

2 October 2015

Dr Ron Ben-David
Chairperson
Essential Services Commission
Energy Hardship Review
Level 37, 2 Lonsdale Street
Melbourne Victoria 3000
Email: energyhardshipreview@esc.vic.gov.au

Dear Dr Ben-David

Thank you for the opportunity to comment on the Essential Services Commission's *Supporting Customers, Avoiding Labels. Energy Hardship Inquiry Draft Report September 2015*.

The Energy & Water Ombudsman NSW (EWON) investigates and resolves complaints from customers of electricity and gas providers in NSW, and some water providers.

The issues identified for customers and retailers in Victoria resonate with EWON's experiences in NSW. We note the current Victorian hardship arrangements were developed ten years ago, so this significant review is timely. EWON's comments are based on our NSW experience, however the issues facing customers in financial hardship are similar, regardless of which jurisdiction they live in.

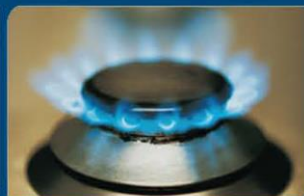
Overall, EWON welcomes the proposed new approach outlined in the draft report. The attached submission provides background on the situation in NSW and some specific comments on the Essential Services Commission's proposal.

If you would like to discuss this matter further, please contact me or Chris Dodds, Senior Policy Officer, [REDACTED].

Yours sincerely



Janine Young
Ombudsman
Energy & Water Ombudsman NSW



Submission to Essential Services Commission
Supporting Customers, Avoiding Labels.
Energy Hardship Inquiry
Draft Report

Energy & Water Ombudsman NSW

2 October 2015

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Introduction

The Energy & Water Ombudsman NSW (EWON) is pleased to respond to the Essential Services Commission (ESC) *Supporting Customers, Avoiding Labels. Energy Hardship Inquiry Draft Report*.

Established in 1998, EWON is the approved independent dispute resolution mechanism for customers of electricity and gas providers in NSW, and some water providers. Our aim is to provide fair, equitable and independent investigation and resolution of customer complaints. We work with all the key stakeholders – providers, community, government, regulators – to improve the standard of service delivery for the benefit of NSW consumers.

The issues addressed in the Draft Report resonate with EWON's experiences in NSW with energy retailers delivering assistance programs and assisting customers in financial hardship. EWON's comments are based on our NSW experience rather than the specifics of the Victorian jurisdiction. However, NSW consumer protections are similar, for example, the requirement for retailers to offer two payment plans to customers and to have an approved hardship program are common to both jurisdictions, as is the requirement that disconnection of supply is a last resort.

Appendix One provides an overview of EWON's experience of hardship in NSW. Customer case studies supporting that experience are also included.

The ESC Proposal for a Tailored Framework

The ESC Draft Report outlines a new approach – a framework which aims to remove the uncertainty surrounding the identification of customer hardship and the challenges of assessing capacity to pay in designing payment plans. By codifying obligations and responsibilities for both retailers and customers the subjective, unclear and uncertain aspects of the current system are reduced. EWON also welcomes the limit on the level of debt repayment that can be required in an individual billing cycle and the additional assistance, a new safety net, for customers experiencing the greatest difficulties after disconnection.

Framework Objectives

The proposed framework is premised on the objectives of avoiding debt, repaying accrued debt and aligning energy consumption with what a customer can afford. This holistic and structured approach is positive. It also has the potential to address situations where customer debt increases while they participate in hardship programs.

The emphasis on management of energy consumption is critical in addressing energy affordability issues. Where levels of consumption remain beyond what consumers can afford, debt cannot be addressed. Once consumption is reduced, then consumers can begin to pay off their arrears. By giving equal weight to energy management alongside repaying debt the framework provides for a realistic approach around energy affordability. This strong emphasis on consumption management is missing from the current arrangements.

Assistance in Stages

Payment Plan One (PPO)

The proposal for a series of staged obligated assistance options for customers is a positive approach – with clear obligations for retailers to assist customers, and clear customer responsibility to engage and act to manage their account. Establishing a payment extension as an automatic right, in the Early Action option, is a positive step to remove some of the stigma associated with customers having to request assistance.

When a customer misses a payment they become eligible for Payment Plan One (PPO). If the customer has a concession card or has been in a hardship program then they are automatically placed onto this plan. They will be also automatically eligible if they contact the retailer and advise that they are experiencing payment difficulties. Guidelines will need to be specific about this aspect of self-identification to ensure that it does not become a barrier to access, as it has been for some customers in the existing hardship regimes.

PPO requires customers to pay their ongoing energy use and their outstanding debt over the next two billing cycles. Given the average energy debt amounts and the income levels of customers on hardship, the proposal in PPO for repayment over two billing cycles may be optimistic and a challenge for many customers to achieve. There may be more chance of success if that period of time was extended.

Payment Plan Two (PPT)

The proposal suggests an automatic transition from PPO to Payment Plan Two (PPT) for a missed payment and automatic reduction in repayment amount: their ongoing cost of energy and 20% of their outstanding debt. This transition to PPT could be an opportunity for customer engagement - to trigger contact with the customer, about proceeding to PPT. This would provide the retailer with the opportunity to explain the new payment plan in detail.

The PPT provides for a reduced repayment rate over five billing periods and clearly sets out obligations on both retailers and customers. This is a significant improvement on the current situation where payment plans options vary between retailers, and even within the same retailer. Again the strong emphasis on rights and responsibilities for both parties is very welcome.

Active Assistance Plan (AAP)

If there is a missed payment under this arrangement then there is an automatic offer of an Active Assistance Plan (AAP). This will address inconsistency in approach, and uncertainty for customers, their advocates, industry and also ombudsman schemes as to what the next available options are for customers and retailers.

The proposed AAP with a tailored payment plan over two years combined with a fully variable tariff, compulsory pay on time discounts and active in home assistance to reduce energy consumption is a significant improvement on current options. The AAP is aligned with the objectives of avoiding and reducing debt through a process of energy management and active incentives for reducing consumption.

The Reconnection Plan

The Reconnection Plan is the most significant change to the current arrangements. The limitation on an upfront payment to no more than ten percent of the customer's average bill is a

radical change to current industry practice. This change, along with the four week time frame to reduce energy consumption, allows for a return to the AAP with a much better chance of success.

With the appropriate support and information many customers will be able to reduce their energy consumption within a four week time frame, and transition back to the AAP. However, from EWON's experience in NSW, the causes of high unaffordable energy usage can be outside the control of many customers. For example, poor housing infrastructure (in both private and public rental properties) and inefficient appliances. These factors contribute to higher than average energy usage, and require longer term or more complex solutions.

The Reconnection Plan options for prepayment and supply capacity control are challenging for jurisdictions which have traditionally resisted such alternatives. EWON's report about prepayment meters¹ concluded that the prepayment option should be a choice available to consumers, with strong consumer protections. This Draft Report's proposal that such options can only be offered if a registered party, such as the Energy and Water Ombudsman Victoria, is facilitating the reconnection, is a strong consumer protection. EWON supports further exploration of these options, with all stakeholders.

Overall the proposed structured assistance for disconnected customers is an improvement on the current arrangements, as it will ensure consistency for customers, regardless of their retailer. It outlines retailer and customer obligations, and should make the process simpler for customers, retailers, ombudsman schemes and community assistance organisations.

Transition

A key issue for consideration is the transition from the current arrangements to the proposed arrangements. The proposed structure provides an excellent framework for assisting customers to avoid debt accrual, and then repaying debt if it is then incurred, for customers experiencing energy financial hardship for the first time.

However it is unclear what the options are for customers already carrying very large energy debts. If a customer was to enter the framework with a significant amount of existing arrears, for example over \$2000, it is unlikely they would succeed in the assistance and payment plans.

EWON's experience in NSW is that many customers, with high consumption and large arrears and little or no capacity to pay, are disconnected and often reconnect with a different retailer. These customers then experience debt collection, sale of debt to mercantile agents and credit default listing of the old energy debt. The Draft Report's proposed prohibition of customer transfer, if a customer is participating in an AAP, needs to be fully considered in this context.

Other issues for consideration

Building in Flexibility

The framework proposed provides a customer with clear and consistent options and obligations. What is missing is some flexibility and opportunity for customer engagement in devising a more tailored solution that suits particular circumstances. For some customers, one payment missed may be better dealt with by an extension, rather than automatic progression to the next stage.

¹ EWON report: Prepayment Meters, An analysis of the prepayment option for customers, Nov 2014 available www.ewon.com.au

However, the benefits of flexibility need to be balanced against the need for more consistency and clearer obligations that avoid the stigma of hardship and the challenge of assessing capacity to pay.

Review of Government Assistance Measures

The Draft Report identifies consumption levels as a critical factor in addressing energy debt and debt repayment. However, there are external factors which also play a critical role. These include the adequacy or otherwise of income support, especially for customers receiving NewStart. Another key issue is the level and structure of other government assistance such as energy rebates and emergency assistance. EWON supports a national review of the energy concession and assistance frameworks. To introduce a significant change in the industry assistance and support for customers in hardship without also reviewing Government assistance seems remiss.

CONCLUSION

The Draft Report clearly articulates the significant weaknesses with the current arrangements for responding to financial hardship. The proposed framework provides early interventions to avoid debt accumulation. This process removes the stigma attached with the hardship label. The focus on building on the current regulatory requirements for hardship programs, with a structure of rights and obligations for all parties is very positive.

EWON supports the consultative approach the ESCV will now take to more fully consider the proposed options will all the stakeholders. This submission has flagged some aspects for further consideration, such as transition arrangements to the new framework. A very important issue which is not currently covered is how customers who currently carry large accumulated debt will be integrated into the new arrangements. Further review of the adequacy of government assistance is also absent.

EWON notes that Victoria is primed for aspects of the new framework due to its smart meter roll out. For example the move to monthly billing would require, in NSW, estimated billing which is problematic for some customers. Smart metering makes this possible in Victoria.

EWON welcomes this ESCV initiative and the considered approach of the Draft Report. Consumer protections as well as industry customer assistance measures need to evolve to support low income households manage their energy bills and avoid disconnection of essential energy services.

Appendix One

NSW energy customers in financial hardship

In 2014/15 EWON finalised 30,494 complaints from NSW customers and 76% of these matters were about electricity issues. Billing and Credit issues represented 65% of all casework, with customers complaining about affordability related issues such as:

- high disputed bills
- payment difficulty (current bill and arrears)
- impending or completed disconnection of electricity or gas supply
- declined payment arrangements
- debt collection
- credit default listing.

Despite the stabilisation of electricity prices over the last two years energy affordability issues remain high on the EWON agenda. There were 32,940 residential disconnections of electricity supply for non-payment in 2013-14, a rise of 8,052 when compared to the previous year. For the first three quarters of 2014-15 the number of disconnections was 25,324, so well on track to a similar total as 2013-14. The number of residential gas disconnections for the first three quarters of 2014-15 was 5,181 – exceeding the total of 4,921 for the previous year.

The following data published by the Australian Energy Regulator (AER) for the 3rd quarter of 2014-15² shows that while the number of NSW customers in debt has declined, the dollar amount of average debt for both electricity and gas have increased.

Quarter/Financial year	Residential electricity customers with debt	Average residential electricity debt (\$)	Residential gas customers with debt	Average residential gas debt (\$)
March 2014	104,671	574	59,149	379
March 2015	96,792	591	53,967	593

The number of customers in NSW on payment plans for electricity accounts increased from 60,960 in June 2014 to 101,327 in March 2015, while gas customers on payment plans rose from 10,584 in June 2014 to 20,962 in March 2015.³ At the same time the number of electricity customers in retailer hardship programs increased from 18,293 in June 2014 to 23,353 in March 2015. The number of gas customers in hardship programs also rose from 3,884 in June 2014 to 4,400 in March 2014.⁴

This NSW data clearly indicates that there are still energy affordability and financial hardship issues to be addressed. The price rises for gas has seen an increase in the hardship indicators for gas customers. For electricity customers the figures indicate that customers with affordability

² <https://www.aer.gov.au/node/23413>

³ <https://www.aer.gov.au/node/23421>

⁴ <https://www.aer.gov.au/node/23428>

issues have higher debt and the need for assistance through payment plans and hardship programs is increasing. With disconnections and debt levels increasing and the numbers of customers on payment plans and on hardship programs increasing it is clearly time to assess the efficacy of the current programs and protections, with an open mind to some change.

Retailer hardship programs

Earlier in 2015 the AER published a *Review of energy retailers' customer hardship policies and practices*⁵. Two key areas identified by the AER hardship program review were:

- Identification and access—how retailers identify customers experiencing payment difficulties due to hardship and some of the key barriers to customer access to hardship assistance; and
- Capacity to pay assessments—how retailers assess capacity to pay when developing payment plans for hardship customers and other means of providing an early response to customers in financial hardship.

The AER was also concerned with:

- the number of customers with high levels of debt in comparison to the number of customers on hardship programs
- the high level of debt for customers entering hardship programs
- the lack of additional program measures to support hardship customers beyond payment plans.

EWON's experience in assisting customers in financial hardship reinforces the concerns expressed in the AER Review and in the ESC Draft Report.

Identification of financial hardship

Identifying customers in financial hardship is a complex issue as many customers do not disclose to their retailer that they are in financial distress. While some customers are aware of the assistance that retailers may provide, many customers feel shame and an unwillingness to admit to what they perceive as failure. It is therefore critical that retailers have mechanisms in place to identify and respond to signals and triggers from customers to offer the different assistance available.

It is not uncommon for customers to contact EWON with over \$2000 in arrears, with limited or no capacity to repay. EWON has identified a range of situations from customer complaints where hardship could have been identified earlier. In some instances retailers are:

- failing to offer payment plans or refuse to agree to payment arrangements
- refusing further opportunities for customers who miss one or two payments
- setting high upfront payments for reconnection of supply, where there are large arrears and a poor payment history
- not referring customers to hardship programs after failed payment plans.

⁵ AER report available:

http://www.aer.gov.au/sites/default/files/AER%20Review%20of%20energy%20retailers%27%20customer%20hardship%20policies%20and%20practices%202015_0.pdf

Complaints to EWON can arise after the retailer's contact centre or credit area fails to identify hardship and engage with the customer about possible payment options and assistance. These complaints are generally quickly resolved by EWON, often with payment arrangements that the customer originally proposed to the retailer.

EWON Customer Complaint Case Studies

Case Study 1

The customer had received a disconnection notice and attempted to arrange to pay the account in two payments over a fortnight. This proposal was refused by their retailer. EWON assisted in establishing the proposed payment arrangement the customer originally raised with their retailer.

Case Study 2

The customer had high gas arrears and contacted their retailer to negotiate a payment plan. The retailer required more than the customer could afford. After contact with EWON, the retailer agreed to suspend disconnection and referred the customer to their hardship program. A temporary payment plan was established and EWON provided referrals for Energy Account Payment Assistance (EAPA) voucher assessments.

Case Study 3

The customer was disconnected and was unable to arrange a payment arrangement for reconnection. The retailer required an upfront payment that the customer could not afford. EWON's investigation established that the customer had missed payments for a number of payment plans but the retailer had not referred the customer to its hardship program. The customer was able to make a smaller upfront payment and establish a payment plan and was reconnected. She agreed to contact the retailer about the hardship program if she could not maintain the agreed payment plan.

Customer Capacity to Pay

Standard payment plans address both arrears and current consumption. Establishing such plans does not necessarily require consideration of capacity to pay, as it is a reasonably simple formula. It becomes more difficult where a customer cannot afford to pay a standard payment plan. It is at this point that recognition of a customer's capacity to pay becomes a critical but challenging issue. The following EWON complaints highlight these issues.

EWON Customer Complaint Case Studies

Case Study 4

The customer had received a disconnection notice with over \$5,000 owing on the account. She had defaulted on a payment plan in 2014, and was in financial hardship with some difficult family circumstances. She offered the retailer payment of \$150 per fortnight through Centrepay however the retailer required a minimum of \$375 a fortnight to suspend disconnection. After contact with EWON the retailer offered the customer a three month hold on disconnection and established some milestones. The customer agreed to meet the ongoing consumption costs of \$160 per fortnight and reduce their consumption and, if at all possible, the customer would increase their payments over the three months. If the agreed payments were met, the customer would become eligible to re-join the retailer's hardship program and receive further assistance.

Case Study 5

The customer had more than \$5800 in arrears and was making weekly payments of \$110 via Centrepay however the retailer advised he needed to increase his payments to \$210 per week, which he could not afford. The customer was in financial hardship, received a government pension, had 6 children and an ill wife. He was excluded from the program in 2014 for failing to make the agreed payments. When he contacted EWON he had just paid \$250 in EAPA vouchers. EWON negotiated the continuation of the current payment arrangement for the following three months. If all the payments were made on time, the customer would then be considered for re-entry into the hardship program.

Complex financial hardship cases

Some customers who contact EWON for assistance are in extreme circumstances with very high debt levels and very limited capacity to pay. Often they have not been able to maintain multiple payment arrangements and in some cases they have been excluded from retailer hardship programs in the past, for failing to make payments. In EWON's view this is the most difficult area of hardship. In these cases retailers have often gone well beyond any regulatory requirements for assistance, and customers have very limited capacity to meet their obligations or have not engaged with their retailer.

It is difficult to find viable and sustainable solutions in these situations for the customer and the retailer, and this challenge is beyond the responsibility of any single retailer. For some customers, contacting EWON is their reengagement to address their arrears and bills, however they may have limited or no capacity to afford their energy usage, let alone pay off their debts.

EWON recognises that the solutions to the more complex customer hardship issues must be developed through collaborative initiatives involving multiple stakeholders including government, industry, regulators, ombudsmen and community. EWON is committed to continuing to participate in this work to develop sustainable solutions so that essential energy services remain available to all consumers, including the most disadvantaged members of our community.

EWON Customer Complaint Case Studies

Case Study 6

The customer owed \$1,795 and received a disconnection notice for \$844. He advised he had been paying regularly to reduce his arrears. However, EWON's investigation showed that the customer's payments were irregular and he had failed on the hardship program a number of times. EWON assisted in negotiating a standard payment plan of \$175 per fortnight and referred the customer for an EAPA voucher appointment where he received and paid \$500 towards the arrears. On this basis the disconnection was cancelled.

Case Study 7

The customer owed over \$3,000 and was disconnected. The retailer required 75% of the arrears to reconnect. The customer was paying \$100 a fortnight but had missed some payments. The retailer confirmed the last payment received from the customer was November 2014. The retailer arranged a reconnection on the basis that the customer had no previous disconnections and was willing to set up an ongoing payment plan. The customer had previously broken payment plans under the hardship program and was removed from the program. The retailer offered as a last opportunity an extended 24 month payment plan for \$170 per fortnight to commence from 27 January 2015. EWON discussed EAPA vouchers with the customer and the customer requested, in writing, information about their local EAPA agencies and EWON fact sheets with information about rebates, reducing usage and managing bills.

Case Study 8

The customer's arrears were \$3,747 and she was due for disconnection. She told her retailer she could only afford to pay \$50 per fortnight as she had three children to care for. The last payment she made on her account was over 5 months ago. The retailer confirmed a hold on the account and advised EWON that they would not allow the customer into the hardship program as the customer had previously failed two opportunities. Her usage was recorded as approximately \$124 per fortnight but due to her large arrears the standard payment plan offered was \$257 per fortnight. The customer could not afford this. EWON assisted in a referral for EAPA vouchers and also referred the customer for a financial counselling appointment to assess her capacity to pay and to discuss this with the retailer for another chance on the hardship program. The customer obtained a financial counselling appointment and the retailer confirmed the account would remain on hold until that date. The retailer advised that even if the financial counsellor called the retailer they could not guarantee that the hardship program would accept her for a further opportunity due to her poor payment history.