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Energy and Water Ombudsman Victoria

Independent Review

Consultation Issues Paper

August 2019

Introduction

The Energy and Water Ombudsman of Victoria (EWOV) is a not-for-profit, independent and impartial dispute resolution service that handles most complaints about energy and water issues. It provides Victorian customers with free, accessible, informal dispute resolution. It has 95 scheme participants from 'traditional' electricity, gas and water markets, and (since 1 July 2018) 230 new embedded network scheme participants, with others still yet to join. EWOV received 34,524 complaints in 2017-18.

EWOV's Constitution requires the Board to conduct periodic independent reviews of the Scheme in consultation with interested parties including customer and community representative groups.

EWOV has engaged *cameron.ralph.khoury* to undertake this independent review. Over the past 18 years we have undertaken independent reviews of many Ombudsman schemes in the USA, Australia, New Zealand and Canada. We have knowledge of energy and water dispute resolution having worked with the energy and water ombudsman offices in Queensland, New South Wales and Western Australia and with EWOV.

The independent review will include broad stakeholder consultation, in-depth analysis of EWOV's processes, procedures, data and management oversight mechanisms, an extensive review of recent dispute cases and interviews of a sample of recent EWOV complainants.

This paper invites interested stakeholders to provide submissions to the Review.

Changes since EWOV's last Independent Review

Since EWOV's last independent Review in 2014 there have been significant changes in EWOV's jurisdiction, dispute flows, organisation, operations and funding arrangements.

The Victorian Government's new framework for electricity licence exemptions, has extended protections for electricity customers who rely on embedded networks - private networks in which electricity is on-sold to multiple customers typically in shopping centres, retirement villages, apartment complexes and residential caravan parks. Under the Victorian Government regulatory framework, since 1 July 2018, most embedded networks need to be a member of EWOV.

To accommodate this expanded jurisdiction, in early 2018 EWOV introduced a new funding model, updated its Constitution and Charter, and made organisational changes to handle cases in the new jurisdiction.

Another recent change has occurred with the Essential Services Commission's new Payment Difficulty Framework (PDF) that came in to effect in the updated Energy Retail Code on 1 January 2019. The Code sets out minimum standards of assistance to which residential customers anticipating or facing payment difficulties are entitled, so that disconnection of a residential customer for not paying a bill is a measure of last resort. EWOV is focussed on scheme participants understanding their new obligations under the PDF and many of the cases they have handled in 2019 to date reflect this focus.

Review Terms of Reference

The primary matters for inquiry and report include:

1. EWOV's progress towards meeting the Benchmarks for Industry-based Customer Dispute Resolution:
 - Accessibility
 - Independence
 - Fairness
 - Accountability
 - Efficiency
 - Effectiveness
2. Whether the scope of EWOV is appropriate;
3. Scheme Participant and customer satisfaction with EWOV;
4. Whether the dispute resolution processes used by EWOV are just and reasonable;
5. The degree of equitable access to EWOV; and
6. The effectiveness of the statute, charter, terms of reference or other documents establishing the EWOV, its jurisdiction, functions, rules and procedures.

This review does not extend to EWOV's funding structure, case fees or the structure and performance of the EWOV Board.

Relevant Issues

In this section, we set out some initial observations about aspects of the Review Terms of Reference and some questions for stakeholders.

1. Awareness

EWOV's Scheme Participants must advise customers that they can go to EWOV if they do not resolve their complaint directly with the company. EWOV also has an obligation to promote the scheme. It provides information to community agencies through its quarterly publications *Connect*, *Res Online*, and the *Affordability Report*, and its *Annual Report*. EWOV also takes part in community engagement activities to ensure awareness of the scheme.

We would welcome views on whether:

- Scheme Participants' internal dispute resolution processes reliably inform and link consumers to EWOV's dispute resolution services;

- EWOV's awareness and promotion efforts are effectively targeting vulnerable and disadvantaged customer groups and their representatives; and
- EWOV's awareness and promotion efforts sufficiently consider the characteristics of consumers and participants in its expanded jurisdiction.

2. Customer assistance

EWOV's website provides information for customers about the complaints process, how to attempt resolution of a complaint directly with the company and how to lodge a complaint with EWOV. EWOV also translates this information into videos and fact sheets for customers about matters such as embedded networks, high bills, payment plans, affordability, marketing and so on. Hot topic updates and case studies are published regularly under topic areas.

Most complaints are lodged by ringing EWOV (71%) on its 1800 number or by completing EWOV's online complaint form. Complaints can also be lodged by email, fax or in writing.

We would welcome views on whether:

- EWOV's material explains EWOV's processes and jurisdiction in an accessible manner;
- EWOV's process is simple to understand and easy to use; and
- EWOV's staff provide clear explanation of EWOV's processes and sufficient assistance, particularly to vulnerable and disadvantaged customer groups.

3. Scheme coverage

[EWOV's Charter](#) sets out its jurisdiction and enables it to conciliate and investigate complaints by consumers of electricity, gas or water services provided by Scheme Participants and by persons directly affected by the provision or supply of these services. The Charter specifies some exclusions from EWOV's jurisdiction including Scheme Participants' setting of prices or tariffs, their commercial activities, specific issues that have been, or are being considered by a court or tribunal or a government authority, and events beyond their reasonable control. EWOV also has the discretion not to investigate a complaint if EWOV considers that this is not warranted.

EWOV can make a binding decision of up to \$20,000 or, with the consent of all parties, up to \$50,000.

We would welcome views on whether:

- EWOV's Charter permits adequate coverage of current and emerging energy and water issues;
- EWOV appropriately exercises its discretion not to investigate complaints; and
- EWOV's monetary limit is sufficient for binding decisions and whether that monetary limit is constraining conciliated resolutions given increases in the price of energy and water since EWOV was established in 1996.

4. EWOV's dispute handling processes

EWOV is independent of its Scheme Participants and is obliged to handle disputes impartially and fairly. EWOV conciliates resolutions of the complaints it receives. Since 2003, it has not made a binding decision on a Scheme Participant.

We would welcome views on whether:

- EWOV's case handling and decision-making processes demonstrate its independence and impartiality;
- Outcomes (conciliations, closures on the basis that investigation is not warranted, closure due to non-participation by the customer, referrals to other bodies etc) achieved through EWOV at all stages of its process (unassisted referral, assisted referral, investigation) are fair; and
- Fairness requires that EWOV more regularly exercises its power to make decisions that are binding on Scheme Participants and, if so, any examples.

5. Efficiency and timeliness

In 2017-18, EWOV received 34,524 cases, up 8% from the previous year (32,002 cases) but well below its peak case load of 84,758 received in 2013-14.

In 2017-18 EWOV the average days to close investigations was 56 days against a KPI of 60 days.

We would welcome views on whether:

- EWOV's processes deliver efficient complaint resolutions to customers and Scheme Participants without adversely affecting the quality of the outcome or process
- EWOV's staffing and skill level is adequate to handle dispute volumes in an expanded jurisdiction and changing energy sector; and
- EWOV provides Scheme Participants with good value for their funding.

6. Balance

EWOV's Charter requires the scheme to handle complaints in a fair, reasonable, just, informal and expeditious manner. It is implicit that EWOV must balance these imperatives. For example, it must strive for an appropriate balance between the interests of Scheme Participants and those of customers. EWOV must balance procedural fairness with the need for quick, informal processes and outcomes. It must be neutral and yet assist customers, recognising that their knowledge and skills may place them at a disadvantage. Achieving the 'right' balance requires the exercise of judgement.

We would welcome views on whether:

- EWOV is achieving an appropriate balance in relation to the six Benchmarks for Industry-based Customer Dispute Resolution (accessibility, independence, fairness, accountability, efficiency and effectiveness).

7. Compliance by Scheme Participants

We would welcome views about:

- Scheme Participant compliance with EWOV processes, including whether they are meeting agreed timeframes and complying with agreed settlements; and
- Whether EWOV is being successful in its efforts to work with Scheme Participants to be compliant with EWOV's processes to promote customer confidence in EWOV and its role

8. Systemic issues

EWOV's functions include identifying, investigating or escalating to Regulators identified systemic issues (an issue, a problem or a change in company policy or practice that affects, or has the potential to affect several customers). In the last financial year, EWOV identified and closed 28 systemic energy issues and one systemic water issue (see EWOV's [Annual Report for 2017-18](#)).

We would welcome views about:

- The effectiveness of EWOV's current systemic issues process and the adequacy of its current reporting about systemic issues.

9. Public reporting

Each year, EWOV publicly releases an Annual Report that includes information about its dispute resolution process, complaint trends, complainants and their issues, EWOV outcomes and timeframes, systemic issues and numbers of complaints per Scheme Participant. EWOV also releases quarterly data updates through its Res Online publication. Additional public release of data may occur through the media on request.

We would welcome views whether:

- EWOV's public reporting is sufficient to achieve public confidence in EWOV and its performance;
- EWOV's public reporting provides information that enables industry improvement; and
- Additional information about complaint trends and Scheme Participant performance would be valuable and, if so, what they want.

10. Complaints about EWOV

EWOV's website includes a Feedback Form that can provide feedback about EWOV's performance.

We would welcome views about:

- EWOV's processes for handling complaints about its performance.

11. Stakeholder engagement

EWOV seeks to work closely with its stakeholders.

We would welcome views about:

- The level or style of engagement by EWOV with Scheme Participants;
- The level or style of engagement by EWOV with community organisations; and
- Additional information about complaint trends and Scheme Participant performance that would be valuable and, if so, what is needed.

12. Rapidly changing environment

Energy and water markets continue to evolve rapidly driven by technology, new entrants, changing consumer needs and regulatory developments. We expect the pace of this change to increase in coming years.

We would welcome views about:

- How effectively EWOV monitors changes in the relevant energy and water markets and emerging consumer issues.
- What, if any, other issues arise for EWOV given a rapidly evolving external environment

Please note that we intend the matters raised above to prompt stakeholder thinking, but not to limit submissions or matters raised in relation to EWOV.

Submissions

We request submissions by 12 September 2019. If in writing, they may be made publicly available on EWOV's website unless confidentiality is requested in the submission. They need not be formal or lengthy.

Please forward written submissions in electronic form to the Independent Reviewers:

Email: EWOV_independent_review@crkhoury.com

If you have questions regarding the independent review, please email them to us, providing a contact telephone number if you would like us to contact you directly.

CRK will also be directly engaging with the Essential Services Commission, community representatives and a sample of industry stakeholders.

Review Timetable

The timetable for the review is set out below:

August 2019	Initial Research
September/October 2019	Scheme Participant interviews, review of recent disputes, complainant interviews
December 2019	Draft report to the EWOV Board
February 2020	Final report to EWOV Board