



26 April 2013

Dr. Richard Chadwick
The General Manager
Application Branch
Australian Competition and Consumer Commission
GPO Box 3131
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By email: adjudication@acc.gov.au

Dear Dr. Chadwick

Re: Clean Energy Council Limited (CEC) application for authorisation A91365 - A91366 - for a Voluntary Code of Conduct for solar photovoltaic retail businesses (the Code).

Thank you for the opportunity to comment on the Clean Energy Council Limited (CEC)'s application for authorisation A91365 - A91366 - for a Voluntary Code of Conduct for solar photovoltaic retail businesses (the Code).

As an industry-based external dispute resolution scheme, the Energy and Water Ombudsman (Victoria) (EWOV) provides alternative dispute resolution services to Victorian energy and water consumers by receiving, investigating and facilitating the resolution of complaints. In making this submission, EWOV's comments are based on our experience in dealing with complaints about solar feed-in tariffs (FiTs) that come to us after the customer has been unable to resolve their complaint directly with their electricity retailer or distributor.

EWOV welcomes the CEC's proposal for the improved monitoring of photovoltaic (PV) retailers, so as to promote higher standard of customer protection and best practice in the PV retailer industry. EWOV continues to receive a large number of customer complaints from solar customers because of the complexity of the solar process, which can include: engaging a PV installer, installation of solar panels and an inverter, sending the required paperwork and completing a meter exchange, or reconfiguration, and the reassignment of the tariff.

Customers are often confused after receiving incorrect or conflicting information about the solar process from their electricity retailer, distributor and/or solar retailer/installer. New solar customers often do not realise that several forms have to be completed in order to complete this process, including a Certificate of Electrical Safety, Electrical Works Request, Solar

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Connection Form and the FiT application form. Many also do not realise that they also need to accept a solar contract with their electricity retailer, and exchange and/or reconfigure the meter so that the correct FiT can be applied.

The proposed Code is an opportunity to raise consumer confidence in PV retailer and installer practices and increase their accountability through pre-sales activities, post-sale activities, documentation and general business obligations. EWOV encourages the 1,450 companies and utility companies which sell and install PV systems to consider becoming signatories of the Code.

EWOV Solar Cases

As reported in the CEC's submission,¹ between 1 July 2011 and 30 June 2012 EWOV received 9,777 solar cases. Of these solar cases, 796 were about solar installation companies (PV retailers and installers). More recently, from 1 July 2012 to 31 March 2013, EWOV has received a further 399 cases of this type.

Although these cases are outside EWOV's jurisdiction, our case handling experience reveals that consumers continue to complain about misleading information received by their PV installer, which can establish unreasonable expectations about the solar credits available to them. For example, customers often believe, by virtue of sales pitches, that they will never receive an electricity bill again, or that their electricity bill will always be in credit.

Customers have also advised EWOV that they were provided with incorrect advice about their eligibility for solar tariffs, or found out that their PV installer had not submitted the required paperwork. EWOV has dealt with numerous cases of customers who missed out on the Premium, Transitional or Standard Feed-in Tariffs as a result of conflicting or incorrect information, or because of delays in installation.

The Code

Based on our case handling experience, as outlined above, EWOV offers the following suggestions to help ensure that the Code provides increased protections to consumers.

Prior to Signing a Contract

EWOV notes that under section 2.1.1 (f) (i) of the Code there is no information - this appears to be a typographical error.

¹In support of its application for authorisation to the ACCC.

Connections to the Network

EWOV notes that sections 2.2.7 to 2.2.9 of the Code outline member requirements when organising connections to the network. As noted above, it is highly important that paperwork is submitted in a timely fashion by a PV installer. EWOV suggests that these sections include a requirement that members submit forms within a reasonable timeframe. We also suggest that section 2.2.8 require members to not only notify customers that they have provided the relevant paperwork, but also that they substantiate how this paperwork was submitted (e.g. emails, faxes, etc.) to the electricity retailer and/or distributor. By providing this substantiation to customers, they will have the necessary documentation to follow up with their PV installer, electricity retailer and/or distributor if the process is delayed or issues arise.

Customer Reports of Breaches to the CEC

It is EWOV's understanding that customers can currently contact the CEC by phone to register issues with a PV installer, but all complaints must still be received in writing. However, the Code states in several sections that customers who wish to inform the Code Administrator (the CEC) of behaviour in breach of the Code, they must do so using the CEC website². This is also stated under the Code Compliance Procedure Document³. This requirement appears to hinder customer accessibility to raise potential breaches of the Code with the CEC.

Code Flyer

Under section 2.1.10⁴, customers will be provided with information on the Code via a link to the CEC website or by a hardcopy flyer. EWOV believes that all customers who receive marketing from a PV installer should be provided with the details of the Code, and should not have to sign a contract to receive it. Consumers may be unaware of the new Code and can experience marketing issues without signing a contract. EWOV recommends that clear, concise and transparent information is provided via this flyer or notification of information on the website to potential customers as early as possible.

Systematic Breaches

EWOV notes that the Code defines a systematic (systemic) breach as *"a breach that is not a singular event but appears to be procedural lack of compliance to the Code by the signatory resulting in either the potential to impact a large number of consumers or to have a serious impact on a lesser number of consumers"*⁵.

² Section 3.3 (4), page 19 of the Code.

³ Section 1, page one of the Code.

⁴ Titled 'Prior to Signing the Contract', page 10 of the Code.

⁵ Page 23 of the Code.

EWOV is concerned that the above definition does not adequately describe a systemic issue. In EWOV's case handling procedures we define a systemic issue as *"an issue, problem or change in company policy or practice that affects, or has the potential to affect, a number of customers."* As such, EWOV's definition of systemic issues is not quantified by the number of customers it impacts or the seriousness of the impact. EWOV therefore considers that further clarification of the definition be provided so that all types of systemic issues are actively identified, and appropriate action can be taken to prevent further complaints from arising.

EWOV Complaint Data

EWOV notes that the CEC may wish to obtain complaint data from EWOV to ensure that its Code has had the desired impact. EWOV is happy to comply as best as possible with a request for complaint data and would be interested in meeting with the CEC to discuss this further.

We trust the above comments are helpful. Should you require further information or have any queries, please contact Belinda Sandilands, Senior Research and Communications Advisor, on (03) 8672 4282 or at belinda.sandilands@ewov.com.au.

Yours sincerely



Cynthia Gebert
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