



2 November 2017

Essential Services Commission
Level 37, 2 Lonsdale Street
Melbourne VIC 3000

By email: paymentdifficulties@esc.vic.gov.au

Dear Sir/Madam

Re: ESC's Draft Guidance Note – Payment Difficulty and Disconnection

Thank you for the opportunity to comment on the Essential Services Commission's (ESC) *Draft Guidance Note – Payment Difficulty and Disconnection* (the Guidance Note).

The Energy and Water Ombudsman (Victoria) (EWOV) is an industry-based external dispute resolution scheme that helps Victorian energy or water customers by receiving, investigating and resolving complaints about their company. Under EWOV's Charter¹, EWOV resolves complaints on a 'fair and reasonable' basis and is guided by the principles in the Commonwealth Government's *Benchmarks for Industry-based Customer Dispute Resolution*².

EWOV welcomes the ESC's detailed guidance on the minimum standards of conduct for retailers under the proposed new Part 3 provisions of the *Energy Retail Code* (the Code). The guidance will be valuable for EWOV in conciliating fair and reasonable complaint outcomes where customers are in payment difficulty. The Guidance Note will also be useful and instructive when EWOV assesses retailer compliance with the Code prior to disconnecting a customer. However, by its very nature the Guidance Note cannot, and should not, be definitive and prescriptive for all customer circumstances. Accordingly, this submission only highlights those specific notes that while appropriate, we believe might not be unambiguously clear or complete.

3.4 – website information about standard assistance

We welcome this guidance note as it clarifies the practical steps that retailers should make to proactively put information about standard assistance payment options on their customer communications materials, such as bills, notices and their website. However, we

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

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





enquire whether more ESC direction would be helpful about how to make the assistance 'readily available' to customers via a retailer's website.

Note 3.4.1 reads:

"Retailers must make information about standard assistance readily available to all customers..."

And note 3.4.2 reads:

"Information about how to access assistance should be provided clearly, unambiguously and in prominent locations within relevant customer communication materials. Relevant communication materials may include contract terms and conditions (welcome packs), bills, bill inserts and notices.

Information about the assistance and how to access it should also be available from retailer websites and via contact centres."

For completeness, we think that a retailer's website home page can be added to the list of communications materials provided in note 3.4.2. Simply 'being available' on retailer websites may not be a good enough communication standard as important information could be hidden within a labyrinth of pages, sub-pages and links, making it difficult to locate. We think that best practice would be the use of a prominently displayed and plainly visible image, together with some simple words, on a retailer's website home page, requiring only a 'single click-through' to access the standard assistance support information.

4.8.4 - list of practical assistance

This section sets out the non-exhaustive list of the practical assistance that retailers may provide to customers to help them reduce their energy use. For completeness, we think that some further items can be added to this list and some terms refined.

Analysis of customer meter data

In particular, our experience suggests that energy assistance is much more likely to be effective if it includes a full analysis of the customer's meter data. Such analysis could identify high or atypical household consumption patterns that could be adjusted through customer behaviour change or appliance replacement or repair. Data analysis should be carried out by looking at varying time scales - 30 minute data intervals, daily patterns, weekly patterns and seasonal changes. In EWOV's experience, often a straightforward review of interval data is all that was needed to identify the cause of higher than expected energy consumption. Take for example, a heater or electric hot water system. A review of NEM 12 meter data could show the kilowatt hour size of the load, time of day (or night) it





was used, the length of time it was on, and any potential faults (such as a thermostat causing it to run for longer than necessary or a day/night switch being switched to a day rate).

The following two EWOV cases illustrate how an analysis of the NEM12 meter data by a retailer could have provided their customer with critical information about how they used electricity. It could also have resolved the matter without the customer needing to contact EWOV.

An unidentified change to a controlled load (2016/18529)

EWOV's analysis and graphing of the NEM12 meter data indicated that the household's off-peak controlled load for an electric hot water system had shifted to the peak register of the smart meter. This happened because the customer adjusted a day/night switch to the 'day' position causing the water to be heated during the more expensive peak period.

Helping a customer to understand solar (2017/1231)

At the early stage of EWOV's investigation, we provided a solar customer with a graph of their meter data. It showed a typical solar profile with high consumption and low solar export over cooler months – with the reverse trend over warmer months. EWOV's analysis of high consumption times helped the customer understand their household usage and how to use appliances more efficiently.

Accordingly, EWOV believes that retailers should practically assist customers through a meaningful analysis of meter data to discover inefficient or faulty appliances and identify opportunities for change in customer consumption patterns.

Additions to the list

The ESC could consider whether the following items of energy management assistance are appropriate to add to the list:

- supplying the customer with an in-home energy display or energy monitor, and advice about how to read and understand it
- informing and showing the customer about how to access their meter's interval data online.

However, while newer energy management tools are useful, some customers may not have sufficient skill or time to understand and use these products. Characteristics such as literacy, language and age (among others) can often make it difficult for people to understand an





unfamiliar technology. EWOV believes that the provision of a new device alone would not be 'practical assistance' for the purposes of clause 79 (1)(e). We believe that for assistance to be *practical* it's important that retailers take the time to clearly show customers how to use a new energy management tool so to fully realise its benefits.

Possible amendments to the list

EWOV enquires whether the following amendments should be made to the list in 4.8.4:

- 4.8.4 (c) - change the word 'thermostat' to 'thermometer'?
- 4.8.4 (d) - change the phrase 'thermostat control' to 'thermometers' (to test the water temperature) or 'water temperature control devices'?
- 4.8.4 (d) – change the phrase 'time switches' to 'timers' (to keep shower times to a minimum)?

4.13.2 – prompt action

EWOV seeks clarity from the ESC about the phrase 'prompt action' in note 4.13.2. It reads:

"If a customer, who is paying below the cost of their energy use, does not make a scheduled payment, we expect the retailer to take prompt action to contact the customer to discuss putting forward a revised payment arrangement..."

We wonder what prompt action will entail in practice, and suggest that a defined timeframe would add clarity for retailers and help EWOV to assess retailer compliance with the *Code* prior to disconnecting a customer. We think there are two options that the ESC could consider as appropriate timeframes within which a retailer should contact the customer:

- before the customer's next scheduled payment is due, or
- within six business days.

As payment schedules can vary from customer-to-customer (from weekly, to fortnightly, to monthly) we believe the most appropriate and easily applied timeframe is action to contact the customer within six business days. This approach is also consistent with the time a customer has to respond to their retailer's offer of available assistance under clause 80 of the new Part 3 of the *Code* and the minimum reminder notice period under clause 108 of the *Code*.

4.14.11 – notification of suspended assistance

EWOV seeks clarity from the ESC about what it intends as the practical application of note 4.14.11, when the notice of suspended assistance is included with the disconnection warning notice. It reads:





“If a retailer suspends assistance under clause 83, it is expected to notify the customer in writing (in line with the requirements of Division 5 of Part 3) that the customer’s assistance has been suspended. The correspondence must include details of what action the customer needs to take to avoid disconnection of supply and any further entitlements to assistance the customer may have under Division 3. This notification may be included with the disconnection warning notice (provided the reminder notice has already been sent and the reminder notice period had lapsed).”

There is the possibility that the notice of suspended assistance could be lost within the already detailed content of the disconnection warning notice itself. While it may be more efficient and cost-effective for retailers to incorporate this new notice into a disconnection warning notice, it’s at the risk of increased complexity and confusion in the communication’s purpose, intent and message. Overall, it may have the unintended consequence of the notice being more difficult for customers to understand and therefore act upon. We already find that some retailers send disconnection warning notices that are unnecessarily complex, wordy and inaccessible for many customers.

8.1.9 and 8.1.11 – compliant bill

For completeness, EWOV enquires whether notes 8.1.9 and 8.1.11 should also make reference to the retailer issuing a compliant bill. Note 8.1.9 reads:

“... The retailer must also have issued a compliant reminder notice, compliant disconnection warning notice, and, after the disconnection warning period has lapsed, used its best endeavours to contact the customer and provide them with unambiguous information about the assistance available under Part 3 and from government and community service providers, prior to disconnection.”

Note 8.1.11 reads:

“... Third, a retailer must be able to demonstrate through its record keeping that it has met its obligations to use its best endeavours to contact the customer and provide assistance, issued a compliant reminder notice, disconnection warning notice, and acted fairly and reasonably while taking into account of all customer circumstances known to the retailer, as outlined in clauses 89(a) and 111A of the Code and sections 9.3 and 9.4 of this guidance note.”

In our assessments of retailer compliance, we sometimes find that the content of a bill is non-complaint with the *Code* prior to disconnecting a customer. For example, where a bill does not contain a pay-by-date or is sent to a wrong address or email. Therefore, we think notes 8.1.9 and 8.9.11 would be more comprehensive and reflective of the *Code* if they were amended to read:





“...issued a compliant bill, compliant reminder notice, compliant disconnection warning notice...”

9.8 – clarity around best endeavours to contact

There are a few aspects in this guidance note that EWOV believes could benefit from some further ESC clarification.

9.8.3

Note 9.8.3 reads:

“Retailers must use multiple contact methods when one method is unsuccessful (as described below).”

On a plain reading, this note would appear to mean that after a single unsuccessful contact method, retailers should use multiple more contact methods, that is to say, two or more additional attempts. This would result in a minimum of three contact methods. For example, phone, email and letter. We enquire whether this was the ESC’s intention for this note, and if so, how this relates to the rest of section 9.8.

9.8.5

This guidance note prescribes a set process for retailers to follow when making their best endeavours to contact a customer. However, for completeness (and consistent with the approach taken in other sections of the Guidance Note), we think there is an opportunity in this section for the ESC to reinforce the importance of the quality and content of the retailer’s communication. This could be achieved by referring back to other notes that outline the standard of expected communication. For example, 4.10.6 states that communication about tailored assistance must be ‘clear and unambiguous’ and ‘...available in plain language’.

9.8.5 (a) and (b)(ii)

In these two notes reference is made to a ‘maximum 21-business day period’. EWOV wants to ensure that we fully understand the application of this time period and its relationship to the ‘20 business days’ prior to disconnection. It may help EWOV and retailers if these two business day periods were clarified with an example of what contact timeframes would, and would not, suffice in practice. Such an example could be added to the list in note 9.8.11.





9.8.11

From assessing retailer compliance with the *Code*, EWOV has found that customers, when requested, sometimes refuse to identify themselves to their retailer after answering the phone. Sometimes a message is not able to be left. In such circumstances, EWOV does not know whether the retailer has spoken to the actual customer. It can be unclear from the conversation. Accordingly, on the face of it, this scenario could be considered an unsuccessful telephone contact for the purpose of 9.8.5.

EWOV enquires whether, for completeness, the failure to successfully identify the customer over the phone could be added to the list of examples in 9.8.11 to illustrate retailer actions that do not constitute best endeavours.

We trust that these comments are useful. Should you require further information or have any queries, please contact Justin Stokes, Senior Research and Communications Advisor on (03) 8672 4272.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Cynthia Gebert'.

Cynthia Gebert
Energy and Water Ombudsman (Victoria)

