19 December 2017

Attn: Sarah Proudfoot

General Manager, Retail Markets

Australian Energy Regulator  
GPO Box 520  
Melbourne VIC 3001

Lodged via email to: **AERExemptions@aer.gov.au**

Dear Sarah,

**Re: AER Draft (Retail) Exempt Selling Guideline — November 2017**

Thank you for the opportunity to comment on the AER Draft (Retail) Exempt Selling Guideline.

The Energy and Water Ombudsman (Victoria) (EWOV), is an independent and impartial industry based dispute resolution service. We receive, investigate and resolve complaints between customers and their energy and water companies.

While the Guideline does not apply in Victoria, we support the principle of access to free and independent external dispute resolution (EDR) for energy customers. In accordance with our well-established view that equal access to EDR should be available to all customers, regardless of the exempt status of their supplier, EWOV offers the following for your consideration.

**Member of an energy ombudsman scheme**

We welcome the AER’s inclusion of Condition 17 — Member of an energy ombudsman scheme for residential customers in the Guideline. We have similarly supported changes regarding access to EDR for the customers of exempt sellers in Victoria and our position has been outlined at length in our submission to the Department of Environment, Land, Water and Planning on the Victorian General Exemption Order.*[[1]](#footnote-1)*In this submission, we:

* supported consistency with the principles of effectiveness, accessibility and fairness listed in the national Benchmarks for Industry-based Customer Dispute Resolution*[[2]](#footnote-2)*
* highlighted the existing expertise of ombudsman schemes in dealing with energy related disputes between customers and suppliers.

It is EWOV’s experience that Victorian small business customers benefit greatly from access to EWOV’s free and independent dispute resolution. Our 2017 Annual Report*[[3]](#footnote-3)* shows that in the 2016-17 financial year, 2,524 EWOV cases, or 8 percent of overall EWOV cases, were lodged by business customers. Only a small percentage of these cases required an Investigation, but of those that did, the conciliated outcomes resulted in over $880,000 in billing adjustments.

In the Victorian jurisdiction, the Government’s General Exemption Order includes ‘small commercial/retail customer[s]’, defined as ‘a business customer to whom peak demand of less than 500 kVa, and consumption of less than 160 MWh per annum, is distributed, supplied or sold for commercial or industrial purposes’ under Part 1(3).[[4]](#footnote-4) As EWOV’s jurisdiction will likely be extended to cover exempt entities in 2018, we will be handling complaints from both residential and small business customers. It is our view that this scope is not overly burdensome, and necessary to ensure equitable outcomes for all energy consumers.

In time, we would encourage the AER to consider extending EDR access in the National Energy Market to small commercial and retail businesses.

**Dispute resolution**

We also support the changes to Condition 16 — Dispute resolution requiring exempt sellers to ‘make a set of procedures for handling complaints and disputes.’ We endorse the principle of consistency with the Australian Standard as set out in Condition 16(2).

In further support of customer awareness of access to dispute resolution, we welcome the AER’s inclusion of Condition 16(c)(i) and (ii) under which the exempt seller must notify the customer of their right to access an ombudsman scheme, including providing the contact details for the relevant energy ombudsman. The provision of this information by retailers is essential to ensure consumer awareness of access to free and independent dispute resolution.

We trust the above comments are helpful. Should you require further information or have any queries, please contact Katherine George, Research and Communications Officer, on (03) 8672 4357 or Katherine.george@ewov.com.au.

Yours sincerely,

**Cynthia Gebert**

**Energy and Water Ombudsman (Victoria)**

1. See EWOV, *General Exemption Order – Draft Position Paper* (August 2016) <https://www.ewov.com.au/files/ewov-comments-delwp-general-exemption-order-draft-position-paper.pdf>. [↑](#footnote-ref-1)
2. See Australian Government: The Treasury, *Benchmarks for Industry-based Customer Dispute Resolution* (Commonwealth of Australia, February 2015) <https://www.ptovic.com.au/images/documents/Benchmarks\_February\_2015.pdf>. [↑](#footnote-ref-2)
3. See EWOV, *Annual Report* (2017) < https://www.ewov.com.au/files/2017-ewov-annual-report.pdf>. [↑](#footnote-ref-3)
4. Victorian Government, *General Exemption Order* (2017) <https://www.energy.vic.gov.au/\_\_data/assets/pdf\_file/0029/89309/General-Exemption-Order-2017-GG2017S390.pdf>. [↑](#footnote-ref-4)