

17 February 2016

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Dear Mr Philipson

**Submission on the Draft Report**  
**National Energy Retail Law: Review of Operation in South Australia**

The Energy and Water Ombudsman (SA) Limited ("EWOSA") welcomes the opportunity to comment on the Essential Services Commission of South Australia's *Draft Report on the National Energy Retail Law: Review of Operation in South Australia*.

In this submission, the EWOSA primarily addresses matters that are specifically of interest to the EWOSA Scheme.

EWOSA is an independent Energy and Water Ombudsman Scheme in South Australia. It receives, investigates and facilitates the resolution of complaints by customers with regard to (*inter alia*) the connection, supply or sale of electricity, gas or water.

We agree with the main draft findings of the Essential Services Commission of South Australia (Commission) that the National Energy Retail Law (NERL):

- has furthered the interests of South Australian energy consumers
- has resulted in increased efficiencies
- has not adversely affected consumer protection in pursuit of national consistency.

Many of the changes implemented when the NERL was introduced have assisted energy customers. These include:

- more formal and specifically designed hardship policies that must meet minimum requirements and be approved by the Australian Energy Regulator (AER)
- reduced retailer bill recovery time limits
- more extensive performance reporting requirements for energy retailers, especially on hardship indicators.

The Draft Report (Figures 3.1 and 3.2) highlights that hardship program customer numbers have increased steadily since the introduction of the NERL, at the same time as disconnection numbers have been largely stable for residential electricity customers and increased slightly for residential gas customers. This implies that hardship customers and particularly those at risk of disconnection are generally being handled better.

This is likely to reflect additional identification of hardship customers since the introduction of the NERL, combined with the implementation of improved hardship policies by energy retailers.

That said, credit management is increasingly an issue for energy customers. The number of credit management cases received by EWOSA rose by 25 per cent in 2014-15, compared to 2013-14. Credit management cases accounted for 18 per cent of the total number of cases received, up from 10 per cent in 2013-14. This trend is also highlighted in Figure 3.14 of the Draft Report.

It is likely that the declining share of complaints received by EWOSA relative to energy retailers, as shown in Figure 3.15 in the Draft Report, is partly explained both by the steady (and steeper) rise in complaints received by energy retailers for most of the period since the NERL commenced, as shown in Figure 3.11 in the Draft Report, as well as by better complaints handling by energy retailers.

Another consideration, mentioned in the Draft Report, was the introduction of new billing systems by major energy retailers and teething problems associated with their implementation. This resulted in an increase and subsequent decrease in billing complaints – particularly to energy retailers, but also to EWOSA – which is likely to partly explain the falling share of overall complaints received by EWOSA, both just prior to, as well as after, the commencement of the NERL.

Given that energy retailers must receive approval from the AER for their hardship policies, the discussion in the Draft Report (Section 3.5) of some disparity across energy retailers in both dealing with hardship customers and their approach to disconnection is a concern. It is possible that the NERL may need some changes or more stringent monitoring to ensure greater energy retailer compliance with hardship policies and practices. However, we appreciate this is outside the scope of the Commission's Review.

It is important to consider that, as well as the South Australian Council of Social Service's *Better Practice Guide for Energy Retailers*, the AER is developing a good practice framework to guide energy retailers when they are assessing a customer's capacity to pay their bills and any debts. Both of these products should help to reduce any discrepancies across retailers in dealing with hardship customers.

It is a concern that the Commission's customer survey result suggests two thirds of respondents do not find it easy to understand what protections they have as an energy customer, nor to understand the energy contracts being offered to them. This may indicate that easier to read information and better education from both energy retailers and agencies overseeing or involved with the energy industry may be necessary.

We support the Commission utilising the Australian Energy Market Commission's annual retail energy competition reviews to assess the level of competitiveness in the South Australian energy retail market and for evidence on the level of innovation. We agree that the NERL assists a more competitive market, with new energy retailers being able to enter the market more easily as a result of lower barriers to entry.

The Draft Report highlighted a number of issues that we believe are worthy of further investigation, but which are generally outside the terms of reference of this review. These include:

- a review of State-based derogations

- the need to incorporate emerging technologies (such as advanced meters and battery storage) and the provision of energy-related services by businesses that are not energy retailers into energy consumer protection frameworks, such as the NERL
- improvements to the NERL, particularly in terms of additional consumer protections, such as those proposed by the South Australian Council of Social Service, as described in the Draft Report
- ensuring greater consistency across energy retailers in their handling of hardship customers and their approach to disconnection.

To the extent possible, we believe the Commission should refer these issues to other agencies regulating and overseeing the energy industry, such as the AER.

Should you require further information, or have any enquiries in relation to this submission, please telephone me on (08) 8216 1851 or email me at [antony.clarke@ewosa.com.au](mailto:antony.clarke@ewosa.com.au).

Yours faithfully



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