

Workshop 1 (Online) Consultation Summary

- **Extending protections for customers on legacy contracts**
- **Improving the application of concessions to bills**
- **Improving awareness of independent dispute resolution services**

What: Energy Retail Code of Practice Consultation Workshop 1: Legacy Contracts, Concessions and Energy and Water Ombudsman Victoria (EWOV).

When: Thursday 5 December 2024, 10:00 am –11:45 am AEST.

Where: Online (Microsoft Teams).

Who: Forty-four representatives from energy businesses (including retailers, exempt persons and peak bodies); nine representatives from consumer groups and community organisations; eight representatives from public entities; and eight staff from the Essential Services Commission.

How: Guided discussion in breakout rooms facilitated by commission staff.

Why: To gain stakeholder feedback on the effectiveness, clarity, costs and benefits of the following proposed reforms:

- extending protections for customers on legacy contracts
- improving the application of concessions to bills
- improving awareness of independent dispute resolution services.

Background

- The online workshop was part of the consultation for the commission’s review of the Energy Retail Code of Practice. The review aims to update the code of practice to help households access cheaper energy deals, increase support for people experiencing payment difficulty and deliver more protections for consumers.
- This consultation summary reflects the views stakeholders shared during the online workshop. It is based on notes taken during group discussions.

Discussion 1: Extending protections for customers on legacy contracts

Discussion questions

Extending existing protections

- How effective are the options we are considering? What are the expected costs and benefits?
- Are there any implementation issues with extending the scope of these protections to older contracts?

Reviewing protections for evergreen contracts

- Should we consider ways to protect legacy contract customers (older than four years) from high prices? If so, what rules are needed?
- This could include options like banning evergreen contracts, defaulting customers onto a lower-priced contract after a period, or an outcomes-based rule. Do you have any views or preferences?
- Are there any implications or implementation issues?

What we heard from energy businesses

- Retailers were generally opposed to the reforms relating to legacy contracts, and argued that customer engagement would achieve better outcomes (such as delivering lower cost energy to consumers) than more regulation.
- Retailers noted that some customers currently benefit from pay-on-time discounts (such as those currently meeting pay-on-time conditions) and could be disadvantaged if discount caps were introduced for legacy contracts. Some retailers suggested that this could be addressed by extending current caps on pay-on-time discounts to legacy contracts, only after a customer fails to meet the conditions for the discount. This would avoid penalising customers who are meeting these conditional discounts.
- Retailers acknowledged that having customers who remain on higher priced evergreen contracts was a poor outcome. However, retailers opposed a ban on evergreen contracts, arguing that the number of customers facing this issue was likely limited and customer engagement with their retailer was a better way to avoid high energy costs.
- Some retailers shifted towards the use of evergreen contracts in response to the 2016–2017 Review of the Electricity and Gas Retail Markets in Victoria (known as the ‘Thwaite’s Review’) and the subsequent reform to the Energy Retail Code of Practice. Some retailers claimed the rules relating to fixed-term contracts led towards the greater use of evergreen contracts.
- Five-year reviews of evergreen contracts could be used to reduce the risk of customers on these plans facing high energy costs.

- There was no specific feedback provided on the proposed reform to ensure benefits in legacy contracts last the entire duration of the contract.

What we heard from consumer and community groups

- Consumers should be protected from unreasonably high prices.
- Extending protections to legacy contracts is necessary to protect those who cannot, will not or do not engage with the energy market. This approach acknowledges the barriers to engagement that many consumers face, including those who are culturally or linguistically diverse or are experiencing family violence.
- The complexity of the market makes it difficult even for engaged consumers to make properly informed choices.
- Many energy debts are due to problems with underlying contracts, such as large pay-on-time discounts. In practice, these discounts function as late payment fees.
- Customers on evergreen contracts paying above the Victorian Default Offer are likely to be disengaged and should be switched to a lower price, such as the best offer.
- It would be useful to understand who (for example, examining demographics/vulnerability indicators) and how many customers are exposed to high prices in evergreen contracts.
- Consumers struggle to understand benefits and pay-on-time discounts.
- Many discounts, such as a large pay-on-time discount, mask the cost of plans with high underlying prices.
- Customers who are unable or unwilling to engage in the energy market and remain on high-priced evergreen contracts require an additional layer of protection.

What we heard from public entities

- Energy regulation needs to be sufficiently supportive and protective against unreasonably high prices.
- Most customers achieve pay-on-time discounts but the proposed extension of the caps on pay-on-time discounts could be an easy way to protect those customers who may be exposed to price penalties and high-priced plans.
- Reforms need to protect disengaged consumers from harm whilst facilitating customer engagement from those who can engage.

Discussion 2: Improving the application of concessions to bills

Discussion questions

- Do you agree with a minimum requirement for retailers to seek concession eligibility information from new customers?
- At which other contact points with customers could retailers seek concession eligibility information?

- How effective are the options we are considering? What are the expected costs and benefits?
- Are there other alternatives we should consider, noting that work on automation and portability of concession eligibility information is beyond the scope of this review?

What we heard from energy businesses

- Most retailers already ask about concessions at sign-up, when customers contact them (as part of hardship assistance, complaints processes or during high bill queries) or when customers change products.
- Retailers are incentivised to ask customers if they are eligible for concessions.
- Retailers are audited and monitored by government departments which provide these concessions.
- The current rate of concessions applied to energy bills is high and no further intervention is required.
- There is a need for clarification on how the proposed reforms differ from the current practice and current rules.
- The prescriptive nature of existing energy rules makes it more difficult to have conversations with customers about concessions. Any new rules around applying concessions should be less prescriptive.
- Ineligible customers who are frequently asked about concessions could find it frustrating.
- There is strong support for broader system changes (such as data sharing and automation between government and industry on concession eligibility), which are beyond the scope of this review.

What we heard from consumer and community groups

- Retailers should maintain regular contact and communication with customers and ask about concession eligibility whenever they can.
- The existing incentive for retailers is not sufficient given 14 per cent of customers are still missing out on concessions.
- Validation and data management are key issues in the concession process.
- The language around concessions can be confusing and difficult for customers to understand, as well as stigmatising.
- Retailers should allow greater portability of concessions when customers switch between different retailers.
- There is strong support for the role of automation and collaboration between business and government to ensure concessions are applied to all eligible energy bills, which is beyond the scope of this review.

What we heard from public entities

- Current concession card holders missing out on concessions on their energy bills are likely to be the most vulnerable and disadvantaged, with the greatest need for support.
- A key issue is concessions not lasting the duration of a contract. This is often due to a lack of feedback loops and communication with customers when concessions expire or fall off a customer's account.

Discussion 3: Improving awareness of independent dispute resolution services

Discussion questions

- Do you agree with a minimum requirement for retailers to provide EWOV's phone number and website on the front page of bills?
- Is there additional information about EWOV that should be included on bills?
- Do you have any views on including EWOV's contact details in the body of emails with bills?
- How effective are the options we are considering? What are the expected costs and benefits?

What we heard from energy businesses

- Reforms should require EWOV's phone number on bills and many retailers already include this information, in line with current National Energy Customer Framework obligations.
- Any further prescription or information on bills or bill communications (for example, the text of emails containing bills) about EWOV should be left to the discretion of retailers.
- EWOV's details could also be included in bill communications for customers who do not read their bills.
- The reforms could create more confusion for consumers, leading to more complaints directed to EWOV, which circumvent internal retailer processes and consequently lead to increased dispute resolution times.
- The reforms could lead to an increase in the number of complaints to EWOV from customers, some of which may not be valid but would result in additional costs to retailers.

What we heard from consumer and community groups

- Clear information on how to contact EWOV should be included on bills.
- A stepped process could be used to outline how to make complaints and access dispute resolution or offer a description of EWOV and its role in the dispute resolution process.
- There is already consumer confusion in relation to who to contact for complaints and support in the energy sector.

- Website and chat functions are increasingly used by consumers to contact EWOV, which may justify the inclusion of website details on bills.