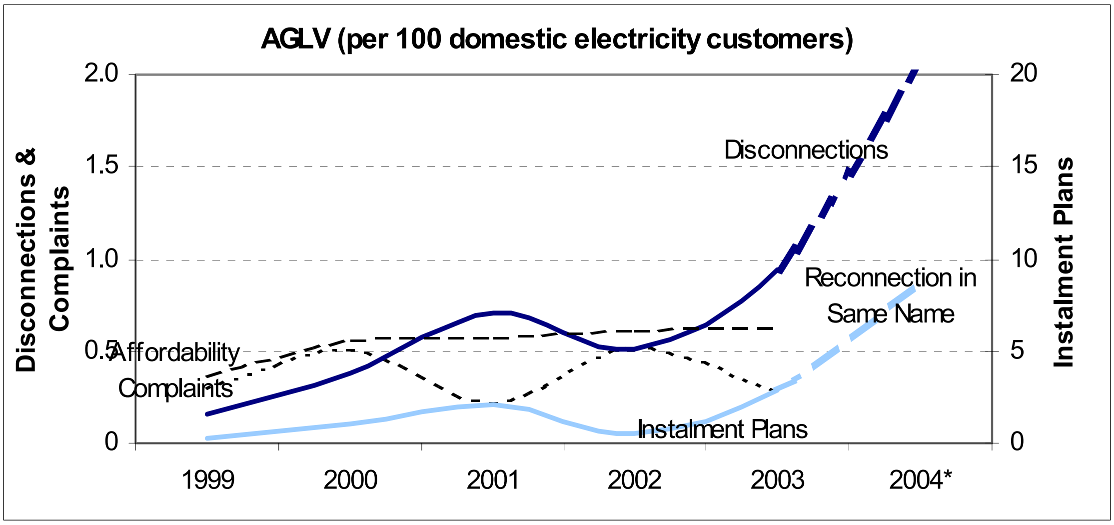
AGLE increased the rate of budget instalment plans to 4.5% of customers (10,837), which is the highest rate for its domestic customers since 1999. It continued to record a low rate of affordability complaints (88 in 2003) and maintains the lowest complaints rate of all retailers at 0.09% of customers.

AGLV

AGLV sells electricity to customers in Melbourne's south-eastern suburbs and the Mornington Peninsula and gas to customers in the western, central and south-eastern suburbs of Melbourne.

Electricity

Graph 6 All indicators – AGLV electricity



For the period 1999 – 2003, AGLV's rate of electricity disconnections was not consistent, but showed an increase between 2002 and 2003 from 0.51% (2,638) to 0.94% of customers (4,803). In 2003, the rate of reconnections in the same name increased to 0.29% of customers (1,473), from 0.05% or 257 in 2002, returning AGLV to similar rates evident in 2000 and 2001. AGL advised the Commission that it considered the 2002 data to be inaccurate. It advised, *"it is our strong suspicion…that the 2002 figure understates the level of reconnections. This has the consequence of overstating the increase in reconnection levels for 2003. Regrettably we are unable to locate the reports that were the basis of our 2002 data submitted to the Commission for this response category.*[18]

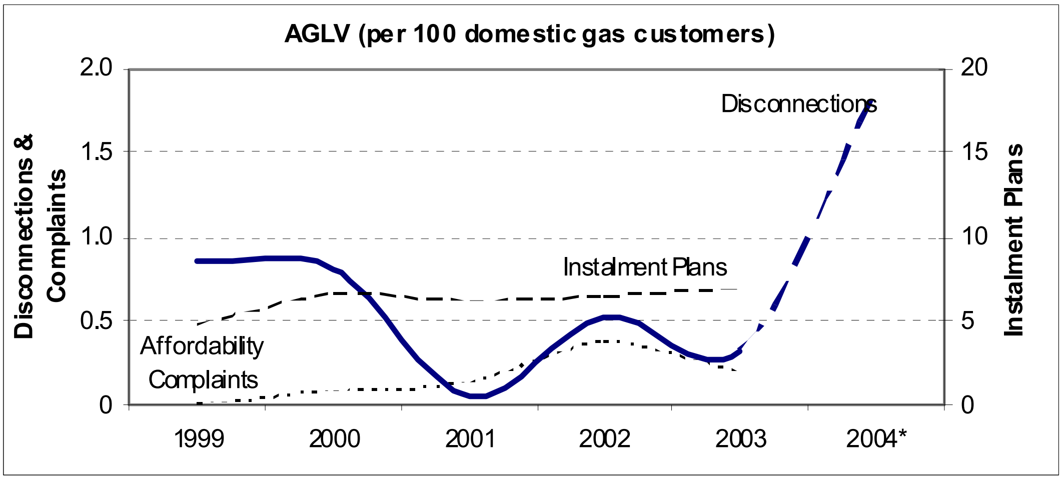
Whilst AGLV reported a high rate of disconnections in 2003, it also reported the second lowest rate of reconnections in the same name. Its use of budget instalment plans has remained steady at 6.2% of customers (31,943) (with TXU, AGLV has the highest use of these instalment plans by customers) and affordability complaints declined to 0.40% of customers. However, AGLV remains the retailer with highest level of electricity affordability complaints relative to all complaints (1,591 or 71% of complaints).

AGLV's 2004 full-year electricity disconnections rate is predicted to be 2.07% of customers (9786) with reconnections in the same name increasing to 0.88% of customers (4,152). This will mean that 42% of customers disconnected will be reconnected in the same name at the same address, which is a significant increase to that shown in the period 1999 - 2003.

[18] AGLV purchased the previous Pulse business in July 2002.

Gas

Graph 7 All indicators – AGLV gas



For the period 1999 – 2003, AGLV decreased disconnections from 0.86% (4,298) to 0.33% of customers (1648) and increased the number of budget instalment plans to 6.74% of customers. (or 33,660 plans) AGLV's gas customers continue to have the highest take-up of budget instalment plans of all retailers.

Affordability complaints decreased to 0.20% of customers, but AGLV continued to record the highest number of gas affordability complaints for 2003 (1, 002 out of a total for all retailers of 1,169).

If the rate of disconnections experienced between January – August 2004 continues, AGLV will increase its rate of disconnections to 1.89% of customers (9,097) and will be the only retailer to have a higher rate of disconnections than experienced for the period 1999 – 2003.

The Commission is concerned at the rate of increase in both electricity and disconnections in 2004 by AGLV. AGLV has provided assurances that it is fully compliant with the Retail Code and takes additional steps to avoid disconnecting customers in financial hardship. This was confirmed by its independent audit and details are provided in Appendix 2, but the Commission will pay particular attention to this aspect of AGLV's performance in the further audit to be undertaken in November 2004.

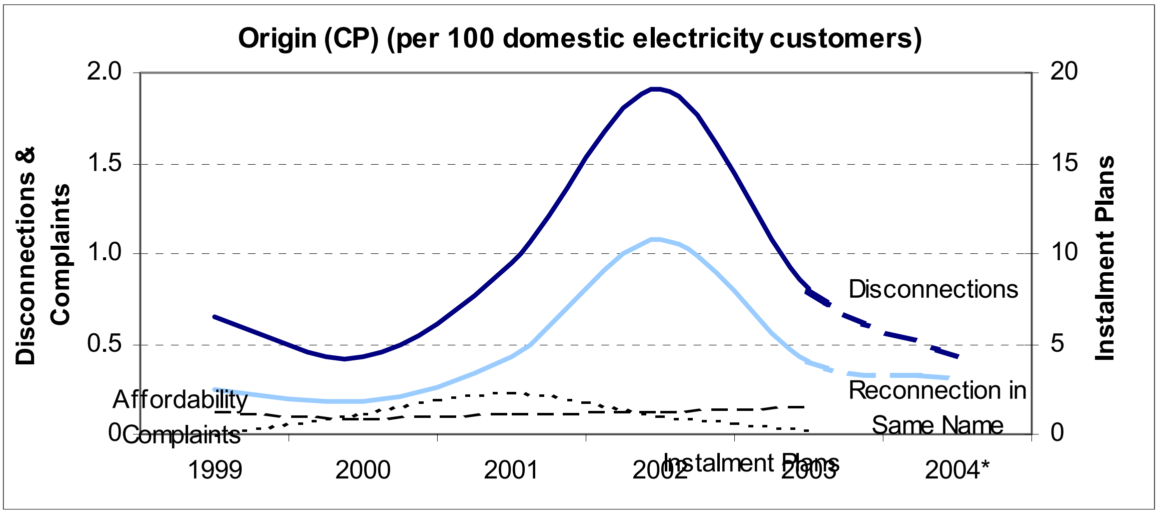
4.4.2. Origin Energy

Origin Energy retails electricity to customers in the western districts of Victoria (Powercor distribution area) and the CBD and inner Melbourne suburbs (CitiPower distribution area). For the purposes of comparative reporting, the Commission continues to monitor and analyse trends separately for these two network areas.

Gas is sold by Origin Energy to customers in parts of eastern Melbourne, the Mornington Peninsula and northern and eastern Victoria.

Electricity

Graph 8 All indicators - Origin (CitiPower distribution area)



In this region, disconnections and reconnections in the same name commenced to decrease from 2002, which is a trend previously forecast by Origin Energy to the Commission.[19] If the January – August 2004 disconnection activity continues at the same rate for a full year, disconnections will continue to decrease from 0.81% to 0.43% of customers (from 1,673 to 724) and the rate of reconnections in the same name will decrease slightly to 0.31% of customers disconnected (522 customers).

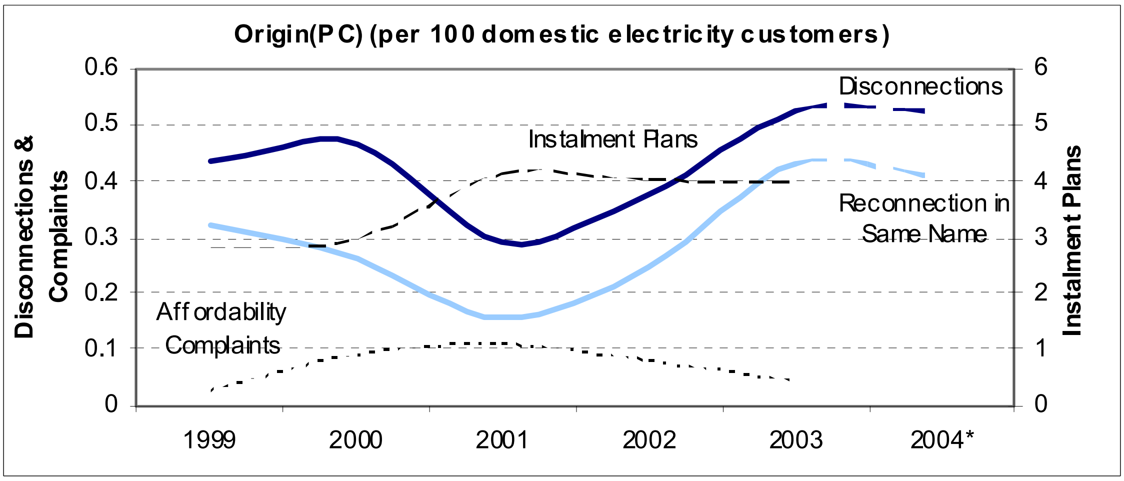
The projected figures in 2004 for customers in this area are low, but the Commission notes that the proportion of customers reconnected in the same number will rise to approximately 70% in 2004, compared with 50-55% in previous years. The forthcoming November audit will inform the Commission of the circumstances of these customers and whether any regulatory action is to be taken.

The use of budget instalment plans increased to 1.55% of customers in 2003 (3,221), slightly improving the trend since 2000, but these customers continue to have the lowest rate of use of

[19] See Electricity Retail Businesses Comparative Performance Report for the Calendar Year 2002, p20 at www.esc.vic.gov.au\electricity\IndustryPerformanceReports

budget instalment plans. Origin reported that affordability complaints reduced from 0.10% to 0.03% of customers (73 complaints).

Graph 9 All indicators - Origin (Powercor distribution area)

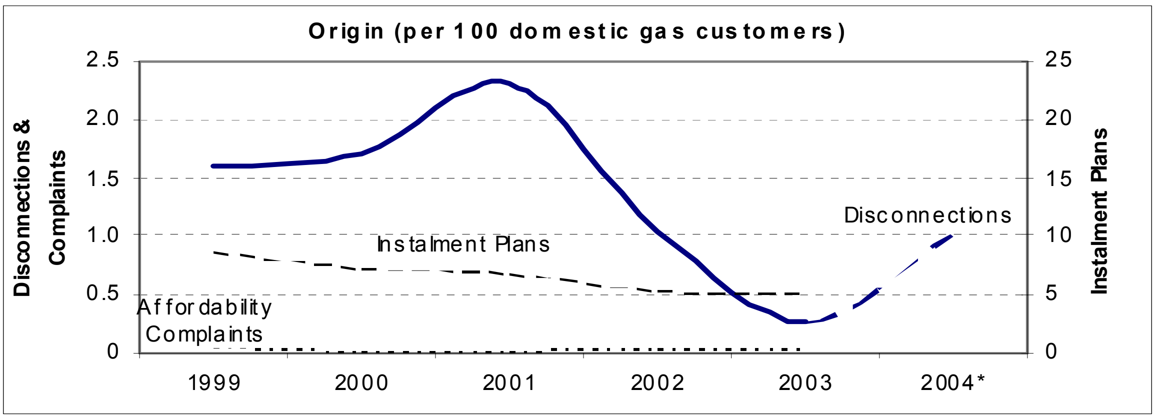


Customers in the Powercor distribution area experienced increased disconnections in 2003 compared to 2002 (to 0.52% of customers or 2,692), continuing the upward trend since 2001 when 1435 customers were disconnected. Reconnections in the same name increased in 2003 to 2,203 or 0.43% of customers, which represents the highest rate of reconnections in the same name since 1999. If the January – August 2004 pattern continues, these rates will stabilise over the full year.

There has been a steady use of budget instalment plans since 2001 at approximately 4% of customers (20,269) and Origin reported a decreased rate of electricity affordability complaints to 0.04% of customers or 251 complaints.

Gas

Graph 10 All indicators



Origin Energy showed a progressive decrease in disconnections to 0.26% of customers in 2003 (1,080 customers were disconnected). However, early in 2004, Origin Energy advised the Commission that its rate of gas disconnections for 2003 should not be regarded as sustainable, and an increase towards levels reported in previous years is expected in 2004. The low level in 2003 was reported to be the result of difficulties experienced by distribution businesses in carrying out disconnections. The projected rate of disconnections in 2004 is 1.01% of customers (5,458)

Other evidence does suggest that retailers are more closely focussing on and managing their debtors, including more proactive action prior to disconnection. For instance, Origin Energy has advised that it has reduced the financial threshold before sending disconnection notices to gas customers, which until 2004, was much higher than that required under regulation.[20] The Commission was advised that this is likely to result in higher disconnections for an initial period, but Origin Energy expects that the rate of disconnections will subsequently considerably decrease.

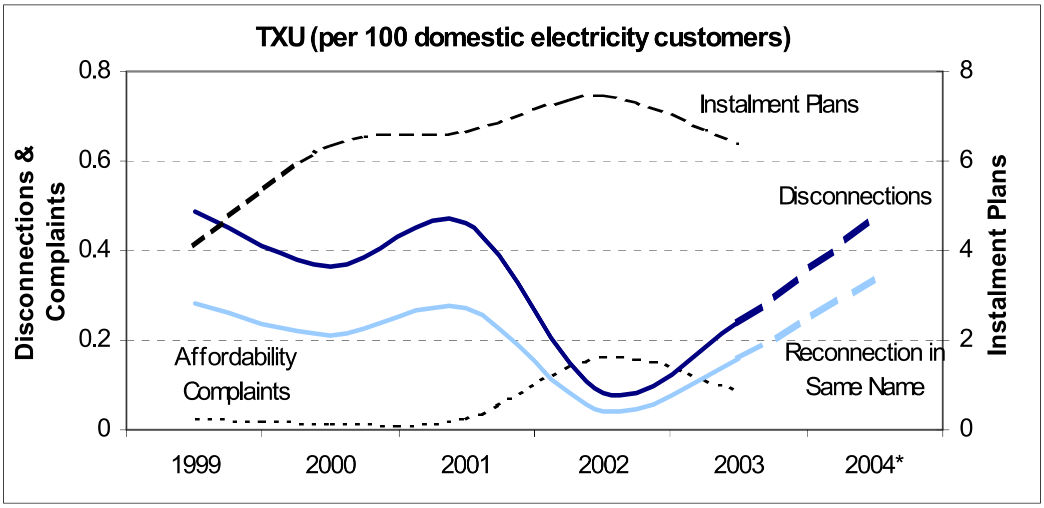
For Origin Energy's gas customers, the use of budget instalment plans was marginally reduced (from 5.25% to 4.97% of customers, or 26,793 plans) and affordability complaints increased from 0.01% to 0.02% of customers (from 63 to 108 complaints).

4.4.3. TXU

TXU retails gas to customers in the north eastern and outer western suburbs of Melbourne and western and north-central Victoria, and for electricity, predominantly the Victorian eastern districts.

Electricity

Graph 11 All indicators



[20] Guideline No 4 sets the amount below which retailers must not disconnect. This amount has been determined in consultation with retailers and consumer groups.

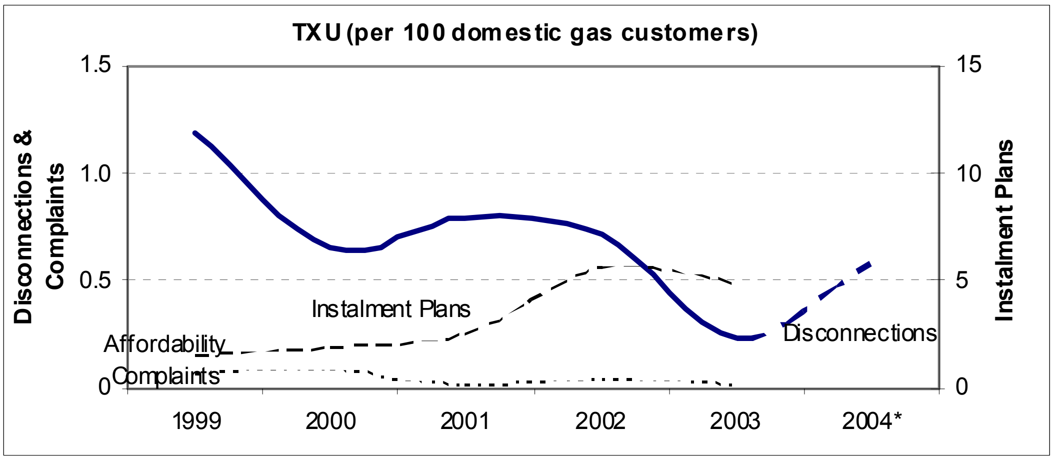
In 2003, TXU increased its rate of disconnections to 0.24% of customers (1,209) after decreasing in 2002 to 0.08% (379), with a concomitant increase in reconnections in the same name, from 0.04% of customers (780) in 2002 to 0.16% (1768) in 2003. TXU's rate of disconnections has been volatile since 1999. If the January – August 2004 pattern continues, TXU will return to rates similar to that experienced in the late 1990s.

There was a decrease in the take up of budget instalment plans from 7.5% to 6.4% of customers (31,978) between 2002 and 2003, but at the same time TXU maintained the highest number of plans for customers by any retailer since 1999. TXU notes that there has been a decrease in the take up rate of budget instalment plans, but advises that its processes have not changed from 2002. It considers that the implementation of the Duel Fuel billing product may mean that TXU can offer an alternative product to instalment plans, which may be more suitable for some customers.

In contrast to the increase in affordability complaints in 2002 (to 0.16% of customers or 881 complaints), TXU decreased affordability complaints in 2003 to 0.09% of customers (513).

Gas

Graph 12 – All indicators



For TXU gas customers the disconnection rate decreased to 0.24% of customers (1,421) in 2003, a substantial decrease from previous years. Whilst the rate of disconnections will increase in 2004 if the January – August pattern continues, the rate at 0.58% of customers (2,662) will be the lowest since 1999, when the rate of disconnections was 1.19% of customers (8,180).

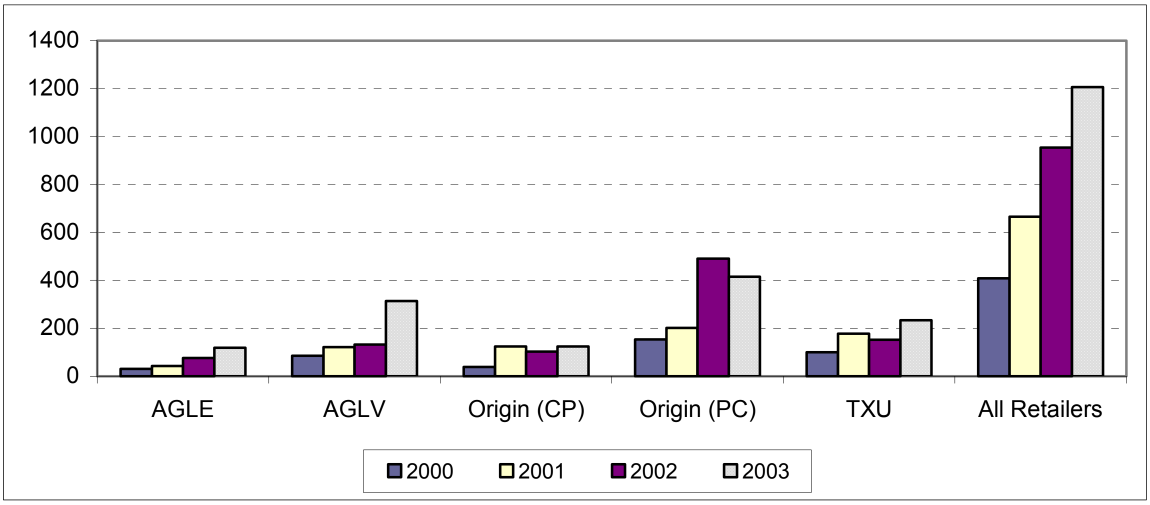
The use of budget instalment plans was reduced to 4.9% (to 22,248 down from 5.5% of customers in 2002), which marginally reverses the upward trend evident since 1999. TXU has previously commented that this slight decrease may be attributed to the alternative payment arrangements provided through its Dual Fuel Billing product.

The number of affordability complaints was at 0.01% of customers, or 59 complaints.

4.5. EWOV Complaints Data[21]

Electricity Cases

Graph 13 Affordability Cases (excluding enquiries)



In 2003, EWOV reported 1206 electricity affordability complaints, an increase of 259 from 2002, when 947 complaints were recorded. The EWOV data shows that there has been a five-fold increase in these complaints since 1999 (from 210 to 1206). Of the 2003 affordability complaints, 198 were related to disconnection activity. These complaints were classified as Level 1 complaints by EWOV and were resolved after consultation with the retailer.

In September 2004, the Ombudsman released the bi-annual newsletter of the Ombudsman, which shows that the rate of disconnection complaints reported to EWOV had increased relative to the 2003 period. That is, for the period January – June 2004, the Ombudsman received 150 complaints and if this continues on a full year basis, the actual numbers of complaints will increase to approximately 300 compared to 198 disconnection complaints for 2003.

The Ombudsman noted in Resolution 18 that one reason for the increase in the enquiries and complaints might be an increased referral from community agencies and financial counsellors. It was noted that the referral from these agencies increased from 103 to 154 in the period.[22]

For the purposes of this report, the actual number of customer complaints on actual and imminent disconnections has been compared against the number of disconnections and reconnections in the same name for 2003 and 2004.[23] Table 14 in Appendix 4 shows that, in

[21] EWOV reports both enquiries and complaints in its public reporting. The Commission understands that enquiries are referred back to the retailers to enable them an opportunity to remedy the potential complaint. Therefore, the Commission is primarily concerned with those complainants who do not consider they were sufficiently assisted by the retailer and continue to feel aggrieved to pursue their complaints further. In 2003, 19% of electricity disconnection enquiries proceeded to complaint and are reported here.
[22] Resolution No 18, p.4
[23] Noting the earlier comments in Chapter 4 and discussion in Chapter 5 about the limitations of reconnection in the same name as an indicator of disconnection of customers in hardship.

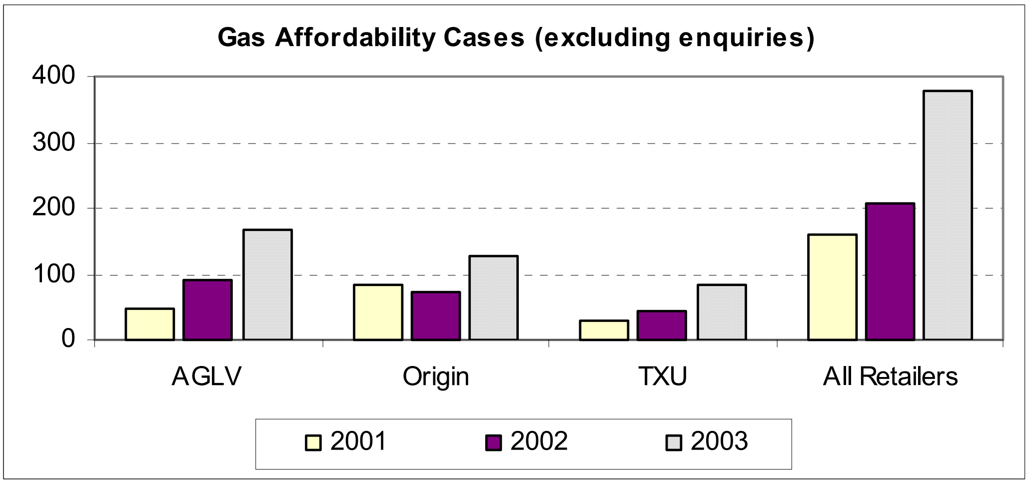
2003, of the total number of customers disconnected, 1.4% complained to EWOV. When the total number of disconnection complaints is compared against the rate of reconnections in the same name, the proportion increases to 3.0%. Table 15 in Appendix 4 shows that these proportions increased slightly for the January – June 2004 period.

The data does not show a consistent pattern for all retailers. For example, in 2003, AGLE and AGLV had the highest rate of disconnections and AGLE the highest rate of reconnections in the same name, but both companies had low rates of complaints to EWOV against these indicators. Origin Energy decreased its disconnections and reconnections in the same name for former CitiPower customers, but had a higher rate of complaints to EWOV than for former Powercor customers. Only TXU appeared to be consistent, that is, increased the rate of disconnections and reconnections in the same name and had a relatively high rate of complaints to EWOV for the 2003 calendar year.

For the January – June 2004 period, AGLE had the highest rate of complaints to EWOV when compared against the reconnection in the same name indicator, but reported a slight decrease in the actual reconnection in the same name data in 2004.

Gas

Graph 14 Affordability Cases (excluding enquiries)



The total number of gas complaints reported by EWOV has more than doubled between 2002 and 2003 (from 267 to 636). There has been a four-fold increase since 1999 when 148 complaints were reported. The total number of gas affordability complaints reported by EWOV has increased from 206 complaints in 2002 to 378 in 2003. This is a three-fold increase since 1999 when 128 complaints were reported. Of these affordability complaints, 98 were related to disconnection matters, all of which were Level 1 complaints resolved through consultation with the retailer.

Comparing the actual number of disconnection complaints against the number of disconnections in 2003 and 2004, shows that, in 2003, 2.4% of those customers facing imminent or actual disconnection complained to EWOV. In the period January – June 2004, this reduced to 1.1% (see Table 16 and Table 17).

The proportion of complaints is relatively even between all retailers in these periods.

5. Improved Disconnection and Affordability Compliance Monitoring

Based on its recent monitoring experience, the Commission has identified a number of areas where its performance indicators and compliance auditing could be improved in order to provide more relevant information on the incidence of disconnection of energy customers who are in financially vulnerable circumstances. The areas where improvements can be made include the following:

- The current disconnection performance measures are not sufficiently detailed to distinguish disconnections involving customers who are in financial hardship from those who have the capacity to pay their bills but fail to do so on the basis of reminder and disconnection notices. In particular, data on disconnection and reconnection in the same name at the same address do not distinguish between these two groups of customers.

- Also, greater assurance is needed that all customers experiencing financial hardship are being identified by retailers and offered affordable repayment plans and that the retailers' policies and practices for dealing with customers in hardship are effective and are being implemented properly.

This Chapter explains the actions being taken or proposed by the Commission to improve its performance indicators and monitoring in relation to disconnection and affordability. The next Chapter sets out the Commission's proposals for improving the way the regulatory framework and the retailers respond to the needs of energy customers who are experiencing financial hardship.

5.1. Improved Performance Indicators

The number of customers who are disconnected and reconnected in the same name at the same address has been viewed as a broad indicator of the extent to which customers who may be experiencing hardship have been disconnected. However, retailers maintain that in many cases disconnection (followed by reconnection) is a last resort measure to obtain payment from customers who have the financial capacity to pay their bills but have not paid them following receipt of a disconnection notice. On the other hand, EWOV, consumer and financial counselling organisations report instances of disconnection and reconnection in the same name of customers who have been found to be in vulnerable financial circumstances through their consumer casework.

Thus, while the data on disconnections and reconnections in the same name may include a number of customers who are in financial hardship, it is also likely to include a number of customers who have the capacity to pay but have not done so. More detailed performance data is, therefore, needed to provide more meaningful information about the incidence of disconnection of customers who are genuinely in vulnerable financial circumstances.

Consumer advocacy groups have noted these limitations of the Commission's performance data and the problem was also identified by EWOV in its "Research Report into

Disconnections and Restriction Cases received by EWOV, January – September 2002". Both EWOV and consumer groups have also been concerned that retailers' customer assessments may not be adequate to identify all customers in hardship before taking disconnection action. This view was based on a notable increase in their casework involving disconnection of financially vulnerable customers.

In recognition of these concerns and the limitations of some of its performance measures, in 2003 the Commission consulted with all relevant stakeholders on proposed enhancements to its performance indicators in relation to disconnection of customers in financial hardship.

These enhancements include cross-referencing of disconnection and instalment plan data, highlighting households subject to multiple disconnections over a period, and separating disconnection figures by concession card status. The Commission has now approved these revised indicators and reporting on these more detailed measures will commence in Victoria from 1 January 2005.

A further audit on key affordability licence obligations is to be undertaken in November 2004. This audit will build on the audit undertaken in 2003/04, and will focus specifically on the retailers' obligations to assist customers in financial difficulty to avoid disconnection. In particular, the audits will examine in more detail how retailers in practice assess customers' capacity to pay.

5.2. Options For Obtaining Customer-based Data

As noted in the analysis undertaken for the Commission by The Allen Consulting Group,[24] the current performance indicators reflect the limitations of any set of energy affordability performance indicators relying primarily upon retailer data sources. They cannot delineate influences exogenous to retailer performance such as:

- Underlying climatic and economic conditions;
- Under use of energy for budgeting reasons; and
- The relative expenditure priorities of households with limited income.

In an effort to extend its information base beyond the current retailer data sources, the Commission is also considering the feasibility of obtaining information on the experiences of customers who have been disconnected, have used instalment plans or have sought assistance from EWOV or financial counsellors.

While this proposal will require more detailed scoping and stakeholder consultation, the Commission's current thinking is that it would involve:

[24] The Allen Consulting Group Report: Disconnection and financial hardship: Performance Indicators, November 2003 is available at the ESC website at http://www.esc.vic.gov.au/electricity309.html

- A sample survey on the experience of retailer customers who have been disconnected or used repayment plans and of customers who have sought EWOV or financial counsellor assistance to resolve an energy disconnection or affordability issue;[25]

- Cross-referencing the results with the Commission's monitoring data obtained from retailer sources to obtain a more complete picture of the incidence of disconnections of customers in hardship, the experience of customers in hardship in their dealings with retailers, and the effectiveness of retailers' implementation of their current hardship policies.

The initiative proposed by the Commission to review the effectiveness of retailers' hardship policies and to develop improved policies and outcomes for vulnerable customers are discussed in Chapter 6.

[25] The Commission notes the study being undertaken by the Consumer Law Centre Victoria and the Consumer Utilities Advocacy Centre and expects that the results of that research will be valuable to this proposal.

6. Improved Retailer Hardship Policies and Practices

While the discussion in Chapter 5 focussed on measures to improve the data and analyses of the extent of disconnection of energy customers who are in financial hardship, the Commission intends to give priority to dealing more effectively with the needs of financially vulnerable utility customers, irrespective of the statistical dimensions of the issue.

This Chapter refers to the work that is being undertaken on financial hardship in relation to the supply of utility services by a number of groups and bodies, including the energy retailers, and describes the work program the Commission intends to undertake to improve the responses of the regulatory framework and the energy retailers to the needs of customers who are experiencing financial hardship.

6.1. The Utility Debt Prevention Project

In July 2004 a series of reports were published as part of The Utility Debt Prevention Project sponsored by the Committee for Melbourne and the United Nations Global Compact,[26] with the co-operative involvement of business, government, regulatory agencies, and community and welfare organisations. The reports documented the outcome of initiatives and ongoing work to be undertaken to address the impact utility bills as a cause or contribution to debt, poverty and financial hardship.

The project has identified a number of significant issues and has reached some conclusions that have a direct bearing on the expectations of the regulatory regime in responding to the circumstances and consumer protection needs of vulnerable consumers. The project confirmed the generally accepted view that poverty and financial hardship are complex social phenomena with numerous causes and consequences going beyond the accessibility and affordability of essential utility services. The personal causes and experiences involved are often unique and can often result from the conjunction of many factors.

A common consequence of poverty and financial hardship, however, is usually an inability to pay for the basic requirements of life, either for a period of time, where temporary crises are involved, or more continuously where poverty and income insufficiency is ongoing. As a result, households that experience and report financial hardship also report difficulty in paying their utility bills. However, others that report difficulty in paying their utility bills are not necessarily in poverty and do not report financial disadvantage[27]**.** For this reason the Social Policy Research Centre in its report concluded that *"It would certainly not be appropriate to apply a formula-driven approach based on household characteristics to determine whether assistance or leniency should be provided"*.[28] It also highlighted the importance of targeting utility hardship programs to those households in poverty and financial hardship with the greatest need, and of developing a range of approaches to identify and provide effective support to those with a broader range of financial problems.

[26] Committee For Melbourne Utility Debt Prevention project – Debt Spiral Study Report 15 July 2004
[27] I\ibid, p15
[28] op.cit, p68

The Debt Prevention Project also reported that the most effective way society can respond to hardship is through co-operative and multi-pronged strategies involving:

- Government/social policy
- Regulation and legislation
- Industry based programs
- Non-government programs

In relation to regulation the study concluded that *"Nevertheless, the Victorian utility experience suggests that a sound economic regulatory regime – together with sound utility practices, procedures and protocols – can achieve a great deal to ameliorate the impact of utility bills as a direct cause or exacerbating factor in personal debt spirals and the poverty trap".*[29]

6.2. The Role of Regulation and Retailers

In this context, utility businesses are in a position to play a role, which goes beyond simply demonstrating compliance with the formal obligations, imposed by regulatory codes. This arises because together they have an essential and continuing customer relationship with the overwhelming majority of households in the State. As a result, they are in ongoing contact with the community as a whole in relation to energy supply and billing arrangements. Utility billing and payment experience provides an early signal of customers who are experiencing financial difficulties. It also represents an obvious reference point from which referral can occur for financial advice and assistance through internal retailer processes or external advisory and support agencies.

The effective performance of this role is a challenging one, however, which can come into some tension with the performance of the commercial role and responsibilities of utility businesses. There is also the risk that the retailers' focus on and attention to this role can be overwhelmed by the sheer logistics of managing up to 4.8 million reminder notices and up to 2 million disconnection notices issued to customers who do not pay their bills in any one year. A further difficulty in performing the role is that many people suffering financial hardship do not identify themselves and make their difficulties known to retailers. Also, appropriate responses will often require differentiation between those customers with chronic long-term problems and those customers experiencing financial stress on a temporary basis.

Effective responses to financial hardship in the community will therefore need to involve a complex balancing of roles and responsibilities between utilities, government agencies, regulators and community agencies. The work undertaken by the Commission and the Committee for Melbourne Utility Debt Prevention Project demonstrates that by itself, effective consumer protection within the framework of economic regulation of utility businesses is not able to ensure that acceptable social outcomes are achieved for members of

[29] op cit, p118

the community who are in poverty and chronic financial difficulties. That is, those industry-specific consumer protection arrangements cannot address the causes and consequences of the financial hardship. They can however, be more effective in ensuring that customers who are in financial hardship are recognised through appropriate processes and given access to advice and support which allows them to remain connected while they deal with their utility bills in a more manageable and affordable way.

For this reason, the future focus of the regulatory framework should be on requiring the utility businesses to develop and implement well-designed hardship policies and processes which are effective in identifying customers who are in financial difficulties and in providing them with effective support and assistance. While appropriate regulatory requirements and compliance monitoring have a role to play, providing meaningful solutions for customers will result from designing and implementing effective hardship management processes rather than in relying on a view that regulatory rules and compliance enforcement can provide the solution.

6.3. Improved Retailer Hardship Policies

In order to strengthen the contribution of the regulatory framework in improving outcomes for people in hardship, the Commission has decided to commence a work project to develop a framework for the design and implementation of best practice hardship policies in consultation with retailers and consumer representatives. That work will be co-ordinated with other initiatives such as the Committee for Melbourne’s Utility Debt Prevention Project, and will build on the voluntary hardship policies of TXU, Origin Energy and AGL that currently are in place.

To this end, after consultation with relevant stakeholders on the objectives and features of best practice hardship policies, the Commission intends to establish a licence obligation for retailers to design and implement hardship policies that conform to objectives and best practice principles that will be specified in the licence. It will also develop appropriate performance indicators and monitoring arrangements against which to assess retailers’ compliance with the hardship policy requirements and the effectiveness of the results achieved.

During the consultation process, consideration will be given to issues such as:

- Options for the development of sensitive and effective customer assessment and streaming arrangements which are capable of identify customers who are in financial hardship and of advising them of their rights and obligations;

- Approaches for encouraging vulnerable customers to be more proactive in seeking assistance from retailers when they have financial problems;

- Appropriate means of assessing customers’ ‘capacity to pay’ as the basis for determining their eligibility for hardship policy assistance; and

- The range of support options, advice and referrals that should be made available to customers in hardship through the retailers’ hardship policy processes.

The Commission and other consumer representatives have noted that Yarra Valley Water's customer hardship policy and procedures have many elements of a best practice approach and will be a useful point of reference for the further work on the development of best practice hardship policies by the energy retailers.

The Committee for Melbourne Project has also identified a generic "best practice model" for responding to the needs of energy and water customers who are experiencing financial hardship. The principal features of that model are described in the following box.

Box 1: Committee for Melbourne Utility Debt Prevention Project: Best Practice Hardship Assistance Model

•***Transparency and accessibility*** — having a hardship policy, which is clearly communicated to customers, with copies available on request, on a website and in brochure format, distributed to community agencies and referenced in customer charters and on a brochure enclosed with key bills.

•***Extensive and ongoing staff training*** — to all parts of the business, on:

- the causes of financial hardship
- the identification of customers experiencing financial hardship
- the proactive identification of customers that may be facing financial hardship (for example, as a result of the unexpected closure of a business)
- how to talk with customers experiencing financial hardship
- when to refer customers to the 'hardship response program'
- socio-economic research into indicators of disadvantage by postcode
- literacy and access issues experienced by some customers

This training is in addition to knowledge of the minimum regulatory and legal requirements for responding to customers experiencing financial hardship.

•***Respect*** — an articulation of the rights of customers experiencing financial hardship and an acknowledgment that a wide range of adults and children experience financial hardship.

•***Specialist team*** — a well-resourced team that is especially skilled in responding to customers experiencing financial hardship. Ready referrals to the team from the Call Centre and other parts of the business. Customers able to directly contact the team, preferably via a freecall phone number but at least via a local call phone number. Home visits by a member of the specialist team where it has been difficult to contact a customer by phone or in writing.

•***Core focus on energy / water efficiency*** — an acknowledgment that energy and water efficiency improvements are an essential part of assisting energy and water customers in hardship, the provision of expert advice, materials and home audits on how to reduce usage and improve energy and water efficiency.

•***Links to energy / water efficiency programs*** — run by the provider, local Councils, government and / or community agencies.

•***Links to financial counseling agencies*** — funding of financial counseling services, liaison with these services via workshops, presentations and information sharing. An acknowledgment that a wide range of social issues may result in a person experiencing financial hardship and that financial Counseling services are well placed to provide assistance. Respect for a financial counselor's advice about their client's capacity to pay.

•***Links to concessions, government assistance programs and non-government support services*** — with information accessible by postcode or area.

• ***Links to dispute resolution services***

•***Affordability*** — the implementation of appropriate, affordable and agreed payment arrangements.

•***Flexibility in options*** — a range of options tailored to suit each customer – including Centrepay, incentive plans (whereas disconnection action may be viewed as a 'disincentive plan', an incentive plan links the continuous payment of *agreed* arrangements to credits and the write-off of outstanding long term debt), partial or complete waiver of debt, review of fees.

•***Suspension of disconnection, debt collection and legal action*** — whilst the customer is on the 'hardship response program'

•***Clarity*** — a clear and fair articulation of the circumstances in which the provider may move a customer off its 'hardship response program' and onto its normal collection procedures, with discretion for particular customer circumstances. This information must be provided to the customer.

•***Customer focus groups*** — focus groups involving customers who have experienced financial hardship provide an opportunity for direct feedback on hardship programs and to identify opportunities for improvement.

•***Business modeling*** —integration of the hardship response program into the provider's business planning processes – an articulation of the 'business case' (economic benefits) of having an effective hardship response program.

•***Continuous review*** — learning from others, comparing the 'hardship response Program' against local, interstate and overseas developments and having regard to comparative performance reporting undertaken by regulatory authorities.

In progressing its work program to develop enhanced hardship policies and procedures for the energy retail businesses, the Commission intends to draw on both the Yarra Valley Water and the Committee for Melbourne hardship models as well as other examples of best practice in this area drawn to its attention during the consultation process. It will also consider and build on the existing voluntary hardship policies of the Victorian energy retail businesses.

The Commission recognises, however, that developing guiding principles for best practice hardship policies and establishing appropriate regulatory requirements for their design and implementation would simply provide the framework for more effective responses by retailers in their management of financially vulnerable customers. However, giving effect to a well specified hardship policy and its procedures also requires considerable work and an ongoing commitment on the part of retailers in terms of developing appropriate corporate cultures, credit management systems and attitudes and customer inquiry systems and processes. The Commission recognises in this regard that the retailers already have in place systems and processes to support their current voluntary hardship policies, which will provide the basis for considering the scope for further enhancements.

In progressing the work, it will be important to remain focused on the extent and nature of remaining shortcomings in the current arrangements for assisting customers in financial hardship, and on developing effective measures for addressing them. The Commission will be seeking the active participation and co-operation of welfare and consumer organizations, retailers and other stakeholders in undertaking its further work program to that end.

APPENDIX 1. Committee for Melbourne - Utility Debt Prevention Project – Excerpts from report dated 15 July 2004

The Utility Debt Spiral Project is part of the Committee for Melbourne's involvement in the UN Global Compact — a joint initiative between business and the United Nations to support and encourage responsible business operations and universal values. These values are based on the Universal Declaration of Human Rights, the International Labour Organisation's Fundamental Principles on Rights at Work and the Rio Principles on environment and development.

Business, non–government organisations and the United Nations pledged to work together to build a more inclusive global market, and to ensure that the positive potential of globalisation is ensured:

"Let us choose to unite the powers of markets with the authority of universal ideals. Let us choose to reconcile the creative forces of private entrepreneurship with the needs of the disadvantaged and the requirements of future generations."

Kofi Annan, Secretary-General of the United Nations

Melbourne has become the first city in the world to collectively engage the Global Compact. Working with the City of Melbourne, the Committee for Melbourne has developed what is being known internationally as the UN Global Compact 'Melbourne Model'. The model focuses on engaging business, local government and civic society to ensure an optimal medium and long-term social, cultural and economic outcome for the city of Melbourne. These three groups are cooperating to ensure concrete outcomes will be produced. The study has had widespread involvement from retailers, consumer groups, DHS, local government, ESC, EWOV and consultants working pro bona.

The Committee for Melbourne is facilitating and coordinating the Utility Debt Prevention Project.

Funding has been provided by the Consumer Utilities Advocacy Centre Ltd (CUAC), Origin Energy, Powercor and Yarra Valley Water.

In the context of the Melbourne-developed Cities Program of the UN Global Compact, Using the "Melbourne Model methodology" — harnessing the knowledge, resources, experience and ideas of business, government and civil society — to tackle intractable urban problems, the project aims to develop concrete and holistic solutions for those in hardship, using utilities debt as a potential trigger for action.

The overall aim of the project is to explore how utility companies can operate as an early warning system for individuals facing financial hardship.

The entire project is made up of three research components: mapping the regulatory framework, providing a context for the analysis, and research on utility companies' hardship policies and the development of an effective benchmark methodology. The third component is to explore disadvantage and poverty in the community and to identify customer groups at risk of financial hardship.

The first part of the project has been completed and has been documented in the form of four reports undertaken by the Debt Prevention Project Reference Group and published in July 2004. These reports are:

- *Discussion Paper*, prepared by The Allen Consulting Group, to prompt discussion among stakeholders about issues arising from the following three research reports.
- *Poverty, hardship and utilities-related financial stress in Victoria* by Peter Siminski of the Social Policy Research Centre.
- *Utility regulatory framework mapping*, by the Regulatory Framework Working Group.
- *Customers experiencing financial hardship, either temporary or chronic: How should energy and water providers, governments and regulators best respond?,* by the Energy and Water Ombudsman of Victoria.

APPENDIX 2. Retail Code Obligations

The following details retailer and customer obligations under the Energy Retail Code. It is an extract from the Committee for Melbourne Debt Prevention Project prepared with information provided by the Essential Services Commission to assist the Study.

Retailer – initiated contact

Retailer Contact	Options/ information provided to customers	Time before further action	Next step
Bill (Quarterly for electricity, bi-monthly for gas)	Bill includes: Pay-by date (minimum 12 business days*), summary of payment methods and payment arrangement options, number for billing and payment enquiries, graphs showing consumption patterns and comparisons, details of concessions. Note that any previously undercharged amounts must be separately identified and retailer must offer time to pay at least equal to the period of undercharging.	14 business days* – Reminder notice.	Reminder notice
Reminder notice	Includes new payment date (minimum 20 days*) and contact details for retailer's complaint handling processes	22 business days* – Disconnection warning.	Disconnection warning
Disconnection warning	Includes new payment date (minimum 28 days*) and warning that retailer may disconnect no sooner than 7 business days after date of receipt of disconnection warning. Includes number for payment assistance enquiries.	Further 5 business days. Further 7 business days, disconnection (and/or debt recovery proceedings), subject to pre-disconnection steps. (A longer period applies to electricity sold under dual fuel contracts to ensure no simultaneous disconnection with gas.)	Predisconnection steps
Pre-disconnection steps	Retailer must normally offer an instalment plan either if contacted by a customer and a new payment arrangement is not agreed, or if retailer believes customer is experiencing repeated payment difficulties or requires payment assistance (in these circumstances retailer must use best endeavours to contact the customer in person or by telephone). Prior to disconnection retailer must also comply with obligations to provide advice on		New payment arrangement/ instalment plan or Disconnection and/or debt recovery proceedings.

	financial assistance, concessions and counselling, and on energy efficiency. Retailer must not disconnect if the unpaid amount is less than a minimum set by the ESC, if there is an unresolved complaint about the bill with EWOV, or if customer has an outstanding application for a Utility Relief Grant.		
Instalment plan	Within 5 business days after receipt of disconnection warning, retailer and customer may agree a new payment arrangement or instalment plan. When offering an instalment plan, retailer must offer payments in advance or in arrears. The instalments and duration must reflect customer's capacity to pay, and be monitored and adjusted if appropriate. No legal proceedings or disconnection while customer makes agreed payments.	Immediately if customer fails to make payment under an arrangement *other than* an instalment plan or after the predisconnection steps for the 2nd or subsequent instalment plan (disconnection not permitted on default under 1st plan).	Disconnection and/or debt recovery proceedings.

* time from dispatch of original bill.

Customer – initiated contact

Timing	Contact Type*	Retailer response
If customer cannot pay by the pay by date.	A customer must contact a retailer if the customer anticipates that payment of the bill by the pay by date may not be possible.	Assess capacity to pay, offer instalment plan and other financial and energy efficiency advice.
Any time	Request for advice on available tariffs.	Must respond with reasonable information within 10 business days.
Following disconnection	Request for reconnection.	Must reconnect if, within 10 business days of disconnection, customer has either paid bill, agreed to a payment arrangement or (if eligible) applied for a Utility Relief Grant.
Any time	Complaint.	Respond to the complaint, including notice that customer may raise complaint to a higher level within the retailer's management and, if still not satisfied, refer the dispute to EWOV.

*Customer contact with a retailer is dependent on the customer "initiating" the contact.

APPENDIX 3. Retailer Responses and Initiatives

The following details additional information provided by the retailers on their compliance with the Retail Code obligations and details on their hardship policies.

AGL

AGL noted the following:

- It is fully aware of, and compliant with, its regulatory obligations and its practices and policies often go beyond the behaviour prescribed in the relevant regulatory instruments, for example, AGL makes frequent attempts to contact customers who are late in their payments, going well beyond the minimum requirements of the Retail Code. It notes that it has a greater interval between reminder bills and disconnection warnings and between disconnection warnings and actual disconnections than the minimum stipulated in the code.
- The rate of its customers on budget instalment plans is evidence that the company actively encourages the take-up of payment plans,[30] and that its higher-than-average comparative data for domestic customers on budget instalment plans is a reflection of its strong commitment to keeping customers connected.[31]
- A key aspect on disconnections that is often overlooked in discussions is that a disconnection takes place some 5-6 months, at the earliest, after a customer consumes the first MJ or KWh. This aspect of utility service provision, i.e. billing in arrears, can and does place undue burden on those customers who may not have the necessary budgeting skills or where their income support levels via government programs are inadequate due to individual circumstances or to alternative expenditure priorities.
- Where non-payment relates to a debt below the threshold prescribed by the Commission's Credit Assessment Guideline, the customer has another billing cycle and another round of reminder notices and disconnection warnings before being confronted with the prospect of supply disconnection.
- There are times when, having exhausted all options available under the Retail Code, a retailer may have no further option to secure payment other than through disconnection warnings and eventual disconnections. AGL ensures that customer disconnections are only undertaken as a last resort and in accordance with the provisions of the Retail Code. AGL makes outbound calls to customers even after issuing a disconnection warning in an attempt to engage the customer and put in place a payment plan to avert a disconnection of supply.

AGL has implemented the following initiatives with a view to identifying vulnerable customers in order to provide appropriate facilitation and assistance.

[30] AGL also notes that the reported numbers for customers on instalment plans may be understated as their preliminary investigations have identified that up to 50% of customers who are being managed through Staying Connected may not be recorded as being on a budget instalment plan.

[31] AGL states that some financial counsellors in this regard have commended its record.

- The **Staying Connected Policy**, introduced in Victoria in early 2003. This program enables customers to access AGL's hardship management programs, including tailored payment plans or case management of individual debt to assist customers out of the cycle of debt. AGL advises that a higher number of customers in Victoria benefit from their broad customer assistance programs when compared to operations in other states — this includes AGL's provision of payment assistance programs (including Staying Connected, Budget Easyway Plans and extensions of time to pay).

  In January 2003, AGL had 9 open cases in Victoria. By December 2003 AGL had 2,997 cases open under the Staying Connected program in Victoria, representing 34.5% of the cases open nationally for AGL. By June 2004, the number of customers in Victoria receiving case management by Staying Connected specialists had grown to 3,425, reflecting 37% of AGL's national hardship program.

- Negotiations are progressing towards making CentrePay an option available to AGLV customers (it is already available to AGLE customers). This facility will enable customers to have deductions from their social security payments made towards their AGLV energy bills.

- AGL has undertaken a program entitled **Energy for Life**, which is addressing energy-related issues for the most vulnerable members in the community.

  - **Energy Matters** is about building energy efficiency know-how within AGL and using this know-how for the benefit of the community and the environment. AGL is developing programs to deliver energy efficiency know-how to communities experiencing hardship by providing hands-on assistance energy management and reduction techniques. Energy Matters is also developing programs to conduct energy audits on homeless shelters.

  - Under **Warmth in Winter**, AGL will pay for the winter energy bills for as many homeless shelters as possible in NSW, Victoria and SA during the winter moths of June, July, and August. This will allow shelters to redirect valuable funds to the important task of supporting Australia's homeless. AGL has already provided this program to 93 homeless shelters in Victoria, NSW, and SA. 37 homeless shelters were assisted in Victoria this winter, including St Vincent de Paul's Ozanam House and several Salvation Army shelters.

  - In addition, AGL provides paid workdays for employees to volunteer for a community group or a cause about which the employee feels passionate (Energy for Life Volunteering). AGL encourages staff to support their favorite cause or charity through regular deductions from their pay, with every dollar of donation made by an employee matched by AGL (**Employee Giving**).

Origin Energy

Origin Energy commentary on its disconnection activity is as follows:

- Its disconnection practices provide an opportunity for customers to pay their accounts prior to disconnection well in excess of the minimum standards required under the Retail Code, and its credit management procedures are established at a level considerably higher that the minimum requirements established under the Credit Assessment Guideline.
- Origin operates as a fully integrated retail business, with the same credit and disconnection procedures and policies operating across all distribution areas. Differences in performance indicators reported across distribution areas are attributable purely to variations in customer behaviour.
- Whilst there was a slight increase in the disconnection rate in the Powercor area in 2003, it is still well below the best-practice benchmark rate established by the Commission.
- Origin's gas disconnection for 2003 should not be regarded as sustainable, and an increase towards levels reported in previous years is expected in 2004. The low level in 2003 is the result of difficulties experienced by distribution businesses in carrying out disconnections.
- Disconnection rates in the CitiPower distribution area have returned to levels that are more consistent with future expectations, representing a substantial decline from the levels reported by CitiPower in 2002 and the SECV in the mid 1990s, when the disconnection rate exceeded 2%.
- At the current low levels of disconnection, any slight change in customer behaviour has the potential to appear, misleadingly, as a significant variation. In fact, what are being reported are very small changes on a historically low base.
- Origin Energy is committed to providing assistance to customers who have a genuine inability to pay for their energy use in a timely manner…. *"We believe that we have a responsibility, beyond our regulatory obligations, to work closely with these customers to ensure their energy supply is maintained."* Against this background from April to December 2003, 4,335 customers have been assisted under the Hardship Policy.

Origin Energy has in put in place a hardship policy, the elements of which are:

- Origin Energy is committed to providing assistance to customers who have a genuine inability to pay for their energy use in a timely manner. We believe that we have a responsibility, beyond our regulatory obligations, to work closely with these customers to ensure their energy supply is maintained.
- Following a successful trial of a Hardship Policy for electricity customers from August 2002, the policy has been launched for all natural gas and electricity customers in April 2003 and LPG customers in December 2003. The policy primarily provides assistance to residential customers, but consideration is given to cases where businesses may be suffering as a result of bushfire, drought or flood.
- The policy seeks to identify customers in genuine hardship by differentiating those customers that 'won't pay' from those that 'can't pay'.

- Where independent financial counsellors identify a customer is having long-term financial difficulties and has limited income, the customer may be offered a payment plan with financial incentives to assist them pay their energy bills.
- From February 2004, the Uniting Church's Kildonan Family Services has been providing financial counselling and energy audits to customers identified under the Hardship Policy as having long-term payment difficulties.
- For customers on a limited income with short-term payment difficulties and a robust payment history, but where an unexpected event has caused a debt to accrue, we provide access to government or other support grants.

The introduction of competition in the energy industry in recent years has created different choices for energy customers, and will continue to change their experiences as energy retailers compete for their business. In this new environment, Origin launched a national customer consultative council to identify and review issues and concerns regarding the supply of energy to customers including payment difficulties. Established in November 2003, the council includes business and residential customer representatives, Anglicare Australia, Australian Council of Social Services (ACOSS) and Australian Industry Group.

TXU

TXU advised that it considers disconnection of their customers as the last resort in the process of debt recovery. TXU's practice is to work with customers to ensure the best outcome for both the customer and TXU. Disconnection usually results when there is no communication with the customer (that is, either the customer does not respond to the communications or breaches payment arrangements without any further dialogue with TXU).

As a responsible provider of essential energy services, TXU embraces its role of ensuring that everyone has access to these services. We understand that some of our customers will experience difficulties from time to time in meeting their financial commitments and as a consequence some will suffer hardship.

As a provider of essential services, TXU recognises that having clear processes and trained staff to deal with these situations is a fundamental responsibility. This is formalised under our Customer Support Plan.

History

TXU's Customer Support Plan has been operating in a formal sense since October 2003. Prior to that time, it operated on an informal basis with referrals from welfare agencies and counselling groups. This experience allowed us to develop a comprehensive document that now clearly defines our strategy and methodology on how we will provide support for those suffering genuine financial hardship.

How Will We Help?

Whilst TXU will identify instances of hardship through its normal collection process, it will also rely on referrals to and from the Department of Human Services, Financial Counsellors and appropriate Community Groups. Through this we are offering a more complete and balanced support service.

The TXU Customer Support Plan provides a number of measures to assist customers including additional time to pay, grants, incentive payments, energy audits and education.

The Customer Support Plan is administered by the Customer Welfare Team. A primary function of this team is to provide specialist support on managing hardship issues throughout the organisation.

Customers apply for assistance, usually in addition to other government assistance programs. TXU does not limit assistance to holders of concession cards.

We manage hardship on an individual basis and against set criteria. Being a commercial entity operating in a competitive environment does not diminish our commitment to finding the best solution possible in each situation.

An independent committee audits assistance rendered.

Energy Efficiency

TXU understands the complex issue of inefficient appliances, poorly designed housing and difficulties in managing consumption.

TXU is broadening its Energy Audit services for people on low incomes. Facilitating a program that enables customers to make informed choices about their usage is a key component of TXU's Customer Support Plan.

Engagement

TXU acknowledges the need to actively engage with people susceptible to hardship, to facilitate effective communication and to ensure continuity of supply. This is a cornerstone to the Customer Support Plan, and we commit ourselves to:

Effectively communicate with customers from all backgrounds and income levels.

Recognise disconnection of services as detrimental to all customers and to be the last resort, particularly with people suffering hardship.

Acknowledge that we must develop long-term partnerships with all customers, particularly those susceptible to hardship.

Early Identification

TXU recognise that early identification of hardship is a key to providing targeted assistance.

We are expanding our links with Community Groups and Financial Counsellors to assist in the early identification of those requiring this specialist support.

Staff to undergo continuous training on how to identify those in hardship or who may be susceptible.

Customer Responsibility

A key component of managing hardship is helping customers to help themselves.

TXU acknowledges that customers experiencing hardship may suffer a range of influencing stressors and need to have their dignity and respect maintained.

TXU will always encourage customers to be responsible partners in managing energy consumption and the costs of this. The Customer Support Plan is not designed to be a simple "hand-out" but more a program where customers can make informed choices and regain control.

Communication and Relationships

The ongoing success of the Customer Support Plan is dependent on effective communication and strong relationships with our customers, key stakeholders and community groups.

TXU will publish its policy on the TXU website: www.txu.com.au, and be supported by a detailed fact sheet.

TXU will continue to work with community groups and stakeholders to assist in the education of our TXU Customer Support Plan, energy efficiency initiatives and budgeting.

APPENDIX 4. Performance Data

Performance data reported by the electricity retailers

Table 1 Electricity disconnections and reconnections in the same name, 1984-2004[32]

Year	% Electricity Disconnected	% Electricity Reconnected in same name
1984	1.26%	0.80%
1985	0.63%	0.30%
1986	0.75%	0.39%
1987	0.73%	0.34%
1988	0.74%	0.37%
1989	0.85%	0.45%
1990	0.95%	0.50%
1991	0.82%	0.43%
1992	1.27%	0.81%
1993	1.29%	0.84%
1994	1.92%	1.00%
1995	1.71%	1.16%
1996	1.19%	0.82%
1997	0.56%	0.30%
1998	0.49%	0.28%
1999	0.36%	0.19%
2000	0.45%	0.21%
2001	0.55%	0.24%
2002	0.58%	0.28%
2003	0.70%	0.32%
2004[33]	0.92%	0.43%

Table 2 Electricity domestic disconnections for non-payment, 1999 - 2004

	Total number of disconnections						Per 100 customers					
	1999	2000	2001	2002	2003	2004	1999	2000	2001	2002	2003	2004
AGLE	469	1699	1899	2800	3732	3202	0.21	0.73	0.80	1.16	1.53	1.31
AGLV	810	1954	3689	2638	4803	9786	0.16	0.39	0.71	0.51	0.94	2.07
Origin (CP)	1335	896	2066	4218	1673	724	0.65	0.42	0.95	1.91	0.81	0.43
Origin (PC)	2058	2234	1435	1896	2692	2760	0.44	0.46	0.29	0.38	0.52	0.52
TXU	2118	1638	2121	379	1209	2721	0.49	0.37	0.46	0.08	0.24	0.52
All Retailers	**6790**	**8421**	**11210**	**11931**	**14211**	**19194**	**0.37**	**0.45**	**0.58**	**0.61**	**0.71**	**0.97**

[32] The Commission is unable to differentiate between domestic and non-domestic customers under the SECV so this table contains both sets of data. The rate therefore is slightly lower than for domestic customers only (Table 2).

[33] 2004 data is annualised – disconnection data is based on 8 month's data to August 2004 and the reconnections in the same name data is based on six months data to June 2004. The annualised rates are calculated by projecting the partial year's volume over the full year, and calculating the percentage of disconnections that would occur if the rate was maintained over the year.

Table 3 – Electricity domestic reconnections in the same name, 1999 - 2004

	Total number of reconnections						Per 100 customers					
	1999	2000	2001	2002	2003	2004	1999	2000	2001	2002	2003	2004
AGLE	279	1024	1041	1733	1406	674	0.12	0.44	0.44	0.72	0.58	0.28
AGLV	127	508	1073	257	1473	4152	0.03	0.10	0.21	0.05	0.29	0.88
Origin (CP)	520	398	945	2377	832	522	0.25	0.19	0.43	1.08	0.40	0.31
Origin (PC)	1524	1257	767	1243	2203	2154	0.32	0.26	0.16	0.25	0.43	0.41
TXU	1217	935	1251	201	780	1768	0.28	0.21	0.27	0.04	0.16	0.34
All Retailers	**3667**	**4122**	**5077**	**5811**	**6744**	**9070**	**0.20**	**0.22**	**0.26**	**0.30**	**0.34**	**0.46**

Table 4 Electricity budget instalment plans, 1999 -2003

	Total number of instalment plans					Per 100 customers				
	1999	2000	2001	2002	2003	1999	2000	2001	2002	2003
AGLE	9916	8455	10097	7493	10837	4.38	3.63	4.25	3.10	4.44
AGLV	18343	28748	29803	31910	31943	3.69	5.67	5.74	6.14	6.22
Origin (CP)	2691	2057	2593	2984	3221	1.30	0.97	1.19	1.35	1.55
Origin (PC)	13217	14215	20178	20032	20269	2.79	2.95	4.11	3.97	3.94
TXU	17873	28326	30651	35371	31978	4.11	6.33	6.69	7.46	6.42
All Retailers	**62040**	**81801**	**93322**	**97790**	**98495**	**3.38**	**4.35**	**4.85**	**4.99**	**4.92**

Table 5 – Electricity refundable advances, 1999 - 2003

	Total number of refundable advances					Per 100 customers				
	1999	2000	2001	2002	2003	1999	2000	2001	2002	2003
AGLE	2	2	5	2	6	0.00	0.00	0.00	0.00	0.00
AGLV	10	18	23	24	65	0.00	0.00	0.00	0.00	0.01
Origin (CP)	54	139	150	127	92	0.03	0.07	0.07	0.06	0.04
Origin (PC)	361	397	381	189	22	0.08	0.08	0.08	0.04	0.00
TXU	16	33	41	55	66	0.00	0.01	0.01	0.01	0.01
All Retailers	**443**	**589**	**600**	**397**	**251**	**0.02**	**0.03**	**0.03**	**0.02**	**0.01**

Table 6 Electricity affordability complaints reported by the retailers, 1999-2003

	Affordability Complaints		% Of Total Complaints		
	2002	2003	2002	2003	03 v 02
AGLE	75	88	29%	38%	23%
AGLV	3040	1591	73%	71%	-3%
Origin (CP)	269	73	59%	20%	-198%
Origin (PC)	469	251	23%	7%	-223%
TXU	881	513	58%	60%	3%
All Retailers	**4734**	**2516**	**56%**	**35%**	**-62%**

Performance data reported by the gas retailers

Table 7 – Gas disconnections, 1984-2004[34]

Year	% Gas Disconnected
1984	0.6%
1985	0.61%
1986	0.71%
1987	0.64%
1988	0.66%
1989	0.73%
1990	0.91%
1991	1.08%
1992	1.12%
1993	1.47%
1994	1.33%
1995	1.28%
1996	1.28%
1997	0.92%
1998	1.00%
1999	1.20%
2000	1.09%
2001	1.08%
2002	0.75%
2003	0.28%
2004[35]	1.15%

Table 8 – Gas domestic disconnections for non-payment, 1999 - 2004

	Total number of disconnections						Per 100 customers					
	1999	2000	2001	2002	2003	2004	1999	2000	2001	2002	2003	2004
AGLV	4298	4178	242	2752	1648	9097	0.86	0.82	0.05	0.52	0.33	1.89
Origin	4200	2535	3149	2897	1080	5458	1.58	1.70	2.30	1.04	0.26	1.01
TXU	8180	9005	12488	5721	1421	2662	1.19	0.65	0.79	0.72	0.24	0.58
All Retailers	**16678**	**15718**	**15879**	**11370**	**4149**	**17218**	**1.22**	**1.10**	**1.09**	**0.77**	**0.28**	**1.16**

[34] The Commission is unable to differentiate between domestic and non-domestic customers under the Gas & Fuel Corporation so the data in this table is slightly higher than for domestic customers only as shown in Table 8.

[35] 2004 data is annualised – based on 8 month's data to August. The annualised rates are calculated by projecting the partial year's volume over the full year, and calculating the percentage of disconnections that would occur if the rate was maintained over the year.

Table 9 – Gas budget instalment plans, 1999 - 2003

	Total number of instalment plans					Per 100 customers				
	1999	2000	2001	2002	2003	1999	2000	2001	2002	2003
AGLV	23406	33498	31945	33913	33660	4.67	6.54	6.12	6.39	6.74
ORIGG	43312	38079	36375	28894	26793	8.39	7.18	6.70	5.25	4.97
TXU	5139	7066	9632	22231	22248	1.45	1.82	2.42	5.49	4.88
All retailers	**71857**	**78643**	**77952**	**85038**	**82701**	**5.24**	**5.50**	**5.33**	**5.73**	**5.54**

Table 10 – Gas refundable advances, 1999 - 2003

	Total number of refundable advances					Per 100 customers				
	1999	2000	2001	2002	2003	1999	2000	2001	2002	2003
AGLV	**100**	**70**	**62**	**56**	**53**	**0.02**	**0.01**	**0.01**	**0.01**	**0.01**
ORIGG	**205**	**156**	**160**	**139**	**101**	**0.04**	**0.03**	**0.03**	**0.03**	**0.02**
TXU	**124**	**120**	**105**	**15**	**0**	**0.04**	**0.03**	**0.03**	**0.00**	**0.00**
All retailers	**429**	**346**	**327**	**210**	**154**	**0.03**	**0.02**	**0.02**	**0.01**	**0.01**

Table 11 – Gas affordability complaints reported by the retailers, 1999-2003

	Affordability Complaints		% of total complaints		
	2002	**2003**	**2002**	**2003**	**03 v 02**
AGLV	1954	1002	70%	77%	11%
Origin	63	108	4%	5%	11%
TXU	159	59	67%	47%	-29%
All retailers	**2176**	**1169**	**49%**	**32%**	**-34%**

Complaints data reported by EWOV

Table 12- Level 1-3 Electricity complaints received by EWOV by category

	1999	% of Total	2000	% of Total	2001	% of Total	2002	% of Total	2003	% of Total	03 v 02
Affordability	210	62%	409	58%	666	72%	947	76%	1206	65%	-14%
Other Retail	129	38%	296	42%	259	28%	303	24%	644	35%	44%
Total	**339**		**705**		**925**		**1250**		**1850**		

Table 13 - Level 1-3 Gas complaints received by EWOV by category

	1999	% of Total	2000	% of Total	2001	% of Total	2002	% of Total	2003	% of Total	03 v 02
Affordability	128	86%	163	83%	161	81%	206	77%	378	59%	-23%
Other Retail	20	14%	34	17%	38	19%	61	23%	258	41%	78%
Total	**148**		**197**		**199**		**267**		**636**		

Table 14 Proportion of retailer electricity disconnections and reconnections in the same name escalated to EWOV complaints – 2003

Electricity	EWOV level 1-3	Disconnections	% of disconnected customers complaining to EWOV	Reconnections	% of reconnected customers complaining to EWOV
AGLE	25	3732	0.7%	1406	1.8%
AGLV	49	4803	1.0%	1473	3.3%
OriginPC	9	1673	0.5%	832	1.1%
OriginCP	71	2692	2.6%	2203	3.2%
TXU	44	1209	3.6%	780	5.6%
All Retailers	**198**	**14109**	**1.4%**	**6694**	**3.0%**

Table 15 Proportion of retailer electricity disconnections and reconnections in the same name[36] escalated to EWOV complaints – January - June 2004

Electricity	EWOV level 1-3	Disconnections	% of disconnected customers complaining to EWOV	Reconnections	% of reconnected customers complaining to EWOV
AGLE	17	1295	1.3%	337	5.0%
AGLV	27	4818	0.6%	2076	1.3%
Origin (CP&PC)	70	1675	4.2%	1185	5.9%
TXU	33	1247	2.6%	888	3.7%
All retailers	**147**	**9035**	**1.6%**	**4486**	**3.3%**

[36] For the purposes of this comparison, the disconnection and reconnections in the same name data is the actual data for January – June 2004 reported by the retailers.

Table 16 Proportion of retailer gas disconnections[37] escalated to EWOV complaints – 2003

	EWOV level 1-3	Disconnections	% of disconnected customers complaining to EWOV
AGLV	32	1648	1.9%
Origin	46	1421	3.2%
TXU	22	1080	2.0%
All Retailers	**100**	**4149**	**2.4%**

Table 17 Proportion of retailer gas disconnections escalated to EWOV complaints – January - June 2004

	EWOV level 1-3	Disconnections	% of disconnected customers complaining to EWOV
AGLV	37	4946	0.7%
Origin	36	2446	1.5%
TXU	24	1343	1.8%
All retailers	**97**	**8735**	**1.1%**

[37] For the purposes of this comparison, the disconnection data is the actual data for January – June 2004 reported by the retailers.