

# Executive Summary

This report, *CUAC Regulatory Review: A comparative analysis of key consumer protections*, critically examines the Victorian energy consumer protection framework contained in legislative and regulatory instruments.

The key findings and recommendations of CUAC's report provide a timely evidentiary review of the subtle losses already experienced by Victorian consumers and anticipates the further consumer protections that may be lost in the future.

In particular, this review has been conducted through the lens of new technologies, the evolving energy market and the new Harmonised Energy Retail Code.<sup>1</sup> High disconnection rates, wrongful disconnections, a growing number of Victorian consumers experiencing hardship and household financial difficulties are increasingly the norm in the Victorian community experience. The Essential Services Commission of Victoria's *Inquiry into the Financial Hardship Arrangements of Energy Retailers*<sup>2</sup> is a much welcomed paper paying special attention to the consumer protections relating to energy bill payment difficulties, hardship, and disconnection. This report identifies significant gaps in the current consumer protection framework experienced by Victorians. Key findings and recommendations from the *Analysis of Key Consumer Protections* section of the report are discussed below.

It is timely to review the regulatory framework to determine if it adequately addresses, and is able to effectively respond to, current and ongoing changes in the energy market. For CUAC, this is to ensure consumer protections remain appropriate and contemporary to current changes. CUAC's review questions whether the National Energy Customer Framework and the new Harmonised Energy Retail Code<sup>3</sup> are able to effectively respond to the substantial changes that have occurred in the energy market and its increasing complexity to date, while maintaining a level of consumer protection previously experienced by Victorian consumers.

Consumer protections are underpinned by specific and precise regulatory drafting – expectations and responsibilities are clear, benchmarking and compliance obvious to measure. CUAC's research has found neither of these attributes characteristic of the National Energy Retail Rules or the new Harmonised Energy Retail Code.<sup>4</sup>

At the least, clear definitions should be expected. Again CUAC's research has found an absence of clear definitions of terms. In their current form, interpreting provisions in a consistent fashion between the regulating agencies and energy retailers is challenging. This leaves the Victorian consumer in an increasing position of disadvantage. For example, while hardship policies are required by energy retailers, their form and substance are widely variable. As required they are in place but their transparency in detail and protection for consumers illusory.

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<sup>1</sup> Version 11, 1 January 2015.

<sup>2</sup> Essential Services Commission (March 2015), *Inquiry into the Financial Hardship Arrangements of Energy Retailers: Our Approach*.

<sup>3</sup> Version 11, 1 January 2015.

<sup>4</sup> Ibid.

Today, 77 per cent of Victorian consumers are on market retail contracts.<sup>5</sup> This by far exceeds the situation in all other states. Most terms and conditions that protected the general consumer which were prescribed under the previous Energy Retail Code<sup>6</sup> are no longer prescribed under the Harmonised Energy Retail Code.<sup>7</sup> Connection and reconnection timeframes no longer apply to market retail contracts leaving households off supply for a longer period of time by energy retailers who remain fully compliant with their obligation.

CUAC's research shows that the payment plan, hardship and disconnection provisions are much weaker for the consumer under the new Harmonised Energy Retail Code.<sup>8</sup> There is no consumer right to payment plan options; the energy retailers' hardship obligations are articulated in less concrete language; and the timeframe between the issue of a bill and actual disconnection has been reduced. There is a real risk that more customers struggling to meet their bill payments will be vulnerable to disconnection.

CUAC has been advocating for government and regulators to address the gaps in consumer protections for Victorian customers of energy re-sellers. CUAC's published its research in this area in 2012 [\*Growing Gaps: Consumer Protections and Energy Re-sellers\*](#).<sup>9</sup> CUAC welcomes the recent decision by the Victorian Government to review the exempt selling framework which removes a consumer's right to access alternative energy suppliers and to experience consumer choice for smart technologies and services into the future. CUAC supports the review investigating the root causes of exempt selling, including the connection and timing issues that may encourage property developers to choose embedded networks. The review should also consider the possible technical and planning solutions that may be able to respond to exempt selling and the potential for its increased prevalence in the expanding apartment and community developments.

Some Victorian consumer protections are at risk of being eroded as regulatory frameworks do not have the agility to respond to new products and services and innovative business models. The question remains as to whether Victoria's smart meter consumer protections are sufficient to cover these emerging technologies and the risks that metering contestability might pose to Victorian consumers.

For the Victorian consumer, network tariff reforms are fraught with issues of equity and investment. The Victorian Government needs to shape this process and help consumers understand and participate effectively in the reform process, encouraging industry to cooperate and help deliver consumer benefits. The interests of vulnerable and disadvantaged consumers need to be addressed, especially as they are least able to deal with increased network fixed charges and the consequent increase in their energy bills.

Prepayment meters are not a solution to customers experiencing payment difficulties or hardship. It is important that the current ban on prepayment meters remain in Victoria.

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<sup>5</sup> Wallis Strategic Market & Social Research (August 2013), *Victorians' Experience of the Electricity Market Final Report*, p.24: Based on the definition of being on a market contract presently, just over three quarters (77 per cent) of Victorians are on one, an increase from two thirds (68 per cent) when last measured in 2009. This is a figure from a 2013 report which has potential to be significantly higher at the time this report was written.

<sup>6</sup> Version 10a, December 2013.

<sup>7</sup> Version 11, 1 January 2015.

<sup>8</sup> Ibid.

<sup>9</sup> Consumer Utilities Advocacy Centre (December 2012), *Growing Gaps: Consumer Protections and Energy Re-sellers*.

CUAC's research is intended to alert the Victorian Government and the Council of Australian Governments (COAG) Energy Council to the regulatory gaps and to complement our response to the Essential Services Commission's *Inquiry into the Financial Hardship Arrangements of Energy Retailers*.<sup>10</sup> The report also underscores to the Victorian Government the consumer protections that must be retained should Victoria transition to the National Energy Customer Framework.

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<sup>10</sup> Essential Services Commission (March 2015), *Inquiry into the Financial Hardship Arrangements of Energy Retailers: Our Approach*.