

Energy Ombudsman

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Contact Officer: Kate Cox

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Mr Mark Feather
General Manager, Strategic Policy and Energy Systems Innovation
Australian Energy Regulator

By email: [REDACTED]

Dear Mr Feather

Submission to the review of consumer protections for future energy services: Options for reform of the National Energy Customer Framework

Thank you for the opportunity to provide comment on the options paper relating to a review of consumer protections for future energy services.

The Energy Ombudsman Tasmania (EOT) is a hybrid statutory and industry dispute resolution scheme created under the Energy Ombudsman Act 1998 (the Act) that investigates and resolves complaints from customers of electricity and reticulated gas providers in Tasmania.

I note that the options paper generally seeks feedback on three potential reform models proposed by the Australian Energy Regulator (AER) to update the current National Energy Customer Framework (NECF). I welcome reform of the NECF to ensure that fundamental customer protections will apply to new energy products and services. Careful consideration of the external dispute resolution pathways is essential, however, to ensure fair customer outcomes, maintenance of market trust and a consistent approach that is well understood by all parties.

To assist the AER with its review, I make following submission and comments, informed by the complaints and enquiries the EOT has received, and the jurisdictional specific nuances in Tasmania that exist.

By way of background, the jurisdiction of the EOT extends to the “*service of, or relating to the sale and supply of gas and electricity, by an energy entity*”. An energy entity is defined in section 3 of the Act and limits the scope to accepting complaints relating to license holders, authorised retailers and exempt sellers. The EOT is funded by the energy entities, based on the number of complaints received by each entity. Therefore, any expansion of the external dispute resolution required within the NECF has the potential to impact significantly on the operational and funding capabilities of the EOT.

I agree with the AER's policy assumption that the entity selling energy to a customer at a connection point is the primary provider of energy and loss of this service carries the greatest customer risk. It is worth noting, however, that the EOT is already seeing a blurring of NECF and non-NECF products in current complaints. For example, solar systems not performing as promised or information on solar apps not aligning with billing. This will no doubt be further complicated when customers utilise multiple energy services at the same property and may impact the customer's ability to access the main energy supply.

I note that Model 1 proposed by the AER seeks specific feedback on its potential impact on capturing embedded networks sellers. Currently embedded networks in Tasmania are not required to obtain a retailer authorisation or exemption. This means that the Ombudsman has limited scope to address and determine a complaint regarding an embedded network. This inconsistency between jurisdictions for new energy services would need to be considered in any reform model and may be problematic when expanding Model 1 within the NECF.

The EOT considers that it is vital that any expansion of a dispute resolution scheme within the NECF is underpinned by statutory enforceability. A principles-based framework, like Model 2, while delivering greater flexibility for regulating new and emerging business models may cause issues with respect to outlining clear obligations. Life support obligations, hardship policies and disconnection procedures are fundamental protections that need to be clear and easy to enforce and resolve within this model.

The EOT has limited scope to undertake monitoring of new and emerging technologies coming into Tasmania. This is because the EOT is not a membership organisation. In most cases, the EOT will not hear about a new retailer or service provided unless or until a complaint is made about it. This would be problematic if a Model 3 framework was utilised as compliance would be "assumed". If Model 3 were to be utilised, greater oversight by the AER would be required to assist the EOT in managing new providers. Furthermore, as the EOT is not a membership organisation it may be difficult to manage an ongoing relationship with the businesses to resolve complaints effectively.

As one of the smaller jurisdictions within the National Energy Market, Tasmanian energy customers are generally the last to receive new energy service offerings or the options available are limited. In my experience, I have found that this amplifies consumer confusion over the complexities of new products or services. I expect that the EOT will receive an increase in enquiries about new energy products and services in the coming years so it is essential that, if the EOT does not have the jurisdiction to handle a complaint, that there is a clear pathway for low-cost dispute resolution in Tasmania.

In summary, and considering the comments outlined above, Model 1 is the EOT's preferred reform model for future energy services.

If you require any further information regarding this submission, please contact Ms Kate Cox, Investigation Officer on [REDACTED]

Yours sincerely

[REDACTED]
Richard Connock
ENERGY OMBUDSMAN