

**Submission  
No 10**

## **INQUIRY INTO ELECTRICITY SUPPLY, DEMAND AND PRICES IN NEW SOUTH WALES**

**Organisation:** Energy & Water Ombudsman

**Date received:** 16 October 2017

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16 October 2017

The Hon Paul Green MLC  
Chair  
Select Committee on Electricity Supply, Demand and Prices in New South Wales  
Legislative Council  
6 Macquarie Street  
Sydney NSW 2000

Dear Mr Green

Thank you for the opportunity to provide feedback to the Legislative Council's *Select Committee on Electricity Supply, Demand and Prices in New South Wales*.

The Energy & Water Ombudsman NSW (EWON) investigates and resolves complaints from customers of electricity and gas providers in NSW, and some water providers. Our comments are informed by our investigations into these complaints and also from our community outreach and stakeholder engagement activities. In the complaints we receive, energy affordability is very often a key issue for customers.

EWON has responded only to those questions in the Terms of Reference that have relevance based on our casework, experience and expertise.

### The reasons for recent large increases in the price of electricity

EWON is not in a position to comment on the reasons for recent increases in the price of energy. As we all know, and while many customers may not realise it, energy prices comprise wholesale costs, network costs and retailer costs, with increases in any element impacting the combined total which in turn impacts consumers when they receive their energy account.

EWON complaints data analysis identifies the impact of these overall price increases on customers and the issues that financially vulnerable customers face, as an increase in price is often reflected in an increase in complaints to EWON. We have reviewed complaint statistics from the period of the last significant price increase, which was in the 2009 to 2014 distribution regulatory period, and largely caused by an increase in network costs. Complaints to EWON about affordability issues and high bills rose sharply during this period as customers were impacted. These complaints declined during the current determination period, as network charges stabilised or were even slightly reduced. This can be seen in the table below:

## Affordability Related Complaints

	2009- 2010	2010- 2011	2011- 2012	2012- 2013	2013- 2014	2014- 2015	2015- 2016	2016- 2017
<b>Number of complaints</b>	4,103	4,433 (+8%)	5,963 (+35%)	7,610 (+28%)	9,720 (+28%)	8,512 (-12%)	6,644 (-21%)	4,993 (-25%)

Complaints about affordability in the 2016/2017 financial year were roughly half the volume experienced in 2013/2014 (4,993 versus 9,720) and were back to similar levels to those experienced in 2009/2010.

During this 2010-2014 period, another factor contributed to the increase in complaints about affordability issues, albeit to a lesser degree: the upgrades of the major retailers' billings systems. The upgrades led to systemic billing issues including no or delayed billing, incorrect billing and later, catch up bills which placed affordability stress on some customers. These systemic issues were resolved by the end of 2014.

## High Bill Related Complaints

	2009 - 2010	2010- 2011	2011- 2012	2012- 2013	2013- 2014	2014- 2015	2015- 2016	2016- 2017
<b>Number of complaints</b>	3,581	3,900 (+9%)	5,182 (+33%)	7,115 (+37%)	7,498 (+5%)	7,428 (-1%)	6,262 (-16%)	6,169 (-1%)

Complaints about high bills have only decreased by around 18% (6,169 versus 7,498) when compared to their peak in 2013/2014, and they are now 72% above the level they were in 2009/2010 (6,169 versus 3,581). This again reflects the additional impact of the above mentioned systemic billing system issues during the 2010 to 2014 period. Taking that into account, and focusing on high bill complaints received from 2009 to now, reveals an overall upward trend. It is this trend that is most concerning given the price increases that came into effect on 1 July 2017.

We anticipate that complaints relating to affordability and high bills will further trend upwards as a result of recent price increases.

## Engaging vulnerable consumers

Engaging customers who are experiencing affordability issues, especially those at the high debt or disconnection end of the affordability spectrum, is recognised by retailers, community agencies and EWON as being very challenging. While an increase to retailers and EWON of high bill and affordability related complaints could be regarded as being negative, an alternative view is that an increase in these complaints is reflective of increased engagement by those customers who most need to engage with retailers or EWON. They can then be offered contracts and pricing which aligns best with their energy consumption and income, prevents disconnection, and be provided with affordability/hardship support.

Over the past 12 months, EWON has been involving energy retailers in EWON's outreach and community engagement programs and, positively, retailers are actively participating in our outreach program across metropolitan, regional and rural/remote NSW. This initiative also involves a range of agencies which ensure energy consumers have access to the broader financial help and information they need; which in turn assists them in keeping on top of their energy bills.

We are planning on continuing to expand this initiative which should result in an increase in consumers registering affordability and/or high bill complaints with retailers or EWON, consumers who otherwise may not have contacted either organisation. Reporting on the outcomes of these complaints via case studies and measurement of ongoing customer engagement in affordable payment plans may be a better indicator of positive affordability measures than increased complaints being used as a barometer of affordability challenges.

Accordingly, EWON recommends that an increased focus on customer engagement, through many channels including community outreach, be taken up by retailers, community and government agencies and EWON, so that collectively we can create greater engagement with financially vulnerable consumers.

## The effectiveness or impact of any current regulatory standards and guidelines

Energy customers in NSW have traditionally had access to consumer protections over and above that provided by general consumer law. In fact the establishment of EWON in 1998 (as the Electricity Industry Ombudsman NSW) was a major consumer protection initiative in preparation for opening up the market to full retail contestability. Policy makers at the highest level have recognised that the essential nature of electricity and gas make this additional consumer protection essential. While fairness dictates that all customers should enjoy the same level of protection, there have always been a small number of customers – those who buy their energy through embedded networks rather than from authorised retailers – whose right to access consumer protection has been weaker than that of other customers.

The growth in the number of embedded networks in NSW means that the number of customers with this inequitable level of consumer protection is growing, both absolutely and as a percentage. The conditions and concerns that led to the establishment of EWON are even more relevant today than they were in 1998, given the steep increase in energy pricing over the past 15 years, the emergence of new products and the complexity associated with them, and embedded network arrangements.

Accordingly, the level of consumer protection that applies to customers of authorised retailers should be extended to customers of embedded networks. The following table, sourced from the Australian Energy Regulator (AER), illustrates the growth in exempt sellers<sup>1</sup>:

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<sup>1</sup><https://www.aer.gov.au/retail-markets/retail-exemptions/public-register-of-retail-exemptions>

Exemption category	Type	April 2016	March 2017	% Increase
-	Individual exemptions	118	122	3%
R1	Small commercial/retail	114	130	14%
R2	Residential customers, (estates and apartment blocks)	50	99	98%
R3	Retirement villages	15	20	33%
R4	Residential/caravan parks	114	123	8%
R5-8	Large customers and other categories including power purchase agreements	94	128	36%
<b>Total</b>		505	622	23%

The table shows that there has been a rapid growth in estates, apartment buildings and retirement villages being either built as, or converted to, embedded networks. Currently, many customers of exempt entities do not have access to the competitive market and they do not have access to a range of consumer protections that have been recognised as being required by energy consumers, because only limited aspects of the National Energy Consumer Framework apply through the exemption regime. They may also be unable to receive the full range of government rebates that other customers can access.

Given the current housing market in Sydney, consumers experiencing, or who are at risk of experiencing, financial vulnerability are highly represented in these networks as owners, or more likely, as tenants, many of whom may have entered into purchase or lease contracts without knowledge of and/or understanding the exempt arrangement/implications.

In NSW, under the *Electricity Supply Act*, EWON is able to accept complaints from customers whose supplier is an exempt entity, but, as those entities are not scheme members, they are not required to:

- comply with the Ombudsman's binding decisions;
- engage with EWON's investigations processes including making information available to EWON for the purpose of resolving complaints; or
- inform their customers of their right to contact EWON.

Further as they are not scheme members, they are not obligated to pay for the costs of EWON's dispute resolution, a key mechanism for improving customer service and reducing complaints.

Both the AER and the Australian Energy Market Commission are undertaking work in this area with a view to ensuring all customers enjoy the same consumer protections. EWON is preparing itself for a possible expanded jurisdiction by looking at our membership, governance and funding model structures. Similar action is being undertaken by other state-based energy ombudsman schemes.

We are committed to ensuring that the cost of scheme membership is not a barrier to any organisation or individual currently operating as an exempt entity, now and in the future. We have already begun engaging with exempt entities to inform them of the benefits to them and their customers of being a member of EWON.

## The adequacy of programs to assist low income earners, pensioners and senior card holders to afford electricity as well as the impact of additional fees, such as late payment fees, included in electricity bills

Energy affordability is a significant issue for customers and was a factor in 21% of the complaints we received in 2016-2017. The number of customers in NSW on payment plans with their retailer increased from 60,960 in June 2014 to 86,327 in March 2017<sup>2</sup>. The average level of electricity debt has risen from \$529 in June 2014 to \$663 in March 2017. At the same time the number of electricity customers in retailer hardship programs increased from 18,293 in June 2014 to 24,921 in March 2017. Without the introduction of new forms of affordability assistance or some other type of intervention, we expect that each of these financial hardship factors will increase in 2017/2018 given that prices increased by around 20% on 1 July 2017. As mentioned previously, a collaborative and effective vulnerable consumer engagement program should see an increase in hardship program active participation, an increased number of customers on affordable payment plans, perhaps an increase in EWON complaints, and a decrease in the average level of electricity debt.

There are a number of NSW Government programs and rebates available to assist low income earners to afford electricity. Ensuring that consumers are aware of the existence of rebates and other affordability programs is a key focus of EWON's outreach program. Retailers also have a key role in ensuring that customers are getting the rebates to which they are entitled and also to proactively refer potentially vulnerable customers to their hardship programs.

We consider that there are some improvements that the government could also make to ensure a better distribution of assistance to where it is most needed.

An increase in the number of consumers accessing NSW Government programs and rebates would again, be a positive measure of an effective and collaborative consumer engagement program.

### Low Income Household Rebate

We welcome the recent initiative by the NSW Government to increase the amount of the Low Income Household Rebate (LIHR) from \$235 per annum to \$285. However, there is no difference between the LIHR received by customers living within the three NSW network areas, despite the generally higher prices paid by the customers in Essential Energy's network area, due to the much larger area that network covers.

For example, one major retailer's standing and market contracts contain a daily access charge of \$1.59 (including GST) per day within Essential Energy's network area. By comparison, the same retailer's daily charge is \$0.93 within Ausgrid's network area and \$0.96 in the Endeavour Energy area<sup>3</sup>. Other fees, such as fees to disconnect and reconnect supply and for a move out meter read are also higher within Essential Energy's network area. Given the more extreme weather (both hot and cold) that inland NSW experiences which requires higher energy consumption levels, the difference in customer's bills is further exacerbated.

We would welcome consideration by the NSW Government of whether the amount of the LIHR should be varied by area to reflect the price differences between networks. EWON has previously suggested that a percentage based concession applied to a customer's bill would provide the most meaningful and equitable assistance to eligible customers. We note the recent NSW Auditor General's Report to Parliament which stated that energy rebate schemes where every household

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<sup>2</sup><https://www.aer.gov.au/retail-markets/retail-statistics>

<sup>3</sup>Figures based on an Energymadeeasy.gov.au website search on 19 September 2017

receives the same value rebate are simple to administer, but do not target varied circumstances and need<sup>4</sup>.

### **Paper bill, early termination and over the counter payment fees**

We note the recent initiative by the NSW Government towards energy retailers no longer being able to charge early termination fees, fees for the issuing of paper bills and fees for making payments at the post office. While many retailers had already agreed to provide an exemption from paper bill and over the counter payment fees to customers participating in hardship programs and holders of concession cards, this upcoming change will provide equal protection to all customers.

EWON has received complaints about the fees from customers who are unable to use information technology to manage their bills. As these customers were not concession card holders, they had to request the retailer to consider an exemption. In the future these customers should be protected. This provides equity for those for whom access to technology is restricted for any reason including poor connectivity as occurs across many areas of NSW.

### **Late payment fees**

There are provisions in clauses 10 and 10A of the NSW National Energy Retail Law Adoption Regulation that prohibit retailers from charging some customers late payment fees and early termination charges. These include customers receiving the Low Income Household Rebate, Medical Energy Rebate or paying a bill with an Energy Accounts Payment Assistance Scheme voucher. However, customers who receive the NSW Gas Rebate do not currently have the same protection. We recommend that these clauses be expanded to include the NSW gas rebate and bottle gas rebate as one of the circumstances where these fees are not allowed. This would provide equivalent protection for gas customers.

## **Any other related matter**

### **Promotion of Ombudsman services by retailers**

Both NSW and national regulatory frameworks set out specific requirements for retailers and distributors to make customers aware of the availability of energy Ombudsman schemes and to provide our contact details. EWON's Constitution and Membership Agreement, the Australian and NZ Standard Guidelines for complaint handling in organisations and the Benchmarks for Industry Based Customer Dispute Resolution also contain provisions about information for customer information about complaint handling including an external dispute mechanism. Both individually and in combination, these requirements mean members must proactively provide information to customers about EWON free, fair and independent service.

The increased focus on the energy sector in recent months has underscored the need for this proactive promotion of Ombudsman schemes. Members, including retailers, demonstrate their willingness to be transparent and accountable when their call centre staff, specialist complaints teams, complaint material and websites promote the availability of independent advice and assistance at any time EWON. Further, a complaint response to a customer which includes details of where they can go for free, independent advice and assistance if they are dissatisfied or unclear about the outcome of their complaint, promotes customer confidence and trust in their service provider.

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<sup>4</sup><http://www.audit.nsw.gov.au/publications/latest-reports/performance/energy-rebates/key-findings>

Information provided by customers to EWON during our complaints process or via correspondence which they have received from retailers in response to complaints, has identified that proactive advice to customers of their right to contact the Ombudsman has diminished.

In collaboration with my counterparts in Victoria, Queensland and South Australia, we have jointly written to the CEOs of our members who operate across state boundaries to remind them of their obligations in this regard and requesting that they ensure they are meeting all of their regulatory and scheme membership obligations. We also reminded them that proactive promotion of their membership of energy Ombudsman schemes, combined with effective internal dispute resolution, is a contributing factor to increased consumer confidence. We have also individually written to unique members of our schemes about this.

We will be monitoring member responses to this call to action.

### **Number and complexity of contract offers**

We note the NSW Government initiative announced on 3 September 2017 to introduce penalties for retailers if they do not move rebate recipients to a better energy contract. While we do not wish to comment on the penalty aspect of this initiative, we agree that the market is complex and difficult for customers to navigate. There are currently 76 electricity contract offers available for a consumer to choose from in NSW<sup>5</sup>. As many customers have raised with EWON, the sheer number of offers can be overwhelming. Also, a large proportion of contract benefits are in the form of discounts, rather than competition on service availability or consumption charges. When reviewing contract discounts, some are off the total bill whilst others are on the consumption charges only. This highlights the complexities that customers face when trying to choose the best offer and attempting to take advantage of the benefits the competitive marketplace may offer them.

The majority of retail energy contracts offering the lowest prices have discounts dependent on paying on time, paying in full and direct debit arrangements. Financially vulnerable customers, who often encounter payment difficulties, tell us they are reluctant to take up these contracts because of the further financial detriment they could face when entering such contracts. Unless they are consistently able to fulfil all of the prerequisites, they know they will lose the discounts, may incur late payment fees and may also be charged bank fees associated with failed direct debit payments. Others have shared with us that they are reluctant to set up direct debit arrangements as they are concerned about scams and bank account security.

As far as we are aware, there are currently no discounted contract options which are specifically targeted to customers who are on fixed/ low incomes but pay in full over time, often in advance through making regular payments, and often at the post office, a payment option which is safe and easy to access, but which can currently attract fees. The introduction of targeted, no fee, flexible payment channel contracts, would also be an innovative initiative.

### **Customers with poor credit history**

The only option available to customers with a poor credit history can be to open an account with the financially responsible retailer for their property. Other energy retailers in the marketplace can refuse to sign up a customer based on their credit history. This reduces these customers' access to competitive market contracts. If a customer with a poor credit history moves into a new property,

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<sup>5</sup> Based a search of [energymadeeasy.gov.au](http://energymadeeasy.gov.au) on 19 September 2017 for electricity contracts available within Ausgrid's network area



the retailer responsible for their property is only obliged under the National Energy Retail Law to offer the customer a standing offer. Based on a review of current contracts available within Essential Energy's network area, one standing offer made by a retailer was estimated (based on a 2 person household) to cost \$3,649 per year, compared to an estimated cost of \$2664 on a market contract with the same retailer, a difference of \$985<sup>6</sup>. For a customer with a poor credit history, this higher priced contract may be the only one that they can access.

Rather than providing any benefit to the consumer or the retailer, these contracts potentially contribute to increasing debt for both parties. A new approach by retailers when signing up consumers with poor credit history could contribute to a reduction in the average electricity debt level as well as increase the customer's ability to maintain an affordable payment plan.

### **Programs targeting vulnerable households**

It is important that energy efficiency measures, tools to manage energy consumption, and access to solar generation and batteries be accessible by vulnerable customers, rather than only those consumers who can afford to opt in to new technology and the benefits they provide. In our submission to the Office of Environment and Heritage, EWON endorsed a proposal to expand the Home Energy Action Program to include public and Aboriginal housing tenants.<sup>7</sup> Programs such as this are an excellent way of addressing structural energy inefficiency in low income households. Expanded further to include partnerships with energy retailers, these programs would also increase consumer engagement and confidence in the energy sector.

If you would like to discuss these matters further, please contact me or Rory Campbell, Manager Policy and Research, on (02) 8218 5266.

Yours sincerely

**Janine Young**  
**Ombudsman**  
**Energy & Water Ombudsman NSW**

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<sup>6</sup> Figures based on an Energymadeeasy.gov.au website search on 19 September 2017

<sup>7</sup> <https://www.ewon.com.au/content/Document/Publications%20and%20submissions/Submissions/2016/EWON%20Submission%20Draft%20Climate%20Change%20Strategic%20Plan.pdf>