18th June 2018

Review of the Queensland Energy Legislation – Issues Paper
Energy Industry Policy – Strategic Futures
Department of Natural Resources, Mines and Energy
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Dear Sir or Madam

Review of Queensland Energy Legislation 2018
Submission by the Advisory Council to the Energy and Water Ombudsman Queensland

Thank you for the opportunity to provide a submission to this important review of Queensland energy legislation. It is timely given the rapid changes occurring in the energy sector which have a direct impact on the Energy and Water Ombudsman Queensland. The Advisory Council to the Energy and Water Ombudsman Queensland has confined the scope of its submission to Dispute Resolution in line with its mandate. Part 6 s 48 of the Energy and Water Ombudsman Act 2006 provides for the establishment of an Advisory Council appointed by the Minister and consisting of a chairperson and at least six other members. Council members are drawn from scheme participants who represent the interests of industry, and equal numbers of members drawn from groups who represent the interests of consumers. S 49 of the Act identifies that the Council’s functions are to:

- monitor the Ombudsman's independence,
- advise the Ombudsman on policy and procedural issues relating to the Act,
- advise the Ombudsman on the operation of the Act for customers,
- advise the Ombudsman on the preparation of budgets, budget guidelines and the Annual Report,
- advise the Minister responsible for energy and water on the funding of the Ombudsman's functions, and
- at the end of the financial year, advise the Minister on the Ombudsman's independence and functions of the office during the financial year.

The Advisory Council has an important role in ensuring that the Ombudsman and the Office of the Energy and Water Ombudsman Queensland (EWOQ) act effectively, efficiently, lawfully and independently. The Council’s structure supports that role by providing the Ombudsman with different perspectives and expert advice.

The Advisory Council has consulted the Energy and Water Ombudsman Queensland in the development of this submission.

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<th>Question 10.1</th>
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<td>How well do existing dispute resolution provisions align with community and industry expectations?</td>
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The Advisory Council considers that EWOQ complies with its legislative requirement to provide a free, fair and independent dispute resolution service for residential and small business energy customers across Queensland and water customers in South East Queensland who are unable to resolve a complaint with their supplier.

One way to measure community expectations is whether customers are satisfied with the dispute resolution service. In the most recent survey conducted, the results showed a high level of overall satisfaction with EWOQ. Survey results at the time of case closure also indicated a high level of customer satisfaction even without a case decision in their favour. Timeliness is also an important measure in terms of meeting expectations. In 2016-17 EWOQ closed 7209, or 92% of complaints in less than 28 days, against a target of 80%. As scheme participants are funding EWOQ, industry has an expectation that the external dispute resolution service it provides operates as efficiently as possible. This dimension will be addressed in Question 10.2.

The Advisory Council agrees with the observations made by EWOQ in its submission to this review that existing dispute resolution provisions are confusing for consumers as there are different avenues for different energy-related complaints and this deters people from making complaints. Today’s consumers have little tolerance for processes which aren’t easily understood or are difficult to navigate. They expect agencies to streamline their systems to make it work for them.

As the discussion paper highlights, in recent years there have been major changes in the operating conditions for Energy and Water Ombudsman schemes in NSW, Victoria, South Australia and Queensland. Major issues common across these schemes include:

- the annual number of energy cases/complaints handled has fluctuated substantially,
- the energy market has diversified into new products and services, and
- new business models have emerged which do not fit under the ombudsman schemes’ jurisdiction.

These are not transient issues: rather they reflect more substantial shifts in the energy sector, and as a flow on, they have implications for the roles and functions of ombudsman schemes. EWOQ is operating in a dynamic market environment, especially for energy, with new players and products and a changing regulatory landscape. These changes have resulted in fluctuations in demand, especially since 2013-14.

Table 1 tracks the demand changes since 2013-14. The increase in 2017-18 (to May) is 18%, representing 9181 cases.

**Table 1 Energy and Water Ombudsman Office Queensland Cases Closed**

![Chart showing EWOQ Cases Closed by Year]
In terms of new players and products, an important consideration will be how to incorporate emerging business models and thus new members into the scheme without membership becoming a barrier to entry. If EWOQ’s scope is extended, membership will also need to be extended to ensure participation, enforcement of decisions and new members contribute to the cost of EWOQ services. Funding arrangements for smaller operators will need to be reviewed to ensure the costs are proportionate to the size of the entity, but also provide an incentive for operators to internally manage disputes.

The Advisory Council considers the demand decreasing influences can be attributed to:
- improved customer service from many scheme members, including complaint handling
- maturation of the competitive electricity and gas retail markets in south east Queensland
- improved planning and implementation of system upgrades by scheme members
- the introduction of the option of “refer to higher level” within the scheme members process for consumers seeking external dispute resolution
- greater consumer awareness of the need to attempt to resolve a dispute with the scheme member before lodging a complaint with EWOQ.

The Advisory Council considers the following changes will increase demand for EWOQ’s services:
- expansion in EWOQ’s jurisdiction (e.g. gas heated bulk hot water, embedded networks, and other types of energy and energy related businesses)
- changes in EWOQ’s functions (e.g. to allow it to investigate systemic issues, not covered by regulators, which result in significant numbers of customer complaints)
- initiation of competition for small electricity customers in regional Queensland
- further significant increases in electricity prices, especially relative to income
- increased complexity of energy tariffs, contracts and services
- increased use of electric vehicles and batteries
- reduced security and quality of electricity supply
- increasing products and services provided by utilities that will operate “behind the meter” and in customers’ homes.

Policy changes such as improved financial and other assistance for vulnerable consumers may temper demand for EWOQ’s services. More consumers becoming self-sufficient and going ‘off grid’ may also impact on EWOQ, as will more consumers be selling power to other consumers. As the discussion paper highlights, there are changes in the market which will necessitate expanding the jurisdiction of energy ombudsman schemes to capture different customers.

There are legislative changes in place, or proposed, that will result in more complexity for consumers and industry. For example, installation of interval meters for electricity, changes in meter supply ownership (contestability), and a move away from flat rate electricity tariffs.

Consideration will need to be given to expanding the jurisdiction of energy ombudsman schemes to capture disputes customers may have with non-traditional suppliers (e.g. those holding retail exemptions under the NERL (Qld)).

The Advisory Council considers disputes relating to capital contributions for connections should be excluded from EWOQ, particularly as many customers seek to connect new generating equipment on the basis that they have the ability to negotiate a contract directly with the supplier/provider and make the terms suitable to their own needs and on a commercial basis. The process to be used and the technical skillset required to handle this type of dispute is complex and costly via the engagement of external consultants. Accordingly, these disputes are more effectively handled in a commercial dispute environment or court.

We also consider land holder disputes with entities other than distribution businesses should be excluded from EWOQ as it is beyond the traditional staff skill set. These disputes are commercial in nature, involving large infrastructure projects, with electricity usually the secondary issue to land access.
Question 10.2
What opportunities exist to improve the effectiveness and efficiency of state-based dispute resolution provisions?

Ombudsman schemes need to have flexible business models to manage in this changing environment. Unlike EWOQ, which is a statutory body, the schemes in New South Wales, Victoria and South Australia operate as companies limited by guarantee and governed by boards of directors. Western Australia’s energy and water scheme is also a company limited by guarantee and with a board of directors, however, the service is provided by the Western Australian Ombudsman’s Office. Tasmania’s energy and water schemes are provided by the state government’s Ombudsman Tasmania. It is noted there is limited competition between energy retailers in Western Australia and no competition in Tasmania.

The Advisory Council is interested in the extent to which a company structure with an independent board of directors, as opposed to a statutory body, enables an Ombudsman scheme to be more flexible and adaptable in its operations. Whilst it is difficult to predict future demand, it is apparent that EWOQ needs a more flexible and responsive capacity to operate effectively and efficiently and to be able to respond more quickly to changing circumstances.

A key requirement is being able to reduce costs where and when required and flexibly deploy resources when demand is changing. We consider that EWOQ’s ability to respond has been curtailed by a number of factors. The most significant is its structure as a statutory body and operating within a quite prescriptive legislative framework. The Advisory Council has observed the most significant limitations for EWOQ are being able to adjust its resource use to match actual and forecast changes in demand, its inability to carry over funds from year to year, and obstacles to revising annual budgets upward during a current year.

On behalf of Advisory Council members, thank you for the opportunity to contribute to this significant review of Queensland energy legislation.

Yours sincerely

Anna Moynihan
Chair
Advisory Council to the Energy and Water Ombudsman Queensland
18 June 2018