



4 July 2013

Australian Energy Market Commission
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Thank you for the opportunity to comment on the Australian Energy Market Commission's *Draft Report on the Review of Competition in the Retail Electricity and Natural Gas Markets 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.

The AEMC's Draft Report makes a number of draft recommendations on the implementation of full retail competition. Our comments on the Draft Report are informed by our experience of customer complaints, particularly those that have arisen from the already deregulated part of the market. In our submission we will mainly address customer engagement issues around the removal of price regulation.

Options for removing price caps

The removal of price caps will bring about a significant change to the energy market. EWON notes that the AEMC has put forward five options for stakeholders to consider, and has recommended that price caps be removed for all customers at the same time.

Irrespective of which option is chosen, EWON considers that the process of removing price caps must be transparent, consistent and clear. All customers must be kept informed of the process and be provided with access to sufficient and clear information.

EWON would also suggest that the needs of customers experiencing financial hardship who are currently on standard retail contracts must be considered when removing regulated prices. While the needs of these customers cannot drive the AEMC's approach to deregulation, we suggest that they must be adequately protected in the process of deregulation.

Transitioning off the regulated price

EWON notes that the AEMC has proposed a transitional process to move customers on standard retail contracts to a 'fixed standing offer' consisting of regulated tariffs that will be fixed for a period of time. We note the absence of a set time frame for the fixed standing offer. The time frame is an important part of the proposed transitional



framework. To create a transparent process that keeps customers informed, we would encourage the AEMC to provide a more definite indication of how long the transitional tariff will be in effect.

EWON notes the AEMC's suggestion that information and awareness programs begin prior to the implementation of the transitional tariff. We support this and would recommend that a public information program provides clear and simple information that is specifically tailored to those customers still on regulated tariffs. We consider that customer education is essential in the ongoing transition from current regulated tariff arrangements to a 'fixed standing offer', and finally to a standing offer. These are terms that need to be clearly explained to customers so that they understand the differences between each of these contracts, particularly in the context of anticipated proliferation of market contracts once price caps are removed.

EWON notes that we raised the issue of obsolete tariffs in our submission on the AEMC's *Issues Paper on the Review of Competition in NSW*, including the price shock customers will experience when these tariffs are removed to eliminate a significant barrier to entry in the Essential Energy region. We note the AEMC's proposal to support these customers through 'tailored mechanisms that remove structural barriers to competition'.¹ In the absence of more specific information about what these mechanisms may be, we query where obsolete tariffs fit in the proposed transitional arrangement and would like further clarification on whether these customers will be moved to the transitional tariff. If so, we suggest a tailored information program targeting these customers to inform them of the reasons for removing price regulation and minimise price shock.

Market monitoring

EWON supports the AEMC's recommendation for a defined set of measures to monitor the effectiveness of competition in the energy markets.

EWON notes that the National Energy Consumer Framework (NECF) contains important non-price related protections for energy customers. We support the AEMC's comment that key contract conditions, such as early termination and late payment fees, may deserve further regulatory attention in the interests of ensuring that they are not overly restrictive and therefore deter or prevent customers from fully participating in the market.

EWON considers that retailers have a clear responsibility to ensure they have adequate systems in place to comply with NECF obligations in what may be a more complex billing and market transfer environment. If the NSW Government proceeds with removing price caps, we expect to be actively monitoring complaints about key penalty conditions such as

¹ AEMC 2013, Review of Competition in the Retail Electricity and Natural Gas Markets in New South Wales, Draft Report, 23 May 2013, Sydney, p 77.



late payment fees and early termination fees, as well as end-of-contract practices such as rollovers. In particular, we will be monitoring complaints relating to the NECF obligations as applied to hardship customers.

EWON expects to receive more marketing and transfer-related complaints as the market becomes more competitive. We will be monitoring this area and we will continue to work with NSW retailers and regulators to address any industry issues.

EWON is pleased to provide feedback from customer complaints to retailers, the NSW Government, and the Australian Energy Regulator.

Customer engagement

EWON welcomes the AEMC's initiative in working with stakeholders to develop a blueprint for designing customer engagement programs and measures. The complaints and enquiries that EWON has received in recent years indicate that many customers are confused about the market as a whole. They also point to the complexity of the market and lack of clear information channels.

These complaints can be broken down into four key areas, discussed below. We consider that these complaints highlight the need to equip customers with accurate, easily accessible and plain language information to facilitate their effective participation in the energy market.

Complexity of metering technology and associated tariff structures

Many electricity customers have complained about a lack of direct access to clear and simple information about metering and particular tariff structures associated with different types of meters. EWON is aware that there are a number of different metering options and tariffs available in NSW: off peak meters and controlled load tariff; interval meters and time of use tariffs; smart meters and load control pricing; solar meters and feed-in tariffs.

Under current tariff arrangements, customers cannot calculate on a dollar basis which tariff structure is better suited to their energy needs. In our experience customers are confused about the number of tariffs and how they are charged under these tariffs. We note that some customers with smarter meters may be on three different tariffs concurrently, for example solar feed-in, time of use and controlled load. This can be very confusing if they do not understand how all these tariffs operate.

EWON would encourage the AEMC to consider the reforms that Ofgem has introduced to simplify the British electricity market within the context of deregulation. The proposed simplified tariff structure is designed to be easy to understand and allows customers to



quickly determine whether they can save money by switching retailers. We consider that there is still room for further development in the NSW context to identify ways to make the market simpler and easier to engage with, which may be more beneficial than simply providing customers with clearer information about a complex market.

Case study

The customer considers he only had one digital meter but was advised by his retailer that he actually had 4 meters. These meters register his peak and off peak usage and provide information about his solar generation. He disputes the accuracy of the retailer's advice as his bills show 5 different meter numbers. He advised he continues to be confused about which meter is registering which type of usage. He paid for an electrician to tell him which meter was connected to his light switches and power points. He has under floor heating and considers it is being charged at peak rates even though he always thought that it was connected to the off peak meter. He considers that his retailer has not allowed him to choose whether to use floor heating at peak or off peak rates and is dissatisfied that he can no longer control how he uses electricity. He is confused about what he is actually paying for as the meter for his hot water system and floor heating does not differentiate between peak and off peak readings.

Lack of awareness of rebates and hardship programs

EWON regularly engages with the community and the feedback we receive from our outreach activities indicates that many financially stressed and other vulnerable customers are unaware of government rebates and retail hardship programs. A lack of awareness of financial assistance measures significantly contributes to the financial stress of struggling households who may be in fact be eligible for rebates. It may also hinder their consideration of competitive offers in the market.

We believe that a shared approach to targeted customer engagement involving government, retailers, community agencies, financial counsellors and ombudsman schemes may be most appropriate. We suggest that all these stakeholders have a role to play in developing a coherent and consistent approach that delivers targeted information programs to customers in financial difficulty.

Case study

The customer lives in a low income household and has had a health care card since 2008. She was never advised that she was eligible for the Low Income Household Rebate and only found out about the rebate in 2013. She also switched retailers in 2011 and considers that her bills do not provide sufficient information on her eligibility for rebates.

Lack of access to accurate information when being marketed to

EWON continues to receive a significant number of complaints about confusing, misleading and pressure marketing by retailers and their agents. We are concerned that a



large number of vulnerable households have complained about pressure marketing to family members who are non-account holders and do not have the capacity to make legally binding decisions. Poor marketing practices and non-compliance with cooling-off obligations have created a high level of anxiety about the trustworthiness of retailers and a lack of confidence in retailer behaviour.

This lack of trust is also found among community workers and advocates. Many community workers do not have sufficient information (or often time) to work with their clients to help them find a better energy contract.

Case study

The advocate contacted EWON to advise that his son lives in community housing and signed a contract after being door knocked. His son is schizophrenic, receives a disability pension and is under the care of a full-time health worker. The electricity account for the premises was originally in the advocate's name as his son needs assistance with financial management. The advocate was most concerned that his account was cancelled by his son agreeing to a contract. He complained to the retailer and was provided with a copy of the voice recording for the contract. In the recording his son specifically states that he is unsure if he can give permission for the account to transfer to the retailer. The advocate is concerned that other residents of the building have been targeted because it is very apparent that the unit building is social housing property.

A significant number of customers have also contacted EWON to complain about a lack of up front disclosure of fees when being marketed to. The key issue for these customers is that they had chosen to transfer to another retailer on the basis of the information provided by the marketer. In many cases, customers were charged fees which were later disclosed in the written contract (although in some cases in quite obscure terms), but which the marketer did not disclose when the offer was made. To avoid these complaints, we consider that marketers must provide customers with accurate information on key terms and conditions at the time of sale. This will also assist in fostering greater transparency and customer understanding of contracts.

Case study

The customer said that her final bill includes a de-energisation fee. She is upset, as she specifically asked on signing up if there are any account fees payable when she moves premises. At the time the marketer told her there would be no fees payable.

EWON would encourage the AEMC to consider Ofgem's reforms around marketing standards in a deregulated market, with a view to improving marketing conduct and thereby increasing consumer confidence.



More complex marketing environment

Marketing complaints to EWON are no longer confined to phone and door to door sales. Over recent years retailers have diversified their marketing channels to include online marketing, energy brokers and switching companies offering comparator services (via phone, door to door and online channels) and other third party agents that offer bundled products. In our experience, four key issues are raised in complaints about these new types of marketing:

- Enquiries about the legitimacy of some retailers after customers are marketed to

Case study

The customer was marketed to and called EWON to confirm if the retailer was a genuine company.

- Complaints about third party agents and retailers providing inconsistent and inaccurate information about a product

Case study

The customer signed up with a retailer through an energy broker after agreeing to the tariff rates advised by the broker. The retailer later advised him that those rates were not applicable to his area. He then contacted the broker to cancel the contract but was told that the transfer was pending and there was nothing he could do about it.

- Complaints about bundled products and third party agents who sign up customers without their consent by using records of personal details kept for the other product.

Case study

The advocate advised that the energy account for his premises was in his name. His partner later signed a mobile phone contract with a telco. At the same time she was offered an energy contract, which she declined. The advocate later found out that his electricity account had been transferred away from his preferred retailer. He considers that his account was transferred without his or his partner's consent. He received a bill from the new retailer and contacted them to request a transfer back to his preferred retailer, but was not satisfied with their response.

- Lack of established procedures between retailers and agents to handle cooling off contract cancellations and customer complaints.



Case study

The customer was contacted by an energy broker who advised that one particular retailer offered the cheapest rates in his area. He advised the broker that he was happy to stay with his current retailer and he was not in a position to transfer because the account was in his landlord's name. The broker advised that he would send out the retailer's welcome pack and that the customer could cancel within the cooling off period if he did not wish to sign up. After receiving the welcome pack, he called the broker and advised that he was not interested in the offer. Later the retailer issued a bill in his name. He contacted the broker again, who confirmed that they did not inform the retailer of his request to cancel the contract. The retailer later advised him that he must pay the bill.

In EWON's experience, these issues have led to negative customer experiences and a level of mistrust and cynicism about energy retailers and their agents. For customers to engage effectively in a deregulated market, we consider that retailers must ensure protections for customers particularly as they are using more multifaceted marketing channels to reach customers.

Impact on EWON

EWON notes the AEMC's comment in their Draft Report that 'there is no reason' a removal of price caps would lead to higher bills or greater retailer misconduct and therefore an increase in Ombudsman complaints.²

EWON considers that it would be hard to predict complaint numbers however our statistics indicate that increases in complaint numbers have coincided with restructures in the market or significant changes in retailers' billing systems.

In the context of deregulation, we would anticipate an increase in marketing activity as the market becomes more competitive. Our experience shows that increased competition over the past decade has brought about a range of complaints about transfers without consent, transfers in error, and marketing practices including those of energy brokers and comparators. We have also identified potentially systemic and/or compliance issues in these areas, which we have regularly raised with our member providers and regulators.

² AEMC 2013, Review of Competition in the Retail Electricity and Natural Gas Markets in New South Wales, Draft Report, 23 May 2013, Sydney, p 58.



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If you would like to discuss this matter further, please contact me or Emma Keene, General Manager Policy & Community Engagement on 8218 5250.

Yours sincerely

A handwritten signature in black ink that reads "Clare Petre".

Clare Petre
Energy & Water Ombudsman NSW